

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 562 OF 2021

DISTRICT:- Parbhani

Alka D/o. Bhaskarrao Naigaonkar,)
Age: 62 years, Occupation: Pensioner,)
(Retired as Lecturer in History))
R/o.: C-38, Yogeshwar Nivas,)
Jagruti Colony, Vasmat Road,)
Parbhani, Tq. & Dist. Parbhani.)...**APPLICANT**

V E R S U S

- 1. The State of Maharashtra,**)
Through the Secretary,)
Higher and Technical Education)
Department, Mantralaya, Extension)
Bhawan, Mumbai-32.)
- 2. The Director,**)
Higher Education, Maharashtra State,)
Central Bldg. 3 B.J. Medical Road,)
Agarkar Nagar, Pune-411001.)
- 3. The Principal,**)
Government College of Education,)
Jintur Road, Parbhani,)
Tq. & Dist. Parbhani.)..**RESPONDENTS**

APPEARANCE : Shri S.D. Joshi, learned counsel for the
applicant.
: Shri V.G. Pingle, learned Presenting
Officer for the respondent authorities.

CORAM : **Justice Shri V.K. Jadhav, Vice Chairman**
AND
: **Shri Vinay Kargaokar, Member (A)**

RESERVED ON : 10.12.2024

PRONOUNCED ON : 20.12.2024

ORDER

[Per : Shri Vinay Kargaonkar, Member (A)]

1. Brief Facts:

(i) The applicant had filed Original Application No. 562/2021, which was decided by this Tribunal on 20/04/2023. Subsequently, the applicant filed Review Application No. 02/2023, seeking a review of the order passed in O.A. No. 562/2021. The Review Application was allowed, and the order dated 20/04/2023 passed in O.A. No. 562/2021 was recalled.

(ii) The applicant, a retired lecturer under Maharashtra Education Services Class-I, has filed this Original Application seeking reliefs related to the regularization of her services from the date of initial appointment on 20/11/1993 to her retirement on 30/06/2021. Despite serving continuously for 28 years on a sanctioned post, she contends that her service was not regularized, and consequential benefits, including pension and other retirement benefits, have been denied. The applicant argues that she was unfairly excluded from regularization policies applicable to similarly situated individuals, such as lecturers in private colleges, and cites administrative lapses and discriminatory treatment as the basis for her claim.

2. Pleadings of the Applicant

(i) The applicant holds a B.A., B.Ed., M.A. and M.Ed degrees. She was appointed as a lecturer in History on

20/11/1993 under Maharashtra Education Services Class-I on a temporary basis, pending the availability of MPSC-selected candidates. The applicant's services were initially up to 31/08/1994 or until an MPSC-selected candidate were made available to replace her. However, in the absence of such candidates, the applicant's services were continued under orders of the Tribunal in O.A. No. 237/1994 and subsequent orders, ensuring uninterrupted employment until her retirement.

(ii) A Government Resolution (GR) dated 20/04/2002 listed the applicant among lecturers required to pass NET/SET but allowed continuance under tribunal's order. A GR dated 27/06/2013 regularized non-NET/SET lecturers in private colleges but excluded government lecturers like the applicant, creating a disparity.

(iii) The applicant submits that despite the temporary nature of her appointment, her services were continued uninterruptedly for 28 years, largely due to the absence of MPSC-selected candidates and protective orders from the Tribunal. The applicant emphasizes that her service was rendered against a sanctioned post with a regular pay scale, and she performed her duties with the same level of diligence as regular employees. Applicant argues that the government's failure to replace her with a regularly selected candidate amounts to tacit approval of her services.

(iv) The applicant made several representations between 2013 and 2021, seeking service regularization and related benefits, but received no favourable response. She claims that this exclusion amounts to discriminatory treatment, especially

when similarly situated private college lecturers were regularized and granted pensions.

(v) The applicant relies on legal principles established by the Supreme Court, including in *Piarasingh vs. State of Haryana*, to assert that long-term ad-hoc appointments deserve regularization. She seeks directions to treat her services as regular from her initial appointment date and to grant her all consequential benefits, including pension and other retirement benefits from 01/07/2021.

