

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.3057 OF 2023

**VIKAS DADARAO SHINDE
VERSUS
THE STATE OF MAHARASHTRA, THROUGH ITS SECRETARY AND OTHERS**

...
Advocate for Petitioner : Mr. Manish P. Tripathi
AGP for Respondents – State : Mr. S. K. Tambe
...

**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.**

DATED : 20th MARCH, 2023

PER COURT :

1. The Petitioner is an Assistant Professor with Respondent No.6 College. He claims to have got himself vaccinated for protection from the Corona infection during the Covid pandemic. On account of a purported reaction to the vaccine, he claims to have suffered locomotor disability. The Department of Empowerment of Persons with Disabilities, Ministry of Social Justice and Empowerment, Government of India issued a Disability Certificate dated 28.12.2022, as under (reproduced verbatim) : -

“(A) He is a case of Locomotor Disability.

(B) The diagnosis in his case is LOWR MOTOR NEURON
DISCRETE WITH QUARAPARESIS

(C) He has 70% (in figure) Seventy percent (in words) Temporary

Disability in relation to his ALL FOUR LIMBS as per the guidelines (Guidelines for the purpose of assessing the extent of specified disability in a person included under RPwD Act, 2016 notified by Government of India vide S.O. 76(E) dated 04/01/2018).

2. In view of the above, he prays for benefits under Section 20 of the Rights of Persons with Disabilities Act, 2016 and is willing to work on a supernumerary post or any other suitable post by protecting his pay (prayer clause 'C'). So also, he prays for release of the salary of his from December 2022. A solemn statement is made that he is not terminated.

3. The learned Advocate for the Petitioner tenders a copy of the proposal forwarded by the employer College to Respondent No.3, dated 23.02.2023 requesting for accommodating the Petitioner on a light posting by protecting his pay scale. The said proposal is pending. The copy of the communication dated 23.02.2023 is taken on record and marked as 'X' for identification.

4. Considering the above and the effect of section 20 of RPwD Act, 2016, the Petitioner cannot be terminated from service. His pay has to be protected. A light posting or alternate posting which he is capable of performing despite the handicap, is to be offered to him.

5. In view of the above, this Petition is disposed off with the following directions :-

A] The case of the Petitioner may be considered by Respondent No.3, for grant of alternate posting / light posting in the light of section 20 of the RPwD Act, 2016.

B] His unpaid salary shall be released forthwith and it shall be ensured that the arrears are paid to him within a period of 30 days.

C] Until Respondent No.3 arrives at a decision, the Petitioner would be continued in service and his salary shall be paid regularly. If this authority arrives at an adverse decision, the same shall not be implemented for a period of 30 days in order to enable the Petitioner to challenge the said order.

D] Respondent No.3 would arrive at a decision on the proposal forwarded by the Management, as expeditiously as possible and preferably, on or before 30.06.2023.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)