

psv

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.379 OF 2021
IN
WRIT PETITION NO. 8074 OF 2006

Shri. Shamrao Durgappa Pawar
V/s.
The State of Maharashtra & Ors.

...Petitioner

...Respondents

Mr. V. A. Madane with Mr. Y. B. Lengare for Petitioner.
Mr. Nitin P. Deshpande with Mr. A. P. Vanarase, AGP for State/Respondent No.1.
Mr. Kuldeep Nikam for Respondent No.2.

CORAM : G. S. KULKARNI, J.
DATE : FEBRUARY 24, 2023

P.C. :

1. In pursuance of the earlier orders passed on the present proceedings and more particularly in compliance of the order dated 01 August, 2019 passed by the Co-ordinate Bench of this Court, the respondents have issued an order dated 21 February, 2023, regularizing the services of the petitioner. However, what has remained to be specifically incorporated in the said order, is a reference to the benefit to be granted to the petitioner which needs to be similar to what have been granted to the others i.e. the service of the petitioner being regularized from 01 February, 1996. Thus for the purpose of

continuity of service and for the retirement benefit as may be available/ applicable to the petitioner, the date of the petitioner's appointment is required to be taken as 01 June, 1992. This is fairly accepted by Mr. Deshpande considering the earlier orders passed by the Court in respect of persons who are similarly situated and who were granted such benefit however, to the exclusion of the petitioner, as noted in detail in the earlier orders.

2. In view of the compliance of the orders passed by this Court of which contempt was alleged by issuance of the regularization order in favour of the petitioner dated 24 February, 2023, it is in the interest of justice that the contempt proceedings are not taken forward, although the observations as made by the Court in the earlier orders indicate that the proceedings would be required to be taken to its logical conclusion, however it is felt appropriate that the proceedings are dropped. Ordered accordingly.

3. The petition is accordingly disposed of in terms of the above observations. A copy of the order dated 24 February, 2023 as tendered by Mr. Deshpande is taken on record.

4. Needless to observe that the petitioner would be entitled to the benefits as conferred by the Division Bench of this Court in its judgment and order dated 12 October, 2018 passed on a batch of petitions (**Writ Petition No.8908 of 2015, Kishor Digambar Gaikwad Vs. State of Maharashtra & Ors.**) and other companion petitions wherein the Court had directed that the petitioners therein, who were similarly placed as the petitioner in the present proceedings, would be entitled to absorption in Government service from the date of filing of the reference/Complaint in the Labour Court/Industrial Court. It was also directed that the date to be assigned would be 1st of June of the particular year, for example it was 01/06/1992 which was the date as awarded in respect of the petitioners in such writ petition. The Division Bench also directed that the petitioners would not be entitled to any monetary benefits in the form of arrears however, the said date would be taken into consideration for notionally fixing the salary of the petitioners' pension in respect of those petitioners who had retired and for the purposes of seniority and promotional benefits, if any applicable. Accordingly, the exercise of notionally fixing the salary of the said petitioners who were in service, and pension of the petitioners who had retired, was to be undertaken latest by 31 January, 2019. In so far as the petitioners who were in service were concerned, they were to be paid salary after carrying out the exercise of

notional fixation of the pay-scale and the revised salary was to be payable from December 2018. The case of the petitioner being similar, he would also be entitled to the directions of the said Division Bench of this Court. Accordingly, the benefits to that effect shall be given to the petitioner with effect from 01 June, 1992 as observed above at the earliest by 31 March, 2023.

5. At this stage, learned counsel for the petitioner states that the petitioner belongs to a reserved category and appropriate reference to that effect be made in the official record as the order dated 24 February, 2023 refers that the petitioner is belonging to "Open category". Let the appropriate corrections be carried out within a period of two weeks from today and corrected order be issued to the petitioner.

6. Disposed of in the above terms. No costs.

(G. S. KULKARNI, J.)