3. Pleadings by the Respondents

(i) The respondents contest the applicant's claims, asserting that her appointment was purely ad-hoc and conditional, subject to replacement by MPSC-selected candidates.

(ii) The respondents highlight that the GR dated 29/10/2021 governs pensionary benefits for non-NET/SET lecturers, limiting such benefits to prevailing policies. Respondents concede that the applicant's retirement benefits will be disbursed as per the GR dated 29/10/2021.

(iii) The respondents submit that the applicant's appointment falls within the period from 23/10/1992 to 03/04/2000. Based on the Government Resolution dated 18/10/2001, her appointment was continued under the provisions of the Government Resolution dated 20/04/2002. Consequently, as per the Government Resolution dated 29/10/2021, and considering the date of her original appointment, the applicant will be entitled to pension benefits in accordance with the prevailing policy.

4. Reasoning and Conclusions:

(i) We have carefully considered the pleadings and arguments advanced by both parties. It is evident that the applicant's appointment was made against a sanctioned post in November 1993, and her services continued uninterruptedly for 28 years due to the non-availability of MPSC-selected candidates. This prolonged period of service, without any adverse remark or replacement, establishes the necessity of her role and the effective regularity of her contribution to the institution.

(ii) The Government of India, through the University Grants Commission (UGC), has taken a decision that appointments made on a regular basis by various universities during the period from September 1991 to April 2000 should be counted from the date of their regular appointment for all service-related purposes. Relevant part of G.R. dated 27th June 2013 is reproduced below:

७. यासंदर्भात 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 ३, २००० 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 from all purposes should be counted from the date of their regular appointment.”

(iii) Additionally, the GR dated 29/10/2021 provides pensionary benefits to non-NET/SET teachers appointed between 23/10/1992 and 03/04/2000. The applicant falls squarely within this timeframe, and the respondents themselves have acknowledged her entitlement to retirement benefits under prevailing policy. G.R. dated 29/10/2021 is reproduced below:

“दि. २३.१०.१९९२ ते दि. ०३.०४.२००० या

कालावधीत नियुक्त बिगर नेट/सेट अध्यापकांना
सेवानिवृत्तीवेतनाचे लाभ अनुज्ञेय करण्याबाबत.

महाराष्ट्र शासन
उच्च व तंत्र शिक्षण विभाग
शासन निर्णय क्रमांक: बैठक- २०२०/प्र.क.५३/२०/विशि-१
मादाम कामा मार्ग, हुतात्मा राजगुरु चौक,
मंत्रालय, मुंबई- ४०० ०३२.
तारीख :- २९.१०.२०२१

वाचा:-

(१) शासन निर्णय, उच्च व तंत्र शिक्षण विभाग क.
एनजीसी-१२०१/११८१५/(३८/०१)/विशि-४,
दि.१८.१०.२००१.

(२) शासन निर्णय, उच्च व तंत्र शिक्षण विभाग क. संकीर्ण-२०१२/(१३२/१२)/विशि-१,
दि.२७.०६.२०१३

प्रस्तावना:-

शासन निर्णय दि. १८.१०.२००१ नुसार दि. १९.०९.१९९१ ते दि. ११.१२.१९९९ या कालावधीत नियुक्त अध्यापकांच्या सेवा खंडीत न करता सेवानिवृत्तीपर्यंत सुरु ठेवण्याचा व त्यांना वार्षिक वेतनवाढी व्यतिरिक्त इतर कोणतेही लाभ (जसे पदोन्नती, वरिष्ठ [श्रेणी](#) / [निवड](#) [श्रेणी](#))

