

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 562 OF 2021

DISTRICT : PARBHANI

Alka D/o Bhaskarrao Naigaonkar,)
Age : 60 years, Occu. : Pensioner,)
(Retired as lecturer in History))
R/o : C-38, Yogeshwar Nivas, Jagruti Colony,))
Vasmat Road, Parbhani, Dist. Parbhani.).. **APPLICANT**

V E R S U S

1. **The State of Maharashtra,**)
Through The Secretary,)
Higher & Technical Education Department,))
Mantralaya, Extension Bhawan Mumbai-32.)
2. **The Director,**)
Higher Education, Maharashtra State,)
Pune-1.)
3. **The Principal,**)
Government College of Education,)
Jintur Road, Parbhani, Dist. Parbhani-1.)

.. RESPONDENTS

APPEARANCE : Shri S.D. Joshi, Advocate for
Applicant.

: Shri M.S. Mahajan, C.P.O. for respondent
Authorities.

CORAM : **Shri V.D. Dongre, Member (J)**
and
Shri Bijay Kumar, Member (A)

Reserved on : **02.03.2023**

Pronounced on : **20.04.2023**

ORDER
(Per : Shri Bijay Kumar, Member (A))

1. This Original Application has been filed by one Ms. Alka D/o Bhaskarrao Naigaonkar invoking provisions of Section 19 of the Administrative Tribunals Act, 1985, upon being aggrieved by respondent No. 2 not taking decision on her representations as per following details :-

(a) Representation dated 16.09.2013 submitted directly to respondent no. 2 for grant of benefits of General Provident Fund Scheme, Group Insurance Scheme, Medical Leave,

(b) Representation dated 13.08.2015 for grant of all service benefits, submitted through respondent no. 3

(c) Representation dated 20.11.2019 sent by speed post directly to respondent no. 2 requesting for preparation of her service book and grant of all service benefits,

(d) Representation dated 09.02.2021 addressed to respondent No. 2 requesting for preparation of her service book and grant of pay scale as per recommendations of 5th and 6th Pay Commission in spite of her failing to pass

SET/NET Examination, as allowed by Govt. G.R. No. संकीर्णः
2012 (132/12) वि.शि.-1. Dated- 27.06.2013.

(e) Representation dated 15.06.2021 addressed to respondent No. 2 for revision of pay as per recommendation of 5th and 6th Pay Commission and grant of pensionary benefits to her.

2. Facts of the Matter on Record- Following critical facts have emerged from submissions made by the two sides :-

(a) The applicant was initially appointed by an order dated 10.11.1993 issued by respondent no. 3 for a period starting from the date of joining till date 31.08.1994 or before, if a candidate duly recommended by Maharashtra Public Service Commission (in short, MPSC) is available to join. Fearing termination of her services by 31.08.1994 the applicant filed O.A. No. 237/1994 before this Tribunal. This Tribunal granted interim relief vide its order 28.07.1994 operating part of which is quoted below for ready reference:-

“The petitioner has been appointed on temporary and ad hoc basis to the post of Lecturer in the College of Education as duly MPSC select candidate was not available. In spite of the fact that no duly select candidate was available the petitioner was given

artificial break by the end of the academic year and then again at the start of current academic year the post is re-advertised for being filled in by making ad-hoc appointment. This practice is not valid and is required to be discouraged by no uncertain terms. The petitioner who is otherwise eligible to hold the post may be continued till duly select MPSC candidate is available either by nomination or by transfers. However, in case of replacement of the petitioner by duly select candidate by transfer at no place of transfer link any other ad-hoc appointee except the petitioner shall be appointed. With these directions the petition stands disposed of. (rest of the part sentence is not legible)”

(b) Later on, one post of Lecturer out of total number of 15, became surplus under norms for admissible number of Lecturers and the applicant being junior most Lecturer, her services were ordered by G.R. dated 20.08.1998 to be terminated with a condition that she would be the first to be re-engaged when one more Lecturer is required. The present applicant again filed yet another O.A. No. 463/1998 before this Tribunal which in turn passed ex-parte interim order dated 09.09.1998, operating part of which is being quoted below for ready reference.

