



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

**CIVIL APPLICATION NO. 8997 OF 2024
IN RAST/18531/2024
WITH
REVIEW APPLICATION STAMP NO.18531 OF 2024
IN
WRIT PETITION NO. 11196 OF 2021**

1. The State of Maharashtra,
Through Secretary;
High Education Department,
Mantralaya, Mumbai-32
2. The Director of Higher Education,
Maharashtra State Pune.
3. The Joint Director of Higher Education,
Pune Region, Pune ...Applicants
(Org.Repts./Petitioners in Review Application)

Versus

1. Balasaheb Laxman Shinde,
Age: 53 years, Occu: Service,
R/o. House No.209, Tapovan Road,
Savedi Road, Ahmednagar. (Org. Petitioner)
2. The University of Poona,
Poona, Through its Registrar,
(The Savitribai Phule Pune University Pune,
Through its Registrar).
3. Shri. Dnyaneshwar Mahavidyalaya,
Newasa, Dist. Ahmednagar,
Through its Principal.
Newasa, Dist. Ahmednagar ...Respondents
(Org. Pets./ respondent in Review Application)

Shri A. R. Kale, AGP for Petitioners-State
Shri. A. R. Joshi, Adv. For Respondent No.2 in Writ Petition.

Shri R. S. Devdhe, Adv. For Respondent No.3
Ms. P.R.Deshpande ha/w Shri R. R. Deshpande, Adv. For
Respondent No.1.

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

DATED : 10th JANUARY, 2025

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ORDER : (Per- Shri S. G. Chapalgaonkar,J)

In CIVIL APPLICATION NO. 8997 OF 2024 :-

1. The applicants are seeking to condone the delay of 69 days caused in filing the Review Application of the Order dated 02.04.2024 in Writ Petition No.11196/2021.

2. Having considered the submissions advanced and reasons as stated in the application, the delay of 69 days caused in filing the Review application stands condoned. Civil application stands disposed of.

Review Application No.18531/2024.

1. Respondent No.1 filed Writ Petition No.11196/2001 assailing the communication dated 11.06.2014 issued by

respondent No.4 University and sought further directions against respondent Nos.1 to 4 to regularize appointment of petitioner with effect from 28.09.1992 and confer CAS benefits from said date in his favour.

2. In short, it was the case of petitioner that in pursuance to advertisement, petitioner had applied for appointment on the post of Lecturer in subject of Chemistry with respondent No.5. The Selection Committee interviewed him on 20th August, 1992 and recommended his name for appointment in the subject of Chemistry. Prior to that, petitioner had appeared for M.Sc. examination but its results were declared on 28th September, 1992.

3. Thereafter, respondent No.5 issued appointment order dated 28th September, 1992. University approved services of petitioner vide communication dated 07th July, 1993. Again, respondent No.5 issued an advertisement for the post of Lecturer on 26th May, 1993. Petitioner was once again subjected to selection process and again he was appointed vide order dated 1st July, 1993 on probation for the period of two years.

4. The University Grants Commission considered the issue of grant of exemption from NET/SET qualification to the Lecturers appointed during the period from 19th September, 1991 to 03rd April, 2000. By letter dated 22nd, March, 2010, exemption was granted to 1269 Lecturers from Pune University. Petitioner contended that, he was continuously in the employment with respondent No.5 from 28th September, 1992, hence, he is entitled for Career Advancement Scheme (CAS benefits) from that date. However, respondent No.4 / University vide order dated 11th June, 2014 informed respondent no.5 / College that exemption would not be available to the Lecturers appointed from 19th September, 1991 to 23rd October, 1992. Similarly, the proposal for grant of CAS benefit to the petitioner declined consideration for the reason that petitioner has not been exempted from NET/SET.

5. The petitioner raised grievance before the Grievance Committee of the University. However, vide communication dated 26th February, 2021, Grievance Committee declined to entertain petitioner's prayer for grant of CAS benefit.

6. This Court entertained Writ Petition of respondent No.1 observing that services of the petitioner were approved by the University since his first appointment dated 28th September, 1992. He was selected by duly constituted selection committee and directed respondents to grant all the benefits applicable for duly qualified Lecturers including CAS benefit from 28th September, 1992. Eventually, quashed and set aside the communication dated 11th June, 2014 issued by the University.

7. Now, respondent Nos.1 to 3 in original Writ Petition filed review application on the ground that they could not file the affidavit-in-reply in Writ Petition and therefore several points could not be brought to the notice of this Court. It is submitted that the respondent No.1 has misrepresented the Court and secured the order under review. It is contended that petitioner was not qualified as on date of his appointment in September, 1992. This Court in Writ Petition No.2082 of 2013 declared that the Teachers/ Lecturers appointed during 24.10.1992 to 03.04.2000 (except 19.09.1991 to 23.10.1992) are not entitled for CAS benefit

and related pay scale. The order passed in that Writ Petition is now subject matter of SLP before the Supreme Court.

8. As per Government Resolution dated 23.10.1992, Lecturers appointed during the period from 19.09.1991 to 23.10.1992 have been exempted from NET/SET qualification. The proposal of the petitioner along with similarly situated Lecturers has been rejected by the Management Council of the University in the meeting dated 06.05.2014. Even the Grievance Committee has rejected petitioner's claim. The issue involved in present Writ Petition is depending upon decision of the Supreme Court in case of Asha Ramdas Bidkar, which is still pending consideration. The communication of UGC dated 22.03.2010 granting exemption has been withdrawn on 03.06.2010, therefore, it is submitted by review petitioner that the order under review cannot be sustained.

9. We have considered the submissions advanced on behalf of the review petitioner. Before we delve into the merits, it would be appropriate to refer to the parameters of the review as espoused by the Supreme Court of India in

case of **Lily Thomas and others Vs. Union of India and others reported in (2000) 6 SCC 224**, which reads thus :-

“56. It follows, therefore, that the power of review can be exercised for correction of a mistake and not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. The review cannot be treated an appeal in disguise. The mere possibility of two views on the subject is not a ground for review.”

10. In light of the aforesaid parameters of the review, while exercising review jurisdiction, under guise of review, the petitioner cannot be permitted to re-agitate and re-argue questions which have already been addressed and decided. Even only such error which strike one on mere looking at the record and would not require any long drawn process of reasoning on the points can be termed errors amenable to review jurisdiction. We find that in present case, grounds which are sought to be made out for review of the order are apparently in the nature of the grounds of appeal. The Writ Petition was pending since 2021, no efforts were made by present applicants to file say till 02.04.2024. Now applicants can not agitate that no opportunity was given for filing affidavit-in-reply. On the basis of their own fault, applicants

can not blame the Court. This cannot be considered as a ground for review.

11. It is not the case of the applicants that this Court could not notice any material fact that would have persuaded this Court to take different view. Since, initial appointment of the petitioner dated 28.09.1992 was approved by the University and the Lecturers who were appointed during the period from 19th September, 1991 to 23rd October, 1992 are exempted from the requirement of NET/SET qualification, this Court directed the respondents to grant the CAS benefits to the petitioner with effect from 28th September, 1992, expeditiously, with default clause of interest on arrears. We are therefore, of the considered view that no good ground is made out for review of the order. In result, the Review Application stands **rejected**.

(S. G. CHAPALGAONKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

Rushikesh/2025

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