

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

WRIT PETITION NO.13391 OF 2019

**KERBA MARIBA WAGHMARE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioner : Mr. Kadam Nitin S.
AGP for Respondents/State: Mr. S. B. Yawalkar
Advocate for Respondent No.6: Mr. K. M. Suryawanshi

...

**CORAM : MANGESH S. PATIL &
S. G. CHAPALGAONKAR, JJ.**

DATE : 30.01.2023

PER COURT :

. Heard both the sides.

2. The petitioner's claim for getting a benefit of Career Assured Scheme [CAS] has been denied by the impugned order passed by respondent no.3 - Joint Director of Higher Education essentially on the ground that approval granted by the University does not mention as to from which date it was being granted.

3. The impugned order was passed pursuant to the direction of this Court in Writ Petition No.4787/2012 by the order dated 29.10.2015. It was expected of respondent no.3 - Joint Director to have undertaken the inquiry may be by calling upon the petitioner as also calling the information from the University. We have every room to believe that the order has been passed as if the respondent no.3 - Joint Director was sitting as an umpire and not an adjudicator, else we cannot comprehend

as to how observation could have been made touching the rules and regulations of the University and reaching a conclusion that the appointment of the petitioner was not in accordance with such rules by the appropriate Committee. Pertinently, the order of appointment and regularization with effect from 01.07.1991 was specifically mentioned in Paragraph No.8 of the order. A doubt is created about the absence of the initial date of appointment in the letter of confirmation/approval granted by respondent no.4 – University vide its communication dated 10.04.1997.

4. To set at naught the doubt being entertained by respondent no.3 - Joint Director, the petitioner has placed on record a communication received from the University under Right to Information Act saying that no such procedure for grant of approval to the post of Librarian was in place prior to 11.12.1999.

5. Besides, the approval granted by respondent no.4 – University dated 10.04.1997 has been discarded on the ground that it does not refer to a specific date from which the approval was being granted. Since this was a communication from the University to the Principal of the College, we had asked the learned advocate for the petitioner to produce a copy of the letter dated 25.03.1997, in response to which this information was furnished.

6. Learned advocate for the petitioner places on record a copy of that letter addressed to Registrar of respondent no.4 - University under the signature of the Principal of the College dated 25.03.1997, wherein, it was specifically informed that the petitioner was appointed initially on 07.07.1989, he resumed duty on 12.07.1989 and his appointment has been confirmed. It is in response to this communication that the University had informed about the grant of approval to the petitioner's

appointment. Since no other date was mentioned by the University as to the date from which the approval was being considered, since it was in response to the letter from the Principal dated 25.03.1997, we have no manner of doubt that the appointment which is confirmed with effect from 01.07.1991 is the base for granting the approval.

7. Commensurate with such date of appointment, which is approved by the University, we dispose of the writ petition by directing respondent no.3 - Joint Director to re-consider the petitioner's claim on its own merits by taking the date of his appointment and approval with effect from 01.07.1991, by extending an opportunity to the petitioner of being heard and also expediting the decision to be taken objectively and not in an indifferent manner. The decision shall be taken as early as possible and in any event within twelve weeks.

(S. G. CHAPALGAONKAR, J.)

(MANGESH S. PATIL, J.)

Sameer