



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

**WRIT PETITION NO.11196 OF 2021**

Balasaheb Laxman Shinde,  
Age-53 years, Occu:Service,  
House No.209, Tapovan Road,  
Sawedi, Savedi Road,  
Ahmednagar.

**...PETITIONER**

**VERSUS**

- 1) The State of Maharashtra,  
Through the Secretary of Higher  
Education Department, Mantralaya,  
Mumbai-32,
- 2) The Director of Higher Education,  
Maharashtra State, Pune,
- 3) The Joint Director Higher Education,  
Pune Regional Office, Pune,
- 4) The University of Poona,  
Poona, Through its Registrar,
- 5) Shri. Dnyaneshwar Mahavidyalaya,  
Newasa, Through its Principal,  
Newasa, District-Ahmednagar.

**...RESPONDENTS**

...

Mr. R.R. Deshpande Advocate h/f. Ms. P.R. Deshpande  
Advocate for Petitioner.

Mr. P.S. Patil, Additional G.P. for Respondent Nos. 1 to 3.

Mr. V.P. Golewar Advocate h/f. Mr. A.R. Joshi Advocate for  
Respondent No.4.

Mr. R.S. Devdhe Advocate for Respondent No. 5.

...

**CORAM: SMT. VIBHA KANKANWADI AND  
S.G. CHAPALGAONKAR, JJ.**

**DATE OF RESERVING JUDGMENT : 14<sup>th</sup> MARCH 2024**

**DATE OF PRONOUNCING JUDGMENT : 2<sup>nd</sup> APRIL 2024**

**JUDGMENT [PER SMT. VIBHA KANKANWADI, J.] :**

1. Rule. Rule made returnable forthwith. Heard learned counsel appearing for the respective parties finally, by consent.

2. Present Petition has been filed for following reliefs:-

“(B) By issuing the writ of certiorari or any other appropriate writ or order or direction in the like nature, the communication dated 11/06/2014 issued by the respondent No.4 may kindly be quashed and set aside.

(C) By issuing the writ of mandamus or any other appropriate writ or order or direction in the like nature, the respondent Nos. 1 to 4 may kindly be directed to regularize the appointment of the petitioner from 28-09-1992 for all purposes and to confer the CAS benefits from said date in favour of the petitioner.

(D) By issuing the writ or mandamus or any other appropriate writ or order or direction in the like nature, the respondent Nos. 1 to 4 may kindly be directed to pay the CAS benefits to the petitioner within the stipulated period which this Hon’ble Court would deem fit and proper.

(E) By issuing the writ of mandamus or any other appropriate writ or order or direction in the like nature, the respondent Nos. 1 to 4 may kindly be directed to pay all the arrears of the CAS benefits to the petitioner with 15% interest p.a. till its realization."

3. Heard learned Advocate Mr. R.R. Deshpande holding for Ms. P.R. Deshpande for Petitioner, learned Additional G.P. Mr. P.S. Patil, for Respondent Nos. 1 to 3, learned Advocate Mr. V.P. Golewar holding for learned Advocate Mr. A.R. Joshi for Respondent No.4 and learned Advocate Mr. R.S. Devdhe for Respondent No. 5.

4. Learned Advocate Mr. Deshpande appearing for the petitioner submits that the petitioner had appeared for M.Sc. (Chemistry) final year examination of the academic year 1991-92 and was waiting for his results. Being eligible as per the advertisement and then prevailing University Grants Commission Rules and Regulations, the petitioner had applied for the post of lecturer in the subject of Chemistry, as 'an appeared candidate'. The selection committee constituted as per the rules, interviewed the petitioner on 20<sup>th</sup> August 1992 and submitted its report on the same day recommending the name of the petitioner for the appointment as lecturer for the subject of

Chemistry for unreserved open post. It was told to the petitioner that the appointment would be given only after the declaration of the result of M.Sc. by the University. The results were declared on 28<sup>th</sup> September 1992, wherein the petitioner had got first class. Thereupon, the appointment order came to be issued by respondent No.5 College on 28<sup>th</sup> September 1992 itself. The University, by its letter dated 7<sup>th</sup> July 1993 approved the services of the petitioner from the date of joining till the end of academic year 1992-93. Thereafter respondent No.5 had again published an advertisement inviting applications for the post of lecturer in Chemistry i.e. on 26<sup>th</sup> May 1993. The petitioner once again applied and was called for the interview before the selection committee which was duly constituted. The selection committee once again selected the petitioner and thereafter respondent No.5 had issued appointment order dated 1<sup>st</sup> July 1993. The petitioner was on probation for the period of two years. It is further submitted that the University Grants Commission had considered the issue of exemption to the candidates who are appointed during the period from 19<sup>th</sup> September 1991 to 3<sup>rd</sup> April 2000 in Maharashtra State, from NET / SET examination and ultimately, by letter dated 22<sup>nd</sup> March 2010 considered and granted exemption to several candidates from NET / SET

