

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NOS. 481 OF 2013, 104 & 105 OF 2014

WRIT PETITION NO. 481 OF 2013

Dr. K. M. Sadre,
major of age,
Residing at Bidhar,
Near Akashdeep,
Ganeshnagar,
Dhayari, Pune 411041

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Petitioner

V e r s u s

1. State of Goa,
through its Chief Secretary,
Secretariat,
Alto-Porvorim,
Bardez Goa.

2. Goa University,
through its Registrar,
having office at
Taleigao Plateau,
Goa 403 206.

3. Secretary Education,
Secretariat,
Alto Porvorim Goa.

4. Jt. Director of Higher Education,
Panaji Goa.
Junta House.

5. The Chairman,
University Grants Commission,
Bahadursha Zafar Marg.,
New Delhi 110002.

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Respondents

Mr. Jitendra P. Supekar, Advocate for the petitioner.

Mrs. A. Agni, Senior Advocate with Ms. K. Govekar, Advocate for respondent no.2.

:2:

Mr. S. Dhargalkar, Addl. Government Advocate for respondent nos. 1, 3 and 4.

Mr. M. Amonkar, Central Government Standing Counsel for respondent no.5.

AND
WRIT PETITION NO. 104 OF 2014

Dr. Anand B. Patil,
Major of age,
Indian National,
Resident of 202,
Pratiksha SN 96,
Right Bhusari Colony,
Kothrud, Pune,
Maharashtra,
Pincode – 411 038 (MS)

.... Petitioner

V e r s u s

1. State of Goa,
through its Chief Secretary,
Secretariat,
Alto Porvorim,
Bardez Goa.

2. Goa University,
Through its Registrar,
having office at
Taleigao Plateau,
Tiswadi Goa 403 206,

3. The Chairman,
University Grants Commission,
Bahadursha Zafar Marg,
New Delhi 110002.

.... Respondents

Mr. Jitendra P. Supekar, Advocate for the petitioner.

Mr. P. Faldessai, Addl. Government Advocate for respondent no.1.

Mrs. A. Agni, Senior Advocate with Ms. K. Govekar, Advocate for respondent no.2.

Mr. M. Amonkar, Central Government Standing Counsel for respondent no.3.

AND
WRIT PETITION NO. 105 OF 2014

Dr. A. R. Padoshi,
Major of age,
Indian National,
Resident of Flat No.302,
Indraprastha, Shashipark,
Opp. Bus Stand,
Sambahaji Nagar,
Kolhapur,
Maharashtra Pin 416 007

.... Petitioner

V e r s u s

1. State of Goa,
Through its Chief Secretary,
Secretariat,
Alto Porvorim,
Bardez Goa.
 2. Goa University,
Through its Registrar,
having office at
Taleigao Plateau,
Tiswadi Goa 403 206
 3. The Chairman,
University Grants Commission,
Bahadursha Zafar Marg,
New Delhi 110002
- ... Respondents

Mr. Jitendra P. Supekar, Advocate for the petitioner.

Mr. A. Prabhudessai, Addl. Government Advocate for respondent no.1.

Mrs. A. Agni, Senior Advocate with Ms. K. Govekar, Advocate for respondent no.2.

Mr. M. Amonkar, Central Government Standing Counsel for respondent no.3.

:4:

**Coram:- F. M. REIS &
C. V. BHADANG, JJ.**

Date:- 18th November, 2015

ORAL JUDGMENT (Per F. M. Reis, J)

Heard Mr. J. Supekar, learned counsel appearing for the petitioners, Mr. M. Amonkar, learned Central Government Standing Counsel appearing for the UGC, Mrs. Agni, learned Senior Counsel appearing for the respondent no.2 and Mr. S. Dhargalkar, learned Addl. Government Advocate appearing for the respondent nos. 1, 3 and 4 in WP No. 481 of 2013, Mr. P. Faldessai, learned Addl. Government Advocate appearing for respondent no.1 in WP No. 104 of 2014 and Mr. A. Prabhudessai, learned Addl. Government Advocate appearing for respondent no.1 in WP No. 105 of 2014. All the above Writ Petitions were taken up together as all the impugned orders dated 14.03.2011 are refusing to grant Career Advancement Scheme to the petitioners by the UGC – respondent no.5 in Writ Petition No. 481 of 2013 and the respondent no.3 in the remaining Writ Petitions.