“ ORDER

Heard Shri AS Deshmukh, learned Adv. for the petitioner and Shri EP Savant, Learned CPO for respondents.

The learned CPO to file affidavit in reply on 23.10.98. Interim relief is granted in terms of prayer clause 'E' until further orders.

Prayer Clause 'E' Pending the hearing and final disposal of this O.A. the impugned order dated 20/8/98 (Annexure C) issued by respondent No. 2 may kindly be stayed to the extent of the termination of service of applicant as Lecturer and the respondents may kindly be directed to continue the applicant in service”

As a result of interim order, applicant's services were not dis-continued even after she was declared to be surplus by number.

(c) After hearing the two sides, this Tribunal passed final order dated 22.07.2009 i.e. after about nine years, complete text of which is quoted below for ready reference :-

“CORAM: Dr. Justice S. Radhakrishnan, Chairman Shri R. Gopal, Member (A) DATE: 22.07.2009. ORAL ORDER:

1. Heard Shri A S. Deshmukh, learned Advocate for the Applicant and Shri. Sham Patil, learned P.O. for the Respondents.

2. In the above, the applicant has been working as a Lecturer in History on an ad hoc basis from 10.11.1993 till a regularly selected candidate from Regional Selection Board is made available. The respondents have been giving technical breaks in service. The applicant is continued in service by this Tribunal's interim order dated 9.9.1998.

3. The Hon'ble Supreme Court in HARGURPRATAP SINGH VS. STATE OF PUNJAB AND OTHERS, reported in (2008) 2 SCC (L&S) 618 has observed as under:

"2. The appellants, in these cases were employed on ad hoc basis in several colleges in the State of Punjab. There being a threat of termination of their services, they filed writ petition before the High Court seeking for the relief of regularization, minimum pay scale and to continue in their present posts until regular appointments are made. All the reliefs were rejected by the High Court and so far as the relief relating to continue them in their present posts until regular incumbents are appointed, the High Court stated that the Government will have to follow its policy decision dated 23.7.2001

3. We have carefully looked into the judgment of the High Court and other pleadings that have been put forth before this Court. It is clear that though the appellants may not be entitled to regular appointment as such it cannot be said that they will not be entitled to the minimum of the pay scale nor that they should not be continued till regular incumbents are appointed. The course adopted by the High Court is to displace one ad hoc arrangement by another ad hoc arrangement which is not at all appropriate for these persons who have gained experience which will be more beneficial and useful to the colleges concerned rather than to appoint persons afresh on ad hoc basis. Therefore, we set aside the orders made by the High Court to the extent the same deny the claim of the appellants of minimum pay scale and continuation in service till regular incumbents are appointed. We direct that they shall be continued in service till regular appointments are made on minimum of the pay scale. The appeals shall stand allowed in part accordingly."

4. It is settled law that an ad hoc employee cannot be replaced by another ad hoc employee. Having regard to the above Supreme Court judgment and the aforesaid facts and circumstances of the present case, the respondents shall continue the services of the applicant till a regularly selected candidate is made available by Regional Selection Board, subject to her satisfactory performance. The applicant is not entitled to claim regularization/permanency in service.

5. In view of the above, the original application stands disposed of in the above terms, however, no order as to costs.

Sd/-
(R. Gopal)
Member (A)

Sd/-
(S. Radhakrishnan, J.)
Chairman”

(d) As a result the applicant has claimed that the government had taken policy decision by issuing G.R. dated 20.04.2002 to regularize services of ad-hoc Lecturers working in Government Colleges under provisions of para 5 of the said G.R. and her name appears in the list of Lecturers eligible to be regularized, which is annexed to the aforesaid G.R. as Annexure-B (pl ref. page 42 to 46 of the paper-book). Merit of this claim will be examined in following paras’.