examination and the petitioner was one of them. Respondent No.4 had circulated the list of said 1269 lecturers from Pune University to whom exemption from NET / SET has been granted by the University Grants Commission. Therefore, it is clear that the petitioner is in continuous employment of respondent No. 5 College from 28<sup>th</sup> September 1992. The petitioner was entitled to Career Advancement Scheme ( for short "CAS") benefits from the said date. Respondent No.4, by order dated 11<sup>th</sup> June 2014 informed respondent No.5 that the exemption from the NET / SET qualification for lecturers who are appointed during the period from 19<sup>th</sup> September 1991 to 23<sup>rd</sup> October 1992 is not applicable to the petitioner and the proposal in this regard sent by the college to the University is not accepted. The record from respondent No.4 shows that the committee appointed by respondent No.4 has not granted exemption to the petitioner from NET / SET and it was intimated to the concerned authorities by letter dated 4<sup>th</sup> July 2019. The petitioner had then approached the Grievance Committee of respondent No.4 by filing a complaint with a request to grant him exemption from the NET / SET qualification, however, the Grievance Committee had rejected the same by order dated 26<sup>th</sup> February 2021. In fact the said committee has stated that it has no jurisdiction when the

exemption was granted by the University Grants Commission. The petitioner had no option but to approach this Court. Learned Advocate for the petitioner has taken us through all the documents and prayed for allowing the Petition.

5. Learned Advocate for the petitioner, points out the Government Resolution dated 6<sup>th</sup> March 1999 in respect of counting of past services for fixing the pay of the lecturers in the Senior / Selection Grade. Learned Advocate also relies on the decision in the ***Mahatma Gandhi University and others vs. Rincymol Mathew (Civil Appeal No.8031 of 2022, decided on 10<sup>th</sup> November 2022)***, wherein it has been held by the Hon'ble Supreme Court that for grant of CAS benefits, Regulation 10.1 is required to be read as a whole and therefore the previous appointment as ad-hoc or temporary service of more than one year duration can be counted. However, the proviso is that the period of service should be more than one year duration, the incumbent was appointed on the recommendation of duly constituted selection committee and the incumbent was selected to the permanent post in continuation to the ad-hoc or temporary service, without any break. Learned Advocate for the petitioner also relies on the decision of this Court in ***Mohd. Shafiuddin Mohd. Shamshoddin vs. the State of Maharashtra and***

*others (Writ Petition No.5164 of 2021, decided on 8<sup>th</sup> September 2021)*, wherein it has been held that the petitioner therein who was appointed on 1<sup>st</sup> July 1992, was held to be deemed to be in regular service and was not required to possess NET / SET qualification.

6. Learned Advocate for respondent No.4 relies on the affidavit-in-reply filed by Shri Munjaji Vitthalrao Rasve, the Deputy Registrar, Academic Section of respondent No.4 and submits that as per the facts even in the Petition also on the date of advertisement and selection, the petitioner was not possessing requisite qualification as per the University Grants Commission, University of Pune and State Government. As per the qualifications prescribed by the University Grants Commission for the post of lecturer, the candidate shall possess Master's degree in the relevant subject with at least 55% marks and shall also have passed NET / SET examination. The petitioner passed his M.Sc. (Chemistry) examination on 26<sup>th</sup> September 1992, whereas the advertisement for the post he is holding, was published on 20<sup>th</sup> June 1992, interviews were conducted on 20<sup>th</sup> August 1992 and the petitioner was selected for the said post. Initially appointment of the petitioner was purely on temporary basis, that too for the academic year 1992-

93, for which approval was granted by the University. At the time of appointment, the petitioner was not possessing the M.Sc. Degree as well as NET / SET qualification. Learned Advocate for respondent No.4 further submitted that the Directorate of Higher Education, Pune by its Circular dated 24<sup>th</sup> March 2014 specifically clarified that services of the teachers who have been appointed before declaration of result of post-graduate degree examination, shall not be considered. As per the directives of Government of Maharashtra, lecturers appointed during the period from 19<sup>th</sup> September 1991 to 23<sup>rd</sup> October 1992 were exempted from NET / SET qualification. Accordingly proposals of some of the lecturers including the petitioner for exemption from NET / SET qualification were placed before the Management Council of the University, however the Management Council in its meeting held on 6<sup>th</sup> May 2014 rejected the proposal of the petitioner. The said decision was informed to the petitioner by the respondent University by letter dated 11<sup>th</sup> June 2014. The petitioner preferred to make a complaint before the Grievance Committee and the Grievance Committee has rejected the claim of the petitioner. Therefore, the Writ Petition, deserves to be dismissed.