2. Mr. Supekar, learned counsel appearing for the petitioners has submitted that the petitioners retired on 31.01.1999, 31.10.2001, and 31.04.2003 respectively and that they were entitled for the Career Advancement Scheme during the period they rendered the services in terms of the Regulation of 2000 and as such representations were

:5:

made to the University in the year 2001 with that regard. The learned counsel further pointed out that thereafter only in the year 2003 the respondent no.2 sought information from the petitioners about their Bio- Data to examine their claims for such Career Advancement Scheme. The learned counsel further pointed out that in the year 2005 the petitioners complied with all the requirements and submitted all the requisite documents in support of such claims. The learned counsel further submits that the committee to examine such claims of the petitioners was to include a representatives of the UGC and such committee ultimately met on 09.02.2010 wherein the claims of the petitioners were accepted by a decision dated 12.04.2010. The learned counsel further submits that this decision had to be approved by the UGC and consequently, it was submitted to the respondent no.5 for such approval. The learned counsel thereafter has taken us through the communication received from the respondent no.5 to point out that such approval was refused by the respondent no.5 on the ground that the requirements in terms of the Regulation of 2010 were not satisfied by the petitioners. The learned counsel further pointed out in the Notification issued for bringing into force the Regulation of 2010, clearly provides that a person who is entitled for such claim prior to the coming into force of such Regulation of 2010 would be governed by the Regulation of 2000. The learned counsel further pointed out that even in a communication issued by the UGC, there is a clear statement therein that a person who had retired or was entitled for such scheme

prior to the year 2008 would be governed by the Regulation of 2000. The learned counsel thereafter has taken us through the order passed by the UGC refusing such approval to point out that the only ground on which the approval is refused was that the petitioners did not comply with the eligibility as provided in the Regulation of 2010 which according to the learned counsel is not sustainable in law. The learned counsel as such points out that the impugned orders dated 14.03.2011 deserve to be quashed and set aside and the respondents be directed to grant such benefits to the petitioners and pay the amount from the date when they were entitled for such scheme in accordance with law.

3. On the other hand Mr. M. Amonkar, learned Central Government Standing Counsel for the UGC has fairly accepted that the petitioners are governed by the Regulation of 2000 nevertheless, there was gross laches on the part of the petitioners approaching this Court and as such on this ground alone the petitions deserve to be rejected. The learned counsel further pointed out that admittedly the petitioners had retired in the year 1999, 2001 and 2003 respectively and from the date of such retirement, the petitioners did not take any legal action to assert their rights for such benefits. The learned counsel further points out that merely making an application and sleeping with such application does not by any way justify the laches on the part of the petitioners in approaching this Court. The learned counsel as such points out that on this ground alone the petitions deserve to be

rejected.

4. Mrs. Agni, learned Senior Counsel appearing for the respondent no. 2 - University has in fact pointed out that the University accepted the claim of the petitioners that they were entitled for such benefits and as such sought approval of the UGC to grant such benefits to the petitioners.

5. We have considered the submissions of the learned counsel and we have also gone through the records. On perusal of the orders passed by the UGC refusing the benefit of Career Advancement Scheme, the only ground of such refusal is that the eligibility as provided in Regulation of 2010 are not satisfying by the petitioners. On perusal of Regulation of 2010 at clause 1.3, it clearly reads thus :

“1.3 They shall come into force with immediate effect.

Provided that, in the event, any candidate becomes eligible for promotion under Career Advancement Scheme in terms of these Regulations on or after 31st December, 2008, the promotion of such a candidate shall be governed by the provisions of these Regulations.

