

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 11670 OF 2022

Kishore Sahadev Patil ... Petitioner
V/s.
The State of Maharashtra and Ors. ... Respondents

***with
WRIT PETITION NO. 11718 OF 2022***

Kishore Vishvasrao Khopade ... Petitioner
V/s.
The State of Maharashtra and Ors. ... Respondents

Mr. Aditya Raktade with Mr. Dnyanesh Patil for the Petitioners in both Petitions

Mr. Narendra V. Bandiwadekar, Senior Advocate with Mr. Vinayak Kumbhar i/b. A.N. Bandiwadekar for the Respondent No.2

Mr. M.M. Pabale, AGP for the Respondent Nos. 1 and 4

***CORAM : NITIN JAMDAR &
M.M. SATHAYE, JJ.***

DATE : 16 JANUARY 2024

P.C. :-

The Petitioners in these two Petitions were working with the Respondent No.2 – Kolhapur Institute of Technology which is affiliated to the Respondent No.3 – Shivaji University. The Petitioner in Writ Petition No. 11670 of 2022 worked as a Store

Keeper and the Petitioner in Writ Petition No. 11718 of 2022 worked as a Workshop Instructor. They have filed these Petitions seeking to enforce the order passed by the Grievance Committee constituted under the provisions of the Maharashtra Universities Act, 2016.

2. Therefore, the only question is regarding the enforcement of the order passed by the Grievance Committee. The Petitioner amongst others had submitted an application to the Grievance Cell and the Grievance Cell passed an order on 17 July 2010 stating that an attempt was made to resolve the issue by way of consensus and the Respondent No.2 – Institute inspite of giving an opportunity did not take any steps and therefore, the Grievance Committee directed that the Petitioners be given all the necessary pay-scales as applicable to the post on which the Petitioners were initially appointed by the Respondent – Management. Notably, this order was passed on 17 July 2010.

3. Two aspects arise. First is obviously of delay and laches as the order was passed by the Grievance Committee on 17 July 2010 and the Writ Petitions are filed on 3 August 2022 after delay of 12 years. Secondly, of merits of the Petitions. On the first aspect we do not find there is any satisfactory reason at all. It is not the case of the Petitioners that they were unaware of the order in their favour passed on 17 July 2010. In the Petitions they have sought to state

that they had made the representations from the year 2010 to the Respondent – College and for the first time to the University in the year 2019 and thereafter, after stating that they had made representations over 12 years, the Petitions are filed. Merely sending periodical representations does not mean that the Court can overlook the delay of 12 years. Nothing stopped the Petitioner from filing very same Petition for implementation of the order earlier. Furthermore, the Respondents have placed on record that the Petitioner superannuated from the service in the year 2017-2018, and thereafter, the Memorandum of Understanding was entered into between the Petitioners and the Respondent No.2 – Management in the year 2019 wherein the Petitioner stated that he has received the amount towards full and final satisfaction of his claim. Three years thereafter, the Writ Petition was filed in the year 2022. In these circumstances, the contention of the Respondent No.2 that the Petition is barred by unexplained delay and laches is accepted.

4. Furthermore, the Grievance Committee in its order dated 17 July 2010 had only stated that the Petitioner should be given pay-scale on the post he was initially appointed. However, the communication sent by the Petitioner to the Respondent No.2 on 9 August 2010 have sought to raise various other grounds which were not covered by the order of the Grievance Committee including the claim that he should have been considered as being appointed as a

Store Keeper and not Store Clerk. The Petitioner then also sought various directions such as financial upgradation, time bound promotion, regularization of the annual increment which were withheld.

6. On 17 August 2010 the Respondent No.2 informed the University that as per the order of the Grievance Committee, the correct pay-scale has been made applicable to the Petitioner and details were placed on record. So, it is in the year 2010 itself that the Respondent No.2 had informed the Grievance Committee that it has complied with the order and no further compliance is required. Therefore, in this background where the Respondent No.2 in the year 2010 itself had taken a stand that it had complied with the order. Thereafter, on superannuation the Petitioner had entered into a memorandum of understanding.

7. In these circumstances, the Petitions filed in the year 2022 seeking to enforce the order of 17 July 2010 cannot be entertained and are accordingly rejected.

M.M. SATHAYE, J.

NITIN JAMDAR, J.

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PAWAR

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