(e) The applicant has also submitted in para (4) (xii) of the paper-book that government has issued G.R. dated 27.06.2013 that the services of candidates who could not pass NET/ SET examination, could be regularized with sanction of UGC, but her proposal for regularization was not submitted by the respondents. It may not be out of context to mention that the applicant has neither filed copy of G.R. dated 27.06.2013 nor has she incorporated this in relief prayed for. The applicant has prayed for following relief:-

3. RELIEF SOUGHT- The applicant has prayed for relief in terms of para no. 8 of the O.A., which is being reproduced verbatim for ready reference as follows-

“8. RELIEFS SOUGHT:-

- A) *This Original Application may kindly be allowed;*
- B) *By issue of an appropriate order or direction, Respondent Nos. 1 to 3 to treat the services of the applicant as regular w.e.f. the date of initial appointment i.e. from 10/11/1993 till the date of retirement on superannuation on 30/06/2021 and extend all the service benefits due and payable to her and carry out the quantum of pension fixation on that basis and grant other consequential retirement benefits w.e.f. 01/07/2021.*
- C) *By issue of an appropriate order or direction, the respondents No. 1 to 3 may kindly be directed to treat the entire service of about 28 years as regular service and extend all the retirement benefits like regular pension, provident fund, along with arrears thereto within in such period as may be deemed fit by this Hon'ble Tribunal.*

9. INTERIM RELIEFS SOUGHT :-

- a) *Any other relief to which the applicant is deemed entitled in the interest of justice may kindly be granted. ”*

4. Chronology of making pleadings and Final Hearing:-

Affidavit in reply on behalf of respondent Nos. 1 to 3 was filed by learned presenting officer on 11.02.2022 which was taken on record and a copy thereof served on the other side. As the applicant was covered by interim relief, she kept on praying for more time to file affidavit in re-joinder. She finally submitted on 16.12.222 after attaining age of superannuation on 30.06.2021

that she did not wish to file rejoinder affidavit. Thereafter, the matter was finally heard on 02.03.2023 and reserved for order.

5. Analysis of Facts:-

(a) It is observed that vide G.R. issued by Higher and Technical Education Department bearing No. एसीपी/१०९४/११४२/३६/९४) मशि-२, मंत्रालय, मुंबई-३२, dated 20.08.1998, the applicant was declared to be surplus and junior most among all the 15 Lecturers; therefore, she was being discontinued from temporary service. However, it appears that this fact had not been brought to the notice of this Tribunal. Despite that, final order passed by this Tribunal in O.A. NO. 463/1998 on 22.07.2009 does not help the applicant. Rather, aforesaid order categorically mentioned that- ***“The applicant is not permitted to claim regularization/permanency in service.”***

(b) As the University Grants Commission (in short, UGC), had framed Regulations for qualifications required of a person to be appointed to the teaching staff of a University and institution (s) affiliated to it and notified the same in the Gazette of India on 5th October, 1991. The same was communicated by UGC vide its letter No. F.1-11/87 (CPP) dated 28.10.1991, a copy of which has been appended with

the present O.A. at page no. 36 of paper-book and marked as Annexure A-6. As per this notification qualification for the post of Lecturer has been prescribed in following terms:-

“LECTURER

(3) A

(a) ARTS, SCIENCE, SOCIAL SCIENCES, COMMERCE, EDUCATION, PHYSICAL EDUCATION, FOREIGN LANGUAGES AND LAW.

Good Academic Record with at least 55% marks or an equivalent grade at Master’s degree level in the relevant subject from an Indian University or an equivalent degree from foreign University.

Candidate besides fulfilling the above qualifications should have cleared the eligibility test for lecturer conducted by UGC, CSIR or similar test accredited by UGC.”

(c) Applicant had, admittedly, not passed National Eligibility Test (in short, NET) or, / State Level Eligibility Test (in short, SET) examination throughout period of her temporary service as a Lecturer.