Provided further that notwithstanding

:8:

anything contained in these Regulations, in the event any candidate became eligible for promotion under Career Advancement Scheme prior to 31st December, 2008, the promotion of such a candidate under Career Advancement Scheme shall be governed by the University Grants Commission (Minimum Qualifications Required for the Appointment and Career Advancement of Teachers in Universities and institutions affiliated to it) Regulations, 2000 notified vide Notification No. F.3-1/2000(PS) dated 4 April, 2000, as amended from time to time, read with notifications and guidelines issued by the University Grants Commission (UGC) from time to time, in this regard.”

6. On plain reading of said provisions, it clearly provides that the persons who are eligible for such scheme prior to the coming into force of the Regulation of 2010 would be governed by the Regulation of 2000. In fact, the Goa University, by a letter dated 02.11.2010 addressed to the one of the petitioners has clearly stated thus :

Goa University,
Taleigao Plateau, Goa

No. GU/CAS/Ret. Read/2010/3317

Date : 2/11/2010.

To,
Dr. K. M. Sadre,
Bidhar, Near Akashdeep,
Ganesh Nagar, Dhayari,
Pune – 411 041.

Sir,

In continuation to our letter No. GU/CAS/Ret. Read/2010/2861 dated 5.10.2010, I am to inform you that UGC vide D.O. letter No. F.3-88/2009(PS) dated 28th September, 2010 has informed that as per clause 6.3.9 of UGC Regulations, 2010. "The incumbent teacher must be on the role and active service of the Universities/Colleges on the date of consideration by the Selection Committee for Selection/CAS promotion".

Therefore, the U.G.C. has not approved your case for promotion to professor under Career Advancement Scheme.

Yours faithfully,

Sd/-
(Dr. M. M. Sangodkar)
REGISTRAR

7. Examining the said Regulation as well as the clarification stated in the said letter, it cannot be disputed that the ground on which the petitioners have been refused of getting such benefits are unsustainable in law. The question of meeting the eligibility of the Regulation of 2010 does not arise at all to the present petitions as admittedly, the petitioners were entitled for such scheme much prior to the coming into force of the Regulation of 2010 and consequently, the petitioners were governed by the Regulation of 2000. In fact, the

committee which included the representatives of the UGC had accepted their claims and recommended that the petitioners were entitled for such Career Advancement Scheme in terms of the Regulation of 2000. Hence, the orders refusing the approval sought by the University to grant such scheme to the petitioners cannot be sustained and deserves to be quashed and set aside.

8. With regard to the contention of Mr. M. Amonkar, learned Central Government Standing Counsel appearing for the UGC that the petitions are barred by laches, we find that though the petitioners had made representations with regard to such claims nevertheless, there is some delay in approaching the Court to get their rights adjudicated in terms of the Regulation of 2000. The record reveals that based on the representations and the documents submitted by the petitioners a meeting of the committee was called only in the month of February, 2010 and the order accepting the claims of the petitioners was passed in April, 2010. The petitioners have filed the present petitions in the years 2013 and 2014. In the peculiar facts and circumstances of the case, considering that there was some delay in filing the petitions, we find it appropriate that though the petitioners should be given benefits notionally from the date they were entitled in terms of the recommendation of the University nevertheless, the petitioners would be entitled to the monetary benefits from the year 2007 onwards.

9. In view of the above, we pass the following :

O R D E R

- (i) The impugned orders dated 14.03.2011 are quashed and set aside.
- (ii) The respondents are directed to grant the benefits to the petitioners in terms of the order dated 12.04.2010.
- (iii) However, such benefits would be notional granted from the date referred to therein but however, the monetary benefits shall be paid to the petitioners from the year 2007.
- (iv) The respondent no.5 - UGC in WP No. 481 of 2013 and respondent no.3 in the remaining two writ petitions shall grant the requisite approval preferably within three months from today.
- (v) The respondents shall take all steps to ensure that all the monetary benefits are paid to the petitioners within six months from today.
- (vi) Rule is made absolute in above terms.
- (vii) The petitions stand disposed of accordingly.

C. V. BHADANG, J.

F. M. REIS, J.

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