

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

**WRIT PETITION NO. 13430 OF 2024**

Shri Vithal Education And  
Research Institute And Anr

**... Petitioners**

**Versus**

Ravichandra Tatyasaheb  
Vyavahare And Ors

**... Respondents**

---

**Mr. S. S. Patwardhan** i/b Ms. Minal A. Shelar for the Petitioners.

---

**CORAM : SANDEEP V. MARNE, J.**

**DATE : 3 OCTOBER 2024.**

**P.C. :**

1) The Petition challenges Order dated 20 July 2024 passed by the Appellate Authority partly allowing the Appeal filed by Petitioner-College and reducing the amount of gratuity payable to the Respondents to Rs.96,161/-. The Controlling Authority had fixed the gratuity payable to the Respondent at Rs.1,94,460/-.

2) Mr. Patwardhan, the learned counsel appearing for Petitioner would submit that the Respondent did not satisfy the basic illegibility condition of completion of five years of service and therefore he was not entitled to draw gratuity. However, perusal of finding recorded by the Appellate Authority in paragraph 12 of the judgment

clearly shows that the Respondent was in continues service of the Petitioner-College from 1 January 2004 till his resignation on 28 June 2010. In this regard it is apposite reproduce the findings recorded by the Appellate Authority in paragraph 12 of its Judgment, which read thus:

"12. Burden was on the applicant to prove that he was in employment of non-applicants for a continuous period of five years or more and he worked for 240 days in each calender year. Applicant has produced appointment orders issued in his name by the non applicants from time to time. First appointment order was for a period of 3 months only from 01/01/2003. The subsequent appointment order Exh.U-13 was given to the applicant on 26/12/2003 for one year from 01/01/2004 to 31/12/2004. Appointment order Exh.U-14 was given thereafter on 24/06/2004 as full time Lecturer for two years from 01/07/2004 Appointment order Exh.U-14 was given when the period till 31/12/2004 of service mentioned in appointment order Exh.U-13 had not elapsed. The appointment order at Exh.U-15 shows that the applicant was appointed as Assistant Professor from 01/01/2007 for two years. The letter dtd.01/07/2006 as per Exh.U-16 shows that non-applicants had confirmed the services of the applicant as Lecturer from 01/07/2006 and letter dtd.31/03/2008 as per Exh. U-17 shows that he was confirmed as Assistant Professor from 31/3/2008. Above mentioned documentary evidence shows that applicant was in continuous employment of the non-applicants for a period from 01/01/2004 till he tendered resignation on 28/06/2010."

3) In view of finding of fact recorded by the Appellate Authority regarding continuance of Respondent in service from 1 January 2004 till 28 June 2010, it cannot be said that the Respondent did not fulfill the criteria of completion of five years of service. In exercise of writ jurisdiction, this court is otherwise not justified in interfering in the said finding of fact. In that view of the matter, no interference is warranted in the impugned order passed by the Appellate Authority. Writ Petition is accordingly **rejected**.

**[SANDEEP V. MARNE, J.]**