

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

**REVIEW APPLICATION (CIVIL) NO.264 OF 2022
IN WP/11545/2021**

**KAVAYITRI BAHINABAI CHAUDHARI NORTH
MAHARASHTRA UNIVERSITY THROUGH ITS
REGISTRAR
VERSUS
VISHWANATH EKNATH PATIL AND OTHERS**

**AND
REVIEW APPLICATION NO.100 OF 2023
IN WP/11545/2021**

**THE STATE OF MAHARASHTRA AND OTHERS
VERSUS
VISHWANATH EKNATH PATIL AND OTHERS**

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Advocate for the Applicant in RA/264/22 : Shri Y.B. Bolkar i/by
Shri Girase Amarjitsing B.
AGP for the Applicant/State in RA/100/23 : Shri P.S. Patil
Advocate for Respondent 1/Original Petitioner : Ms.Priyanka R.
Deshpande
...

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

DATE :- 06th April, 2023

Per Court :-

1. The first Review Application No.264/2022 has been

filed by the University and the second Review Application No.100/2023, has been filed by the State. We have considered the strenuous submissions of the learned Advocates for the respective sides. With their assistance, we have gone through the Review application paper book.

2. It is well settled, in view of the judgments of the Honourable Supreme Court in *S.Madhusudhan Reddy vs. V. Narayana Reddy and others, 2022 LiveLaw (SC) 685 : 2022 SCC Online SC 1034* and *Pancham Lal Pandey vs. Neeraj Kumar Mishra and others, 2023 LiveLaw (SC) 111 : 2023 SCC Online SC 143 : SLP (C) No.3329/2021 decided on 15.02.2023*, that in a matter of review, the parties are not to be permitted to reopen the Writ Petition and address the Court as if the Writ Petition is being re-argued. Taking into account the earliest judgment delivered by the Honourable Supreme Court in *Lily Thomas vs. Union of India, AIR 2000 SC 1650*, an error apparent on the face of the order should be made out by the Review Applicant on the basis of the available record.

3. We have delivered the order on 13.04.2022 in Writ Petition No.11545/2021. Neither the University, nor the College, appeared in the matter, despite service of court notice. As such,

there was no assistance from the University and the College. Even in the present proceedings, despite service of Court notice, the College has not appeared.

4. According to the Review Applicants, the error that has crept into our order is in paragraph 4, which reads as under:-

“4. Having considered the submissions of the learned Advocate for the respective sides, it is undisputed that the petitioner was appointed on 29/06/1991 as a ‘Teacher’ in respondent No.5 - College. He had the qualification of M.A. (B+ = 55%) in Marathi. He was appointed as an ‘Assistant Professor’ on 02/07/1991. By an advertisement dated 20/06/1992, the petitioner was selected and appointed as an Assistant Professor’ with respondent No.5 - College. In this backdrop, it would be necessary to record that the petitioner’s employment is prior to 24/10/1992. Those appointees prior to 24/10/1992 have been exempted from having the NET-SET qualification.”

5. Following aspects have been highlighted by the Review Applicants in order to point out that the order at issue suffers an error apparent on its face :-

(a) Respondent No.5/College sought permission from the University to publish an advertisement for filling up vacant posts of Professors/ Assistant Professors.

(b) After scrutinizing the documents and considering

the roster, the University issued the letter dated 24.07.1992 and accorded permission to the College for publishing an advertisement as per statute No.415(1).

(c) The College published the advertisement on 27.07.1992, but the name of the newspaper is not legible.

(d) It is undisputed that the Petitioner applied for the post of Lecturer in Marathi subject pursuant to the said advertisement.

(e) The University constituted the selection committee as per the statute on 12.08.1992 for carrying out the selection process in the light of the advertisement.

(f) Interviews were held on 27.01.1993.

(g) The University constituted Committee recommended the eligible candidates for appointment as Lecturers, vide the communication dated 27.01.1993.

(h) The proposal seeking approval to the appointment of the original Petitioner, was forwarded to the University on 04.03.1993 along with the earlier appointment orders dated 01.07.1991 and 20.06.1992.

(i) The University accorded it's approval to the services of the original Petitioner vide the communication dated

24.09.2003 pursuant to the appointment, in response to the advertisement. Condition of passing Ph.D./ NET/ SET was imposed on the Petitioner.

(j) The Petitioner superannuated on 31.05.2020.

6. In the above backdrop, our attention was drawn to the material that was placed before us by the original Petitioner. The original Petitioner had placed before us the appointment order dated 29.06.1991, which purportedly had a meaning that he was appointed as a full time Lecturer in Marathi subject from 01.07.1991. This created a picture that he was appointed on a regular post from 01.07.1991. This was the reason why we were impressed that he was appointed from that date. There was no assistance from the University or the College, as they did not appear before us. The Petitioner was once again appointed by the same Institution by order dated 20.06.1992, as a full time Lecturer in Marathi. It is now conceded by the Petitioner that these two selections were on the basis of the local selection committee constituted by the management of the College. The record placed before us by the University, through the Review Petition, indicates that the University constituted committee, as

per the statute, in pursuance to the advertisement published by the College after obtaining due approval from the University, was constituted for the first time. The Petitioner was aware that he was a temporary appointee, as a temporary arrangement for the academic year, prior to his regular appointment. He, therefore, immediately responded to the advertisement and applied for the post of Lecturer in Marathi. He was selected by the statutory committee and appointed.

7. It is thus, obvious that we committed an error in assuming that the Petitioner's appointment and induction in service of the College was from 29.06.1991, when it was actually a selection by the local committee since the College desired to have assistance of a temporary lecturer for a particular academic year. This has nothing to do with the substantive appointment made in 1993 after the Petitioner was selected by the duly constituted selection committee of the University.

8. In view of the above, the **Review Application No.264/2022 is allowed.** Our order dated 13.04.2022, concluding that the original Petitioner would stand to gain the benefits of the Career Advancement Scheme and the pension, by considering his date of appointment as 01.07.1991, stands

modified. The said date shall now read as 27.01.1993, which is the date on which the duly constituted committee of the University recommended the appointment of the Petitioner, though there is no appointment order on record. The Petitioner was granted approval by the order dated 24.09.1993, which would relate back to his selection and appointment on 27.01.1993.

9. At this juncture, the learned Advocate for the original Petitioner makes a request that his retiral benefits and pension proposal has still not been forwarded by the College. A direction be, therefore, issued in view of the above order that the College should forthwith forward the pension proposal and submit the bills towards payment of retiral benefits to the competent authority.

10. We order accordingly, by accepting the request of the original Petitioner. We expect the University to ensure that the College submits such proposal and bills of the Petitioner within a period of thirty days from today. Needless to state, the Review Applicant as well as the original Petitioner, shall serve a copy of this order on the Principal of the College and the Chairman of the Educational Trust, which operates the said

College.

11. In view of the above order, **Review Application No.100/2023 filed by the State of Maharashtra, stands worked out and is disposed off.**

kps (SANJAY A. DESHMUKH, J.) (RAVINDRA V. GHUGE, J.)