



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CIVIL APPLICATION (CAW) NO.2390 OF 2023
IN
WRIT PETITION NO.146 OF 2015

Dr. Ashok s/o Ramdasji Mhaske,
Aged 49 years, Occ- Service,
R/o: Plot No. 118, Rajendra Nagar,
Hingna Naka, Nagpur. **PETITIONER**

...V E R S U S...

1. Dr. Punjabrao Deshmukh Krishi Vidyapeeth,
Akola, through its Registrar, Krishinagar,
Akola – 444104.
2. The Vice-Chancellor, Dr. Punjabrao Deshmukh
Krishi Vidyapeeth, Akola, Krishinagar,
Akola – 444104.
3. The Grievance Committee of Dr. Punjabrao
Deshmukh Krishi Vidyapeeth, Akola,
through its Chairman, Krishinagar,
Akola – 444104.
4. Maharashtra Council of Agricultural
Education and Research, through its
Director General, 132-B, Bhamburda
Bhosale Nagar, Pune – 411007.
5. The State of Maharashtra, through its
Secretary, Department of Agriculture and
Animal Husbandry, Dairy Development
and Fisheries, Mantralaya, Mumbai – 32.
6. Dr. Gajanan Uddhaorao Satpute,
Aged 58 years, Occu.-Service,
R/o Akola, Tah. And Distt. Akola. **RESPONDENTS**

Mr. B. G. Kulkarni, Advocate for Petitioner.
Mr. Abhay Sambre, Advocate for Respondent Nos.1 and 2.
Mrs. H. N. Jaipurkar, Assistant Government Pleader for
Respondent No.5.
Mrs. Khanzode, Advocate for Respondent No.6.

CORAM: **ANIL S. KILOR, J.**
DATE: **24th AUGUST, 2023.**

ORAL JUDGMENT:

This Court vide judgment dated 29.10.2018 partly allowed the writ petition and directed that the petitioner shall be granted regular promotion from 29.01.2004 as per Government Resolution dated 25.05.2004 to the post of Associate Professor in the Department of Soil and Water Conservation Engineering in the respondent No.1 – University.

2. Thereafter, an application for review was filed seeking recall of the judgment and order dated 29.10.2018 at the behest of respondent No.6 and accordingly this Court vide order dated 06.03.2020 allowed the application and recalled the judgment and order dated 29.10.2018 and thereby directed the office to list the matter for final disposal.

3. In the meantime, the respondent No.6 got superannuated and accordingly the present application came to be

filed for disposal of the writ petition by restoring the judgment dated 29.10.2018.

4. Mr. Kulkarni the learned counsel for the applicant/petitioner submits that as the respondent No.6 got superannuated at whose behest the judgment and order dated 29.10.2018 was recalled, the respondent No.6 cannot now claim any relief in the present matter and therefore, it would be necessary to restore the judgment dated 29.10.2018.

5. Mr. Sambre, the learned counsel for respondent Nos.1 to 3 strongly opposes the application on the ground that the relief was granted in favour of the petitioner, considering the post from the category of promotion. Whereas, the said post was from nomination quota and the petitioner was appointed as stop gap arrangement against the vacancy of nomination quota.

6. He has pointed out that from 2002 till 2006 the promotion given to the petitioner, as a stop gap arrangement against the vacancy of nomination quota. He therefore, submits that the petitioner cannot claim any relief from the date the relief was granted by this Court i.e. from 29.01.2004, vide judgment dated 29.10.2018.

7. In the light of above referred rival contentions, I have perused the record and the judgment dated 29.10.2018, which is sought to be restored by the petitioner.

8. It is evident from the para No.7 of the said judgment that this Court did not consider that the post on which the petitioner was promoted as a stop gap arrangement was against the vacancy of 'nomination quota' and this was continued till the temporary promotion was granted to the petitioner from the 'promotion quota' on 25.06.2007.

9. Thus, it is apparent on the face of the said judgment that this Court did not treat the promotion of the petitioner from 2002 till 2006 as a stop gap arrangement and against the vacancy of 'nomination quota' and thereby committed error.

10. Thus, I find substance in the submission of the learned counsel for the respondent Nos.1 to 3 that such benefit cannot be granted to the petitioner as it was granted vide judgment dated 29.10.2018.

11. At this stage, the learned counsel for the petitioner makes a prayer that in the circumstances the claim of the petitioner may be considered from 25.06.2007.

12. However, as the present petition is arising out of the order passed by the Grievance Committee and considering the prayers made before the Grievance Committee, I am of the opinion that the ends of justice would be sub-served if the petitioner is granted liberty to approach to the respondent No.1 – University by making a representation to grant benefits to the petitioner from 2007 till the regular promotion w.e.f. 31.10.2009.

13. If such representation is made, it is expected that the respondent No.1 shall take decision on the same within one month from the date of submission of such representation.

14. Accordingly, the application and writ petition are disposed of in above terms.

(ANIL S. KILOR, J.)