

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 2991 OF 2018

Dr. Asha Shivsagar Agnihotri,
Aged about 57 years,
R/o. Snehal Nagar, Sewagram Road,
Wardha.

.... **PETITIONER**

// VERSUS //

- 1) The Joint Director,
Higher Education, Nagpur Division,
Nagpur.
- 2) Yashwant Mahavidyalaya, Wardha,
through its Principal.
- 3) Yashwant Rural Education Society,
Wardha, through its Chairman.

.... **RESPONDENTS**

Mr. N.R. Saboo, Advocate for petitioner.
Mr. N.S. Rao, Assistant Government Pleader for respondent No.1
Mr. S.K. Bhoyar, Advocate for respondent Nos.2 and 3.

**CORAM : SUNIL B. SHUKRE AND
ANIL L. PANSARE, JJ.**

DATED : 10.10.2022

ORAL JUDGMENT : (Per Sunil B. Shukre, J.)

1. Heard Mr. Saboo, learned counsel for the petitioner, Mr. Rao, learned Assistant Government Pleader for respondent No.1 and Mr. Bhoyar, learned counsel for respondent Nos.2 and 3.

2. **Rule.** Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

3. The petitioner was appointed as a Lecturer on an unaided post w.e.f. 24.11.1992 by the respondent Nos.2 and 3. In the year 2008, there was an advertisement issued for making appointment to the post of Lecturer in an aided section. The petitioner applied for the same and was selected and appointed w.e.f. 21.11.2008. Her selection and appointment was by following proper selection procedure. The petitioner claimed benefit of Career Advancement Scheme (CAS) and in the earlier round of litigation, this Court issued a direction to the Joint Director, Higher Education, to consider that the service rendered by the petitioner during the period from 26.11.1992 to 20.11.2008 can be clubbed together with her later service of aided post. This petition, being Writ Petition No. 4909 of 2016 was accordingly disposed of by this Court on 19.01.2017. Thereafter, the respondent No.1 looked into the issue afresh and by impugned decision, found that clubbing together of the previous service of unaided post with the later service of aided post was not possible as, in the opinion of the respondent No.1, there was a break in service on account of resignation tendered by the petitioner from the unaided post. Being aggrieved by the same, the petitioner has approached this Court.

4. According to Mr. Saboo, the learned counsel for the petitioner, acceptance of resignation is not a fact proved by respondent Nos.2 and 3 and, therefore, on the ground of tendering of resignation by the petitioner, her request for grant of benefit of CAS ought not to have been rejected by the respondent No.1. He also submits that the petitioner is entitled to the benefit of CAS in terms of UGC Regulation 10.1(g).

5. Mr. Rao, learned Assistant Government Pleader for respondent No.1 submits that the impugned order is correct and in any case, the Government cannot be made to bear the responsibility of any financial burden which was incurred by the college when the petitioner had rendered her service as Lecturer on unaided post.

6. According to Mr. Bhoyar, learned counsel for the respondent Nos.2 and 3, acceptance of resignation of the petitioner is a fact already established on record and, therefore, the petitioner cannot be said to be entitled to the relief claimed by her.

7. All said and done, we find that ultimately the whole issue has a bearing on financial burden which may arise on account of extension of benefit of CAS to the petitioner if, her service on unaided post is clubbed together with her service on aided post. Since the sanction of grant-in-aid is a matter of policy, and there is no policy

framed by the Government to also sanction grant-in-aid with retrospective effect, in any case, no Lecturer of a senior college can claim as a matter of right that the Government should be directed to take the financial burden of the period during which the Lecturer rendered service on an unaided post. Therefore, in a case like this, if the relief as prayed for is granted by this Court, it would ultimately lead to making the Government bear the financial burden for the period for which it is not responsible. If the petitioner thinks that she is entitled to receive the benefit of CAS by clubbing together both the services, it is an issue which would have to be sorted out by the petitioner on one hand and respondent Nos.2 and 3 on the other and if decision is taken by respondent Nos.2 and 3 that the petitioner is entitled to club together her both kinds of services, the respondent Nos.2 and 3 would have to make it clear that for the period for which the petitioner had rendered her service on unaided post, the whole liability for making payment of the arrears of salary shall be borne exclusively by the respondent Nos.2 and 3. Without such resolution in between the petitioner and respondent Nos.2 and 3, we do not think that the respondent No.1 i.e. Joint Director, Higher Education, Nagpur can grant request of the petitioner. In the result, we find no merit in this petition.

8. The Writ Petition stands dismissed with liberty to the petitioner to make an appropriate representation to the respondent

Nos.2 and 3, if so advised. If any such representation is made within a period of three weeks, the same shall be decided in accordance with law, by the respondent Nos.2 and 3, preferably within a period of four weeks from the date of the order and in doing so, the respondent Nos.2 and 3 shall consider the observations of this Court in the case of *Dr. Pramod S/o Govindrao Yeole Vs. The State of Maharashtra and others*, in *Writ Petition No. 6376 of 2015* decided on 07.06.2016.

Rule is discharged. No costs.

(ANIL L. PANSARE, J.)

(SUNIL B. SHUKRE J.)

Kirtak