



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

WRIT PETITION NO. 4839/2024

(DR.UMESH PRALHADRAO MESHAM **VERSUS** STATE OF MAHARASHTRA &
OTHERS)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri Anand Parchure, counsel for the petitioner.

Shri N.S. Rao, Assistant Government Pleader for the respondent nos.1 to 5.

CORAM : NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.

DATE : AUGUST 28, 2024

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Heard the learned counsel appearing for the parties.

2. The petitioner, who is an academican holding qualification of M.Sc. Ph.D., has questioned the inaction on the part of the respondents in deciding his representation whereby he had sought the consideration and inclusion of the contractual services rendered by him with the earlier employer viz. Respondent no.5-Government Polytechnic and to extend the benefits accrueable out of it. The petitioner has also sought a declaration that he is entitled for the benefit as are conferred *vide* order dated June 20, 2024 by the Director, Technical Education on the thirty four contractual employees who were earlier working with the Government Polytechnic and were subsequently selected by the Maharashtra Public Service Commission for the very same post.

3. The facts necessary for deciding the present writ petition are as under:-

In compliance with the order dated October 23, 2003, the petitioner came to be appointed on contractual basis as a Lecturer in

Chemistry with respondent no.5-Government Polytechnic, Jalna on the terms and conditions prescribed in the said appointment order. The appointment of the petitioner was initially for a period of two years and till he resigned from the said post on October 04, 2010, he was permitted to continue in the said service.

4. Since the post of Lecturer fell vacant in the respondent no.6-Model Arts & Commerce College, Karanja (Ghadge), the management of the said college issued an advertisement. The petitioner having been selected, joined as Assistant Professor at the respondent no.6-College on October 05, 2010.

5. The petitioner has claimed that since he had rendered services for the period from October 23, 2003 till October 04, 2010 with the respondent no.5-Government Polytechnic, may it be on contractual basis, the said services are required to be considered for granting continuity in services and all consequential benefits in relation to his service as an Assistant Professor with the respondent no.6-College. The petitioner accordingly claimed to have preferred a representation on December 05, 2013. However, it is claimed that the said representation is not attended to till this date and therefore, the petitioner is prompted to take out the present writ petition.

6. Shri Anand Parchure, learned counsel appearing for the petitioner would claim that though the posts of Lecturer were lying vacant with the Department of Technical Education since 2002, the same were not filled in on permanent basis by the State Government. It is urged by the counsel for the petitioner that the petitioner was constrained to work on contractual basis for almost seven years. He would further claim that having regard to the past service of seven

years rendered by the petitioner with the respondent no.5-Government Polytechnic, he was selected and appointed in the respondent no.6-College as an Assistant Professor. In such an eventuality, drawing support from the Division Bench judgment of this Court in *Sachin Ambadas Dawale & Others Versus The State of Maharashtra & Another* [**Writ Petition No. 2046 of 2010**] decided on October 19, 2013, the Division Bench judgment of this Court at Aurangabad Bench in *The State of Maharashtra & Others Versus Devendra Ramesh Dandgavhal & Others* [**Writ Petition No. 1424 of 2024**] decided on March 18, 2024 and the order of the Maharashtra Administrative Tribunal at Aurangabad Bench in *Devendra Ramesh Dandgavhal & Others Versus The State of Maharashtra & Another* [**Original Application No. 82 of 2019**], it is urged that the petitioner is required to be conferred the benefit of continuity in service and all consequential benefits from the date of his initial contractual appointment on October 23, 2003. As such, it is claimed that the petitioner is entitled for a declaration that the old pension scheme of 1982 shall be governing the services of the petitioner.

7. As against above, Shri N.S. Rao, learned Assistant Government Pleader appearing for the respondent nos.1 to 5 would strenuously oppose the prayers made in the writ petition as according to him the petitioner cannot equate his service conditions with that of the service conditions of the candidates to whom the benefits were passed on by the Maharashtra Administrative Tribunal, Aurangabad in Original Application No. 82 of 2019 which decision was confirmed by the Division Bench at Aurangabad in Writ Petition No. 1424 of 2024. It is also claimed that the petitioner cannot equate his service conditions with that of the service conditions of the petitioners to whom the

benefits were passed on in Writ Petition No. 2046 of 2010. It is also urged that since the petitioner has rendered services with the respondent no.5-Government Polytechnic till 2010 on contractual basis and then he has secured employment with the respondent no.6-College as there is change in the services conditions and the employer of the petitioner, the petitioner cannot claim such benefit. The Assistant Government Pleader would urge that the petitioner has approached this Court at a very belated stage and on this count alone the writ petition is liable to be dismissed.

8. We have considered the rival submissions.

9. It can be borne out of the record that from October 23, 2003 till the petitioner was relieved on October 04, 2010, he appears to have continued as a Lecturer in Chemistry with the respondent no.5-Government Polytechnic on contractual basis, each appointment being for a period of two years. The petitioner has resigned from the said post and was accordingly relieved on October 04, 2010 for joining the services pursuant to his selection as Assistant Professor with the respondent no.6-College.

10. The petitioner joined the respondent no.6-College as Assistant Professor on October 05, 2010. The services of the petitioner on contractual basis were with the respondent no.5-Government Polytechnic which is affiliated to the Board of Technical Education whereas the respondent no.6-College is affiliated to the Rashtra Sant Tukdoji Maharaj Nagpur University. The services conditions of both these posts are altogether different and cannot be equated.

11. It is the case of the petitioner that he had preferred a representation on December 05, 2013 which was not decided by the respondents. In such an eventuality, it was open for the petitioner to approach this Court within reasonable time i.e. at least by 2016 questioning the inaction on the part of the respondents. The petitioner almost after a decade from the date of his representation has approached this Court seeking the issuance of a writ so as to get continuity of service from the date of his initial appointment on October 23, 2003. As such, the petition suffers from inordinate delay and laches.

12. Apart from above, the fact remains that the benefit conferred by this Court in Writ Petition No. 2046 of 2010 was in relation to the services of the petitioners therein who continued to work with the same employer which is not the case here. The petitioner has resigned from his contractual appointment and was relieved on October 04, 2010 and has joined the services of an altogether different employer on October 05, 2010. In such an eventuality, there is no question of granting continuity once the petitioner has resigned from the respondent no.5- Government Polytechnic.

13. Support drawn by the petitioner from the judgment of the Division Bench at Aurangabad in Writ Petition No. 1424 of 2024 and the judgment of the Maharashtra Administrative Tribunal, Aurangabad in Original Application No. 82 of 2019 will hardly be of any assistance as the factual matrix in this case is not similar to the one in the cases decided at Aurangabad Bench. Once the petitioner resigned from his post where he was working on contractual basis and joined the services of another employer where his service conditions are altogether different, the petitioner cannot claim continuity in service.

14. For the aforesaid reasons, we hardly see any reason to cause indulgence in writ jurisdiction. The petition accordingly fails and the same stands dismissed. No costs.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

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