(d) Respondent No. 1 took a policy decision by Government Resolution no. एसीपी १००१/(२०४/०१) मशि-२, मंत्रालय, मुंबई-३२, dated 20.04.2002 (enclosed at page 42-44 of paper book), to allow time up to December 2003 to such

Lecturers, who were appointed before 11.12.1999 for passing NET /SET Examination otherwise, their services would stand terminated. However, there was a rider provided in para 3 of the said G.R. that those Lecturers, who had not passed NET /SET exam but whose services had been continued as per Court's orders, their services shall not stand terminated. Accordingly her services were not terminated in view of interim order passed by this Tribunal in O.A. No. 237/1994 dated 28.07.1994. Applicant's averment that para no. 5 of the G.R. dated 20.04.2002 is applicable to her case too, does not stand scrutiny as it deals with cases of Lecturers, who had passed NET/SET examination up to December 2003.

(e) Last but not the least, the applicant is also relying on G.R. dated 27.06.2013 but has not filed a copy of the same with the O.A. Therefore, complete text of the said G.R. issued by Higher and Technical Education Department bearing No. संकीर्ण-२०१२/ (१३२/१२) विशि-१, मंत्रालय, मुंबई-३२, Dated 27.06.2013, as downloaded from Government of Maharashtra website, <http://www.maharashtra.gov.in> is being quoted below for ready reference :-

“

राज्यातील अकृषि विद्यापीठे व संलग्नित
अशासकीय अनुषंगीत महाविद्यालयातील
बिगर नेट/सेट अध्यापकांच्या सेवा नियमित
करून त्यांना अनुषंगिक लाभ देण्याबाबत.

महाराष्ट्र शासन

उच्च व तंत्र शिक्षण विभाग

शासन निर्णय क्रमांक: संकिर्ण-२०१२/ (१३२/१२)/ विशि-१,

मंत्रालय विस्तार भवन, मुंबई-४०००३२,

तारीख: २७ जून, २०१३

वाचा-

प्रस्तावना-

पेशातील शैक्षणिक धोरणामध्ये एकवाक्यता असावी या उद्देशाने केंद्र शासनाने विद्यापीठ अनुदान आयोग अधिनियम, १९५६ मधील तरतुदीनुसार विद्यापीठ अनुदान आयोगाची स्थापना केली. पेशातील, विद्यापीठे व संलग्नित महाविद्यालयातील शिक्षणास प्रोत्साहित करणे, समन्वय राखणे आणि शिकवणे, परिक्षा व संशोधनाचा पुरावा राखण्यासाठी आवश्यक ती पावले उचलणे या आयोगाचे प्रमुख कार्य आहे. त्यानुसार पेशातील शिक्षक पात्रांची अर्हता, पात्रता, अनुभव इत्यादी बाबी विद्यापीठ अनुदान आयोगाकडून निश्चित करण्यात येतात. शिक्षक संवर्गाच्या संदर्भात विद्यापीठ अनुदान आयोगाने विहित केलेली शैक्षणिक अर्हता, पात्रता व अनुभव इ. बाबींवर विचार करून त्या अर्हता व पात्रता राज्य शासनाकडून स्वीकारण्यात येतात व त्यानुसार त्याची अंमलबजावणी राज्यात करण्यात येते.

२. विद्यापीठ अनुदान आयोगाने संदर्भाधीन क्रमांक १ येथील पि. १२ सप्टेंबर, १९९१ च्या अधिसूचनेद्वारे अकृषि विद्यापीठे संलग्नित महाविद्यालयातील अधिव्याख्याता (सहायक प्राध्यापका पदासाठी खालील प्रमाणे अर्हता विहित केली आहे:-

- उमेदवारांनी चांगल्या शैक्षणिक अहवालासह संबंधित विषयातील पदव्युत्तर पदवी किमान ५५ टक्के गुणासह उत्तीर्ण केलेली असावी,
- याशिवाय विद्यापीठ अनुदान आयोग सी. एस. आय. आर. यांच्याकडून घेण्यात येणारी राष्ट्रीय पात्रता परीक्षा किंवा विद्यापीठ अनुदान आयोगाने अधिकृत केलेली समतुल्य पात्रता परीक्षा उत्तीर्ण केलेली असावी.

