

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

WRIT PETITION NO.1123 OF 2019

Jaikrishna s/o Ramaji Lamsoge

vs.

State of Maharashtra through its Secretary, Medical Education Drugs Department,
Mantralaya, Mumbai and others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri N. S. Badhe, Advocate for petitioner.
Ms N. P. Mehta, Assistant Government Pleader for respondents.

CORAM :- A.S.CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE :- 2nd AUGUST, 2023

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Heard.

2. The challenge raised in this writ petition is to the judgment dated 07.07.2017 passed by the Maharashtra Administrative Tribunal, Nagpur. By the said Original Application the petitioner sought a declaration as regards applicability of the Government Resolution dated 31.07.2004 issued by the Department of Higher and Technical Education to the petitioner who was serving as Physical Training Instructor in the Government Medical College under the Department of Medical Education and Drugs. An alternate prayer was also made that if the said Government Resolution dated 31.07.2004 was not applicable to the petitioner, he be granted similar benefits by revising his pay-scale from 01.01.1973 in the pay-scale of Rs.700-1600. The Tribunal has referred to the earlier order passed by it in Original Application No.676 of 1998 in the proceedings preferred by the petitioner as decided on 03.11.2000 by which the benefit of revised pay-scale as recommended by the University Grants Commission with retrospective effect was given to him. By observing that the petitioner's pay-scale had already been revised as prayed for,

liberty was given to him to file comprehensive representation if such benefits were not considered in his favour.

3. We have heard the learned counsel for the parties and we have perused the documents on record. It is seen that the petitioner seeks benefit of revision of his pay-scale of Rs.700-1600 from 08.02.1973. For such relief, the petitioner relied upon the Government Resolution dated 31.07.2004 issued by the Higher and Technical Education Department. The Tribunal examined the challenge to the said Circular and found that the revised pay-scale was made applicable from the date of issuance of the Government Resolution and not retrospective. It further found that no discrimination was pointed out to indicate that services of such employees from 01.01.1973 to 31.03.1980 had been considered for Career Advancement Scheme Benefit. The Tribunal therefore did not interfere with the said Government Resolution. It however granted liberty to the petitioner to file a comprehensive representation and seek benefits in terms of the earlier order passed in Original Application No.676 of 1998.

4. In Original Application No.676 of 1998 the petitioner had prayed for revision of his pay-scale as recommended by the University Grants Commission with retrospective effect. While allowing the said Original Application, the Tribunal on 03.11.2000 passed the following operative order:

“The application is allowed. Respondents are directed to issue necessary orders granting the revised pay scales as recommended by U.G.C. from time to time, to the applicant with retrospective effect. This process should be completed within a period of 3 months. With these directions, the O.A. stands disposed of. No order as to costs.”

Since the Government Resolution dated 31.07.2004 came to be issued by the Department of Higher and Technical Education, the petitioner filed another Original Application bearing No.162 of 2007. He sought benefit of the said Government Resolution and alternatively revision of his pay-scale from 01.01.1973. While dismissing the said Original Application, the following operative order was passed by the Tribunal.:

“The O. A. stands dismissed with no order as to costs. The applicant, however, will be at liberty to file comprehensive representation, if his claims are not considered as directed by this Tribunal in O.A.No.676/1998 coupled with G. R. dated 31.07.2004. If such representation is filed within one month, the respondent authority shall take decision thereon within three months from the date of receipt of representation and shall communicate the said decision in writing to the applicant.”

6. From the aforesaid, it is clear that the petitioner's claim with regard to revision of his pay-scale in terms of the recommendations of the University Grants Commission with retrospective effect has already been granted in the earlier proceedings. The same prayers were reiterated in Original Application No.162 of 2007. We find that the Tribunal has rightly not accepted the challenge to the Government Resolution dated 31.07.2004 especially when the same is issued by another Department and not the Department of Medical Education and Drugs under which the petitioner was serving. The Tribunal has however granted liberty to the petitioner to make a comprehensive representation and seek benefits not released in his favour in terms of earlier order in Original Application No.676 of 1998. The relief granted by the Tribunal serves the ends of justice and we do not find any reason made out to interfere with the order passed by the

Tribunal.

The learned counsel for the petitioner submits that pursuant to liberty granted by the impugned order, the petitioner did not make any comprehensive representation as was expected. We are inclined to permit the petitioner to make such representation as directed by the impugned order.

7, Accordingly, the writ petition stands dismissed with no order as to costs. It is open for the petitioner to file comprehensive representation in accordance with the liberty granted by the Tribunal in its judgment dated 07.07.2017 in Original Application No.162 of 2007. The time to make such representation is extended by the period of two months from today. The representation if made be decided within a period of two months of receiving the same.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

Andurkar.