अनुज्ञेय होणार नाहीत. तसेच जे बिगर नेट/सेट अध्यापक विद्यापीठ अनुदान आयोगाने विहित केलेली नेट/सेट परीक्षा ज्या दिनांकास उत्तीर्ण होतील, त्या दिनांकापासून त्यांची सेवा कॅस अंतर्गत पदोन्नतीसाठी (वरिष्ठ श्रेणी/निवड श्रेणी) लाभासाठी ग्राह्य धरली जाईल, असा निर्णय घेण्यात आलेला आहे. सदर शासन निर्णयानुसार जे अध्यापक नेट/सेट परीक्षा उत्तीर्ण होणार नाहीत त्यांना केवळ अधिव्याख्याता पदाची वेतनश्रेणी व त्यावरील वार्षिक वेतनवाढी व्यतिरिक्त अन्य लाभ (जसे, वरिष्ठ श्रेणी / निवड श्रेणी) अनुज्ञेय नाहीत.

२. शासन निर्णय दि. २७.०६.२०१३ नुसार दि. २३.१०.१९९२ पूर्वी नियुक्त अध्यापकांना विद्यापीठ अनुदान आयोगाच्या दि. १९.०९.१९९१ च्या अधिसूचनेतील तरतुदी लागू राहणार नाहीत. तसेच दिनांक २३.१०.१९९२ ते दि. ०३.०४.२००० या कालावधीत नियुक्त ज्या बिगर नेट/सेट अध्यापकांनी त्यांच्या सेवाकालावधीत विद्यापीठ अनुदान आयोगाने अधिव्याख्याता पदासाठी विहित केलेली शैक्षणिक अर्हता प्राप्त केली नाही. अशा अध्यापकांच्या सेवा शासन निर्णयाच्या दिनांकापासून काही अटीच्या अधीन राहून सर्व प्रयोजनार्थ ग्राह्य धरण्याचा निर्णय घेतला व त्यामुळे अशा अध्यापकांना शासन निर्णय निर्गमित झाल्याच्या दिनांकापासून नवीन परिभाषित अंशदान निवृत्तीवेतन योजना लागू करण्यात आली. सदरहू शासन निर्णय दि. २७.०६.२०१३ च्या विरोधात मा. उच्च न्यायालयात दाखल सर्व समान विषयांच्या याचिकांसह याचिका क्र. २०८२/२०१३ मध्ये मा. उच्च न्यायालयाने दि. २३.१२.२०१५ रोजी निर्णय देऊन सदरचा शासन निर्णय वैध ठरविला आहे. सदरहू आदेशाविरुद्ध मा. सर्वोच्च न्यायालयात विशेष अनुमती याचिका दाखल झाल्या असून सद्यःस्थितीत सदरहू प्रकरण मा. सर्वोच्च न्यायालयात न्यायप्रविष्ट आहे.

३. श्री. एम.डी. पाटील यांनी मा. उच्च न्यायालय, मुंबई येथे दाखल केलेल्या याचिका क्र. १३१६६/२०१७ मध्ये मा. उच्च न्यायालयाने दि. ०३.१०.२०१८ रोजी पारित केलेल्या आदेशान्वये मूळ नियुक्तीचा दिनांक ग्राह्य धरून सेवानिवृत्तीवेतन देण्याचे आदेश दिलेले असून सदरहू आदेश मा. सर्वोच्च न्यायालयाने कायम ठेवलेले आहेत. तसेच समान विषयाच्या इतर याचिकांमध्ये सुध्दा मा. उच्च न्यायालयाने याच निर्णयाचा आधार घेऊन याचिकाकर्ते यांना सेवानिवृत्तीवेतन देण्याचे आदेश पारित केलेले आहेत. यापुढेही अशा प्रकारच्या याचिकांमध्ये असे आदेश होऊ शकतात. त्यामुळे मा. उच्च न्यायालयाने याचिका क्र. १३१६६/२०१७ मध्ये पारित केलेले आदेश मा. सर्वोच्च न्यायालयाने कायम ठेवले असल्याने शासन निर्णय दि. २७.०६.२०१३ मधील परिच्छेद क्र. १८ वगळून दि. २३.१०.१९९२ ते दि. ०३.०४.२००० या कालावधीत नियुक्त बिगर नेट अध्यापकांना सेवानिवृत्तीवेतन अनुज्ञेय करण्याबाबत धोरणात्मक निर्णय घेण्याचा प्रस्ताव मा. मंत्रिमंडळाच्या दि. १३.१०.२०२१ रोजीच्या बैठकीत निर्णयासाठी ठेवण्यात आला होता. त्यानुषंगाने मा. मंत्रिमंडळाने घेतलेल्या निर्णयानुसार शासन निर्णय निर्गमित करण्याची बाब शासनाच्या विचारीधीन होती.