३. विद्यापीठ अनुदान आयोगाने पि. १९ सप्टेंबर, १९९१ च्या अधिसूचनेतील तरतुदी राज्य शासनाने संदर्भाधीन क्र. २ येथील पि. २३.१०.१९९२ च्या शासननिर्णयान्वये राज्यात लागू केल्या आहेत.

४. केंद्रीय मनुष्यबळ विकास मंत्रालय व विद्यापीठ अनुदान आयोग यांच्या शिफारशीनुसार अकृषि विद्यापीठे व संलग्नित महाविद्यालयातील अध्यापकांना संदर्भाधीन क्र. ४ येथील पिनांक ११ डिसेंबर, १९९९ च्या शासननिर्णयान्वये पाचव्या वेतन आयोगानुसार सुधारित वेतन संरचना लागू करण्यात आली. सध्या शासन निर्णयाद्वारे सुध्या

अधिव्याख्याता (सहायक प्राध्यापक) या पदासाठी अनिवार्य असलेल्या शैक्षणिक अर्हता / पात्रतेचा पुनरुच्चार करण्यात आला आहे, तो खालीलप्रमाणे:-

अ) उमेदवारांनी चांगल्या शैक्षणिक अहवालासह संबंधित विषयातील पाठ्युत्तर पत्राची किमान ५५ टक्के गुणांसह उत्तीर्ण केलेली असावी.

ब) याशिवाय विद्यापीठ अनुदान आयोगाची राष्ट्रीय पात्रता परीक्षा (NET) वा विद्यापीठ अनुदान आयोगाने अधिस्वीकृती दिलेली राज्यस्तरीय पात्रता परीक्षा (SLET) उत्तीर्ण केलेली असावी.

5. त्यानंतर विद्यापीठ अनुदान आयोगाने दि. ४.४.२००० व १ जून, २००९ रोजीच्या विनियमाद्वारे ५. सुध्दा अधिव्याख्याता (सहायक प्राध्यापक) पदासाठी विहित केलेल्या अर्हता व पात्रतामध्ये नेट / सेट परीक्षा उत्तीर्ण असणे किंवा संबंधित विषयातील पी.एचडी. पत्राची असणे अनिवार्य केलेले आहे.

6. राज्यात दि. १९ सप्टेंबर, १९९१ ते ३ एप्रिल, २००० या कालावधीमध्ये अधिव्याख्याता पदावर सुमारे ५१६० बिगर नेट / सेट उमेदवारांच्या नियुक्त्या करण्यात आल्या आहेत. अशा अधिव्याख्यातांना नेट / सेट अर्हतेमधून सूट देण्याबाबतचे प्रस्ताव वेळोवेळी संबंधित विद्यापीठाने विद्यापीठ अनुदान आयोगाकडे पाठविले होते.

7. यासंपर्भात विद्यापीठ अनुदान आयोगाने त्यांच्या दि.८.७.२०११ च्या बैठकीमध्ये पुढील प्रमाणे निर्णय घेतल्याचे दि. १६ ऑगस्ट, २०११ च्या पत्रान्वये कळविले आहे. "The Commission deliberated on the issue regarding appointment of various teachers in the State of Maharashtra from September १९, १९९१ until April ३, २००० and resolved that all such appointments made on regular bases by various universities in the State of Maharashtra where the university has granted exemption to teachers from the requirement of NET in terms of the UGC Regulations, १९९१ and subsequent Notification dated २४.१२.१९९८ and where the representation has been forwarded to Commission seeking further approval in relation to such regular appointments made during the said period w.e.f. September १९.१९९१ till April 3, 2000 is approved. It further resolved that a communication in this regard be sent to the universities concerned and the State of Maharashtra"

८. तसेच दिनांक २६ ऑगस्ट, २०११ च्या पत्रान्वये विद्यापीठ अनुदान आयोगाने खालील प्रमाणे कळविले आहे.

