

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 2630 OF 2019**

Dr. Deepak Gopalrao Pawar

.....Petitioner

V/s.

The State of Maharashtra, through
the Secretary and Ors.

.....Respondents

Mr. N.V. Bandiwadekar, Senior Advocate i/by. Ms. Ashwini N.
Bandiwadekar, Advocate for the petitioner.

Mr. R.P. Kadam, AGP for State-respondent no.1.

Mr. Mandar Limaye, Advocate for respondent no.2.

CORAM : S.V. GANGAPURWALA, ACTING CJ &

SANDEEP V. MARNE, J.

DATE : 26th APRIL, 2023.

P.C. :

1) The petitioner was initially appointed as a Lecturer. Departmental Enquiry was initiated against the petitioner. Show-cause notice was issued to the petitioner as to why the petitioner should not be compulsorily retired. The General Body of the Corporation passed a Resolution thereby proposing minor penalty on the petitioner to stoppage of one

increment. The Government rescinded the said Resolution. Subsequently, the petitioner was made to compulsorily retire in the year 2019 as an Assistant Professor.

2) It is not disputed that when the department proceedings were initiated, the petitioner was working as a Lecturer. Subsequently, through a fresh selection process the petitioner was appointed as an Assistant Professor in the year 2014. It also appears that the appointing authority of the petitioner is the Corporation. The decision of the Corporation would be through General Body. The order of compulsory retirement is passed by the Deputy Commissioner. After the resolution was rescinded by the Government, fresh decision was required to be taken by the General Body. No such fresh decision has been taken by the General Body. The Deputy Commissioner could not have passed the order of compulsory retirement as the disciplinary authority is the Corporation. In light of that, we pass the following order :

(i) The impugned order is quashed and set aside. The petitioner shall be reinstated on the post, which he was holding at the time of passing the impugned order of compulsory retirement.

(ii) The petitioner will not be entitled to any backwages for the period the order was passed till the reinstatement.

(iii) The petitioner shall be reinstated within one month from today.

NEETA
SHAILESH
SAWANT

Digitally signed by
NEETA SHAILESH
SAWANT

Date: 2023.04.28
11:25:16 +0530

(iv) The General Body may take further decision with regard to the punishment to be imposed upon the petitioner pursuant to the Departmental Enquiry. Depending upon the decision taken about the punishment to be imposed upon the petitioner, the parties may take further steps.

(v) In the meantime, the petitioner shall be reinstated with continuity in service.

3). The Writ Petition is disposed of. No costs.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)