शासन निर्णय:-

१. शासन निर्णय दि. २७.०६.२०१३ मधील परिच्छेद क्र. १८ वगळण्यात येत आहे.

२. शासन निर्णय दि. १८.१०.२००१ व दि. २७.०६.२०१३ नुसार दि. २३.१०.१९९२ ते दि. ०३.०४.२००० या कालावधीत नियुक्त बिगर नेट/सेट अध्यापकांच्या सेवा सेवानिवृत्तीच्या दिनांकापर्यंत सुरु ठेवण्यात आलेल्या असल्याने अशा अध्यापकांना त्यांच्या मुळ नियुक्तीचा दिनांक ग्राह्य धरून तत्कालीन प्रचलित धोरणानुसार सेवानिवृत्तीवेतन देय राहील.

३. सदरहू शासन निर्णय वित्त विभागाने त्यांच्या अनौपचारिक संदर्भ क्र. ५०/२१/सेवा-४, दि. १४.०५.२०२१ अन्वये तसेच विधी व न्याय विभागाने त्यांच्या अनौपचारिक संदर्भ क्र. आर.आय. नं. २५२-२०२१/ई, दि. ०५.०७.२०२१ अन्वये दिलेल्या सहमतीने तसेच मा. मंत्रिमंडळाने दि. १३.१०.२०२१ रोजीच्या मंत्रिमंडळ बैठकीत घेतलेल्या निर्णयानुसार निर्गमित करण्यात येत आहे.

४. सदरहू शासन निर्णय महाराष्ट्र शासनाच्या www.maharashtra.gov.in या संकेतस्थळावर उपलब्ध करण्यात आला असून त्याचा संकेतांक क्र.

२०२११०२९१७४३०७१२०८ असा आहे. सदर शासन निर्णय डिजीटल स्वाक्षरीने साक्षात्कृत करून निर्गमित करण्यात येत आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने.

सही/-
(अजित बाविस्कर)
उप सचिव, महाराष्ट्र शासन ”

(iv) A GR dated 27/06/2013 regularized non-NET/SET lecturers in private colleges but excluded government lecturers like the applicant, creating a disparity. The principle of equality, as enshrined in the Constitution, mandates that individuals performing the same duties and fulfilling similar roles must be treated equally in matters of employment and benefits. The failure of the respondents to take steps to regularize the applicant's service despite utilizing her work for 28 years amounts to administrative inertia and inequity.

(v) The respondents have not provided any substantive justification for their inaction in replacing the applicant with a regularly selected candidate or in denying her the benefits accorded to others under similar circumstances. Furthermore, the applicant's inability to fulfill the NET/SET qualification requirement, as mandated by later policies, cannot override her long-standing and satisfactory service rendered on a sanctioned post.

(vi) The applicant is squarely covered by the GR dated 29/10/2021, which explicitly provides pensionary and other retiral benefits to non-NET/SET lecturers appointed within the specified period. Therefore, the applicant's claim for pension and retiral benefits is fully justified and must be granted.

5. Hence following order:

ORDER

1. The respondents shall treat the applicant's service as regular from 20/11/1993 to her retirement on 30/06/2021 for all service-related purposes, including pensionary benefits.

2. The respondents shall extend all consequential benefits as applicable by law, including pension and other benefits to the applicant within three months from the date of this order.

3. The Original Application is allowed on above terms. There shall be no order as to costs.

MEMBER (A)

VICE CHAIRMAN