"As may be seen from the above decision of the Commission, the Commission has taken the said decision in respect of all such appointments made on regular basis by various universities during the period from September १९, १९९१ to April ३, २०००. Therefore the services of such teachers for all purposes should be counted from the date of their regular appointment."

9. त्यानंतर विद्यापीठ अनुदान आयोगाने दि. १५ मार्च, २०१२ च्या पत्रान्वये खालील प्रमाणे शासनास कळविले आहे:-

"The actual date of effect for grant of exemption to a particular candidates shall be the date of exemption actually granted by

the universities to the concerned candidate appointed on "Regular Basis"

१०. त्यांनतर विद्यापीठ अनुदान आयोगाने वि. ११ मे, २०१२ च्या पत्रान्वये खालीलप्रमाणे शासनास कळविले आहे.

The actual date of grant of exemption shall be the date when exemption was

granted by the universities to the candidates concerned appointed on regular basis during the period w.ef. १९.०९.१९९१ - ०३.०४.२०००

११. विद्यापीठ अनुदान आयोगाच्या वरील सर्व निर्णयाच्या अनुषंगाने वि. १९ सप्टेंबर १९९१ ते ३ एप्रिल, २००० या कालावधीतील बिगर नेट / सेट अध्यापकांच्या सेवा नियमित करून त्यांना अनुषंगिक लाभ देण्याबाबतची ब-याच कालावधी पासून प्रलंबित होती.

१२. सधर कालावधीतील बिगर नेट/सेट अध्यापकांपैकी ज्या अध्यापकांनी प्रम्यानच्या कालावधीत विद्यापीठ अनुदान आयोगाने विहित केलेली शैक्षणिक अर्हता प्राप्त केली आहे, त्यांना संदर्भाधीन क्र. ६ येथील वि. १८.१०.२००१ च्या शासननिर्णयातील तरतुदीप्रमाणे त्यांनी ज्या िनांकास विहित अर्हता प्राप्त केली आहे, त्या िनांकापासून त्यांची सेवा ग्राह्य धरून त्यांना अनुषंगिक लाभ मंजूर करण्यात आलेले आहेत.

तसेच ज्या बिगर नेट/सेट अध्यापकांनी त्यांच्या सेवा कालावधीत विद्यापीठ अनुदान आयोगाने अधिव्याख्याता पदासाठी वेळोवेळी विहित केलेली शैक्षणिक अर्हता/पात्रता (नेट/सेट, पीएच.डी./ एम. फील) प्राप्त केली नाही. अशा अध्यापकांना खालील अटीची पूर्तता करण्याच्या अधीन राहून त्यांचा सेवा शासन निर्णय निर्गमित झाल्याच्या िनांकापासून सर्व प्रयोजनार्थ ग्राह्य धरण्यास मान्यता देण्याचा तसेच त्यांना नवीन परिभाषित अंशदान निवृत्ती वेतन योजना लागू करण्यात यावी. असा निर्णय वि. ६.३.२०१३ रोजीच्या मंत्रिमंडळाच्या मैतकीत घेण्यात आला.

(अ) संबंधित अध्यापकाची नियुक्ती नियमित स्वरूपात (Regular Basis) असावी.

(ब) अध्यापक पदासाठी विहित केलेल्या सर्व कार्यपध्तीचे अनुपालन करून संबंधित अध्यापकाची नियुक्ती केलेली असावी.

(क) संबंधित अध्यापकाची नियुक्ती नेट / सेट शैक्षणिक अर्हतेची अट वगळता इतर सर्व विहित अर्हता व अटीची पूर्तता करून विद्यापीठाकडून मान्यता देण्यात आलेली असावी.

(ड) संबंधित अध्यापकाचा प्रस्ताव विद्यापीठ अनुदान आयोगाच्या मान्यतेसाठी विद्यापीठाकडून सादर करण्यात आलेला असावा.

