

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,
BENCH AT AURANGABAD.

ORIGINAL APPLICATION NO. 349 OF 2016

DIST. : AURANGABAD.

Vilas S/o Suresh Padhye
Age : 44 years, Occu. Service as
Associate Professor of Psychology,
R/o. C/o. Dr. A.D. Deshpande, 29,
Ashok Nagar, Garkheda Road,
Aurangabad.

.. APPLICANT.

V E R S U S

1. The State of Maharashtra
Through its Secretary,
Department of High Education,
Mantralayab Mumbai – 32.
2. Director,
Higher Education Department,
Central Building, Pune – 1.
3. Government College of Arts &
Science, Aurangabad
Through its Principal.
4. Dr. Jalindar S. Lad
Age : Major, Occu: Service as
In-charge Principal,
Government College of Arts &
Science, Aurangabad.

.. RESPONDENTS.

APPEARANCE :- Shri S.V. Natu, learned Advocate
for the Applicant.

: Mrs. Deepali S. Deshpande, learned
Presenting Officer for the Respondent
Nos. 1 to 3.

: Shri A.C. Deshpande, learned
Advocate for respondent No. 4.

CORAM : HON'BLE SHRI J.D. KULKARNI,
MEMBER (J)

J U D G E M E N T

[Delivered on this 24th day of January, 2017]

1. The applicant viz. Vilas S/o Suresh Padhye, is serving as Associate Professor of Psychology in Government College of Arts and Science, Aurangabad. His Annual Confidential Reports were written for the period from 12.9.2014 to 31.3.2015 by respondent No. 4 viz. Dr. Jalindar S. Lad, In-charge Principal, Government College of Arts & Science, Aurangabad. The applicant has prayed that the said ACRs written by the respondent No. 4 be expunged or cancelled on the ground that respondent No. 4 was not eligible to evaluate the applicant's ACRs and the Director of Higher Education, Pune i.e. respondent No. 2, be directed to carry out verification of the performance of the applicant.

2. According to the applicant, the respondent No. 4 has acted in mala-fide manner while evaluating the performance of the applicant and gave adverse grade,

which is not commensurate with the performance of the applicant. Respondent No. 4, Dr. Jalindar S. Lad, In-charge Principal, Government College of Arts & Science, Aurangabad, who is junior to the applicant and, therefore, he is not eligible to assess the performance. In fact, he is not entitled to hold additional charge of the post of Principal of Government College of Arts & Science, Aurangabad. The respondent No. 2, Director, Higher Education Department, Central Building, Pune-1, ought to have given grade 'A+' or 'A' to the applicant considering applicant's performance.

3. Respondent Nos. 1 & 2 have filed their common affidavit in reply and the respondent No. 3 has filed separate affidavit in reply by Dr. Kumud W/o Anil Gore (Kherdekar) as In-charge Principal of Government College of Arts & Science, Aurangabad. It is material to note that though separate affidavits are filed by respondent Nos. 1 & 2 and 3, the same have been sworn in by one and the same officer i.e. Dr. Kumud W/o Anil Gore (Kherdekar), who is In-charge Principal of Government College of Arts &

Science, Aurangabad i.e. respondent No. 3. Respondent No. 4 did not file any affidavit in reply.

4. The respondents have stated that the Government has taken decision vide Government Resolution dated 15.3.2012, whereby additional charge of the post of Principal of Government College of Arts & Science, Aurangabad, of respondent No. 3 was given to Dr. Jalindar S. Lad i.e. respondent No. 4 and the said charge was of temporary in nature. The fact that the additional charge has been given to the junior officer is not an issue before this Tribunal as the applicant has not challenged the said fact and, therefore, the fact remains that the respondent No. 4 has evaluated the ACRs of the applicant in his capacity as In-charge Principal of Government College of Arts & Science, Aurangabad, and not in his personal capacity. In such circumstances, whether the respondent No. 4 should have been given charge of the post of Principal though junior to the applicant has nothing to do with writing of the ACRs of the applicant.

5. The respondents have stated that the ACRs written by the respondent No. 4 were send to the Reviewing Authority and the Reviewing Authority have reevaluated the ACRs. In sub para (v) of paragraph No. 7 of the affidavit in reply of respondent No. 3, it is stated as under: -

“7.(v) With respect to Para No. ‘I’ to ‘M’, I say and submit that as per the G.R. dated 1/11/2011 the Government notified the guidelines in respect of writing and maintaining the Confidential Report of the Government employees. Further it is submitted that principal of the College is entrusted authorization as Reporting Authority to write Confidential Report of the employees under its jurisdiction. As per the provisions of Law the Reporting Authority is under obligation to forward the Confidential Report of its employee to the Reviewing Authority. Accordingly the reviewing authority has changed the grading of the applicant as positively Good (B+). Further the applicant has filed an appeal before the reviewing officer i.e. Directorate of Higher Education vide letter dated 27/7/2015, specifically stating the Grade B given by the

Principal is adverse and further stated that Shri Lad is not eligible to evaluate the performance of applicant being Junior Officer in pay scale as well as not eligible to hold the additional charge of post of Principal. Further I say and submit that on the appeal filed by the applicant hearing was kept before the Directorate office on 28/6/2016 and the applicant was also present for the said hearing. After hearing the parties before the Directorate office report has been prepared and accordingly the said report has been forwarded to the State Government dated 5/7/2016 wherein it is mentioned that the grading Good (B+) done in the C.R. of the applicant for the period 12/9/2014 to 31/3/2015 are consistent with the API system. Hereto annexed and marked as Exhibit R-1 is the copy of the said Report for kind perusal of this Hon'ble Tribunal."

The Annual Confidential Reports of the applicant, therefore, have been reevaluated by the competent authority.

6. In view there of nothing survives in the present Original Application. Hence, I pass the following order: -

ORDER

The present Original Application stands disposed of as infructuous in view of the observations made in the foregoing paragraphs in this order. There shall be no order as to costs.

MEMBER (J)

O.A.NO. 349-2016(hdd)-2017 (Expunging of ACR)