7. As aforesaid, the facts are showing that when the advertisement was published on 20<sup>th</sup> June 1992 in one newspaper and on 3<sup>rd</sup> July 1992 in another newspaper, the petitioner had not received the degree. Though the advertisements, which are on record, do not spell in clear words that the candidates who had appeared for the final year examination of the post graduation would be considered, yet from the report of the selection committee, it appears that other candidate who had appeared for the M.Sc. Examination, was also allowed to participate. The selection committee had submitted its report and accordingly the University had approved the services of the petitioner from 28<sup>th</sup> September 1992 for the academic year 1992-93. It is to be noted that the results of the final year of M.Sc. examination to which the petitioner had appeared, were declared on 28<sup>th</sup> September 1992. Then the appointment order was issued and also the joining report of the petitioner on 28<sup>th</sup> September 1992. If the selection of the petitioner was not as per the procedure, then respondent No.4 ought not to have granted approval even for the temporary appointment, because having basic qualification is a mandatory condition. Further, it appears that after the said academic year was over, once again the advertisement for the said post was published. Then again

the selection committee had interviewed the petitioner and other candidates on 13<sup>th</sup> July 1993 and selected the petitioner. The said appointment order dated 19<sup>th</sup> July 1993 is also approved by respondent No.4 University. It appears that there was a break in service of the petitioner from 20<sup>th</sup> June 1993 to 18<sup>th</sup> July 1993, which was then condoned by respondent No.4 by letter dated 25<sup>th</sup> November 2013. Under the communication from University Grants Commission to respondent No.4 in March 2010, University Grants Commission had exempted the petitioner from the NET / SET qualification. The name of the petitioner appeared at serial No.101. The date of the appointment order of the petitioner was then considered as 19<sup>th</sup> July 1993. It appears that respondent No.4 University had once again taken up the issue in respect of the exemption to the lecturers from NET / SET qualification, who came to be appointed between the period from 19<sup>th</sup> September 1991 to 23<sup>rd</sup> October 1992. The proposal to exempt those lecturers was rejected by letter dated 11<sup>th</sup> June 2014 and the name of the present petitioner is at serial No.2. It is to be noted from the order / communication given by the University Grants Commission in March 2010 that the exemption was granted to those candidates since NET qualified candidates were not available. Some lecturers who were even appointed in

2001, 2004 and even in 2007 were also exempted from the said qualification of NET / SET examination by the said order of March 2010. Therefore, the reason that was considered by the University Grants Commission, ought to have been considered by respondent No.4. It appears that the said communication dated 11<sup>th</sup> June 2014 was challenged by the petitioner before the Grievance Committee in 2019 and the Grievance Committee by its order dated 26<sup>th</sup> February 2021, rejected the prayer of the petitioner. Further, perusal of the order passed by the Grievance Committee would show that whether to grant exemption from NET / SET qualification to the candidate or not was held to be not within the jurisdiction of the said Grievance Committee. If it was not within its jurisdiction, then the Grievance Committee ought to have refrained from using the words / findings that the prayer of the petitioner cannot be granted. For taking this decision that the complaint filed by the petitioner does not fall within the jurisdiction of the Grievance Committee, the Committee has taken about three years.

8. At the cost of repetition, we would like to say that respondent No.4 had in fact approved the services of the petitioner and therefore now it cannot question the same on any other ground. It appears that when University Grants

Commission had granted exemption to the petitioner from NET / SET qualification, objection was not raised by respondent No.4 University. The only fact is that the date of appointment of the petitioner shown in the University Grants Commission order is 19<sup>th</sup> July 1993. So it was the question of only between the period from 19<sup>th</sup> September 1991 to 23<sup>rd</sup> October 1992 i.e. the lecturers who came to be appointed during that period. When the said appointment of the petitioner, though temporary, was approved by respondent No.4 University then it ought to have been considered by respondent No.4 University that the said exemption got extended to the petitioner to his appointment dated 28<sup>th</sup> September 1992. Again at the cost of repetition we would like to say that though as per respondent No.4, the petitioner was not qualified, yet without considering that when the said temporary appointment came to be approved by it, respondent No.4 is now estopped from taking a contrary stand. The services of the petitioner are then required to be regularized from 28<sup>th</sup> September 1992 for all purposes and therefore, the case is made out for interference. Hence the following order:-

### **ORDER**

- (I) The Writ Petition is hereby allowed.

(II) The communication dated 11<sup>th</sup> June 2014 issued by respondent No.4 University is hereby quashed and set aside.

(III) The petitioner shall be deemed to be regular in service from 28<sup>th</sup> September 1992.

(IV) In view of the above, the petitioner shall be entitled for all the benefits applicable for duly qualified lecturer including the CAS benefits, from 28<sup>th</sup> September 1992.

(V) The arrears of CAS benefits to the petitioner to carry the interest at the rate of 4% per annum till actual realization of it.

(VI) The benefits flowing from this order shall be given to the petitioner expeditiously and preferably within a period of four months from today.

(VII) The Rule is made absolute in above terms.

**[S.G. CHAPALGAONKAR]**  
**JUDGE**

**[SMT. VIBHA KANKANWADI]**  
**JUDGE**