१३. मंत्रिमंडळाने घेतलेले उक्त निर्णय विचारात घेवून आवश्यक तो शासन निर्णय निर्गमित करण्याची बाब शासनाच्या विचाराधीन होती.

शासन निर्णय-

१४. प्रस्तावनेत नमूद केलेली परिस्थिती विचारात घेता विद्यापीठ अनुदान आयोगाची िनांक १९.९.१९९९ ची अधिसूचना राज्यात वि. २३.१०.१९९२ च्या शासन निर्णयान्वये लागू करण्यात आली. त्यामुळे सधर शासन निर्णयातील तरतुदी िनांक १९.९.१९९१ पासून

पूर्वलक्षी प्रभावाने लागू करता येणार नाही. सबब पि. २३.१०.१९९२ पुर्वी नियुक्त झालेल्या अधिव्याख्यातांना विद्यापीठ अनुदान आयोगाच्या पिनांक १९.९.१९९१ च्या अधिसूचनेतील अर्हता लागू राहणार नाही.

१५. पिनांक २३.१०.१९९२ ते पिनांक ३.४.२००० या कालावधीतील ज्या बिगर नेट/सेट अध्यापकांना त्यांच्या सेवाकालावधीत विद्यापीठ अनुदान आयोगाने अधिव्याख्याता पदासाठी विहित केलेली शैक्षणिक अर्हता/पात्रता (नेट/सेट/पीएच.डी/एम.फील) प्राप्त केली नाही, अशा अध्यापकांना खालील अटीच्या अधीन राहून त्यांच्या सेवा सापर शासन निर्णय निर्गमित झाल्याच्या पिनांकापासून सर्व प्रयोजनार्थ ग्राह्य धरण्यास शासन मान्यता देत आहे..

(अ) संबंधित अध्यापकाची नियुक्ती नियमित स्वरूपात (Regular Basis) असावी.

(ब) संबंधित अध्यापकाची नियुक्ती विहित केलेल्या सर्व कार्यपध्तीचे अनुपालन करून केलेली असावी.

(क) संबंधित अध्यापकाच्या नियुक्तीस नेट / सेट अर्हतेची अट वगळता इतर सर्व विहित अर्हता व अटीची पूर्तता करून विद्यापीठाकडून मान्यता देण्यात आलेली असावी.

(ड) संबंधित अध्यापकाचा प्रस्ताव विद्यापीठ अनुदान आयोगाच्या मान्यतेसाठी विद्यापीठाकडून सापर करण्यात आलेला असावा.

१६. पिनांक २३.१०.१९९२ ते ३.४.२००० या कालावधीतील अध्यापकांची प्रकरणे गुणवत्तेवर तपासण्यासाठी संबंधित विभागीय सहसंचालक, उच्च शिक्षण यांनी त्यांच्या अध्यक्षतेखाली समिती गठीत करावी. सापर छाननी समितीने संबंधित अध्यापकांच्या निवडीच्या जाहीराती पासून नियुक्ती आदेशापर्यंतची सर्व कार्यवाही नियमानुसार झाली किंवा कसे तसेच पण रिक्त असणे, सामाजिक आरक्षणाचे पालन होणे व तत्सम सर्व बाबींची काटेकोरपणे तपासणी करून त्याचा स्वयंस्पष्ट अहवाल संचालक, उच्च शिक्षण, महाराष्ट्र राज्य, पुणे यांना सापर करावा व त्यानंतर संचालकस्तरावर अंतिम मान्यता देण्यात यावी.

१७. तसेच उक्त कालावधीतील ज्या अध्यापकांना त्यांची पुर्वीची सेवाग्राह्य धरून यापूर्वी प्राचार्य किंवा तत्सम पदावर नियुक्ती पिली असल्यास, त्याचप्रमाणे प्रचलित नियमानुसार अनुज्ञेय असलेल्या वेतनवाढी व त्यानुसार अपा करण्यात येत असलेले वेतन अबाधित राहिल. हया पोन मुद्यां संभर्त स्वतंत्र आदेश निर्गमित करण्यात येतील.

१८. सापर अध्यापकांच्या सेवा शासन निर्णय निर्गमित झाल्याचा पिनांकापासून सर्व प्रयोजनार्थ ग्राह्य धरण्याचा निर्णय घेण्यात आला असल्यामुळे या अध्यापकांना शासन निर्णय निर्गमित झाल्याच्या पिनांकापासून नवीन परिभाषित अंशदान निवृत्तीवेतन योजना लागू राहिल.

१९. हा शासन निर्णय वित्त विभागाच्या अनौपचारिक संभर्भ क्रमांक- अनौसं- ८५/१३/सेवा-४ पिनांक: १७ जून, २०१३, सा. प्र. वि. च्या अ. स. क्र. ८७३/२०१२/ बारा पिनांक २२.५.२०१२ व विधी व न्याय विभागाच्या अ. स. क्र. ३९९-२०१२ ई पिनांक २२ मे, २०१२ अन्वये त्या विभागाने पिलेल्या सहमतीने निर्गमित करण्यात येत आहे.

सगळर शासन निर्णय महाराष्ट्र शासनाच्या www.maharashtra.gov.in या संकेतस्थळावर उपलब्ध करण्यात आला असून त्याचा संकेतांक २०१३०६१८१६५३११६७०८ असा आहे. हा आदेश डिजीटल स्वाक्षरीने साक्षांकित करून काढण्यात येत आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने.”

(f) It is surprising and shocking that neither the applicant nor the respondents have acted in pursuance to the decision of UGC as mentioned in para 7 of the Preface of the said G.R., as a result a suitable proposal in respect of the applicant could not be submitted to UGS.

(g) It is also a serious lacuna in the present O.A. that in fact cause of action for her emanated from the G.R. dated 27.06.2013, despite that delay condonation has not been prayed for while filing this O.A. on 07.09.2021. In addition, as per G.R. dated 27.06.2013 the applicant has not represented to the respondents for submission of her case for exemption from requirement of passing SET/NET Exam or completing PhD or M. Phil.

6. CONCLUSION: from above analysis, it is crystal clear that the applicant had continued in service as a temporary Lecturer in spite of being declared surplus vide G.R. dated 20.08.1998 as per interim order passed by this Tribunal in O.A. No. 463/1998, on 09.09.1998. The applicant had apparently suppressed this

fact and managed to get final order from this Tribunal on 22.07.2009 based on initial facts which has changed subsequently before passing of final order. The said order of this Tribunal stated in no uncertain terms that the applicant is not entitled to claim regularization / permanency in service on the basis of the order of the Tribunal. Thereafter, too, the applicant had not submitted representation to respondents for recommending her case to UGC for exemption from passing NET/SET or equivalent Exam. While filing the present O.A. too, the applicant has sought relief as per Govt. Resolution dated 27.06.2013 but without exhausting available alternative remedy with the respondents by making representation in proper terms. Therefore, in our considered opinion, the present O.A. is misconceived and devoid of merit. In the interest of justice, we consider the fact that the applicant has not been advised properly either during adjudication of O.A. No. 463/1998, decided on 22.07.2009 or while prosecuting the present O.A. No. 562/2021 and hence following order:-

ORDER

- (A) Original Application No. 562/2021 is dismissed being misconceived and devoid of merit.

- (B) This order shall not be construed as prohibiting the respondents from deciding representation made by the applicant, if any as per provisions / protocol prescribed by Government Resolution issued by Higher and Technical Education Department, bearing No. संकीर्ण-२०१२/ (१३२/१२) विशि-१, मंत्रालय, मुंबई-३२, Dated 27.06.2013 on merit of the matter as per extent rules / prescribed protocol.
- (C) No order as to costs.

MEMBER (A)

MEMBER (J)

Kpb/D.B. O.A. No. 562/2021 Regularization of service