

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 809 OF 2010

MR. YOGESH KITLEKAR ... Petitioner
Versus
MR. SHRIKRISHNA T. POKLE AND 3
ORS., ... Respondents

Mr. Nigel Da Costa Frias, Advocate for the petitioner.
Mr. M.S. Sonak, Advocate for respondent no. 1.
Mr. S. Bandodkar, Additional Govt. Advocate for respondent nos. 3
and 4.
Mrs. A. Agni, Advocate for respondent no. 5.

Coram:- A. P. LAVANDE &
F. M. REIS, JJ.

Date:- 3rd March, 2011

P.C.:

Heard learned Counsel, Mr. Costa Frias for the petitioner, Mr. Sonak for respondent no. 1, Mr. Bandodkar, Additional Government Advocate for respondent nos. 3 and 4, Mrs. Agni for respondent no. 5. Respondent no. 2 is a formal party.

2. By this petition under Article 226 of Constitution of India, the petitioner challenges order dated 26-03-2010 passed by respondent no. 1 awarding punishment of compulsory retirement.

3. The petitioner was working as Laboratory Attendant in D.M.'s College of Arts, Science and Commerce, Assagao, Goa. By order dated 26-03-2010, passed by respondent no. 1, the petitioner has been compulsorily retired. The order of compulsory retirement is under challenge.

4. On behalf of respondent no. 1, Mr. Sonak placed reliance upon Section 30 of the Goa University Act, 1984 and submitted that against impugned order of compulsory retirement, the petitioner has an efficacious remedy under Section 30 of the Goa University Act, 1984 and therefore this is not a fit case in which this Court should exercise extra ordinary jurisdiction under Article 226 of Constitution of India.

5. On behalf of respondent no. 5-Goa University, Mrs. Agni submitted that in terms of SC-7, the petitioner has an effective remedy of preferring appeal before the College Tribunal.

6. On behalf of respondent nos. 3 and 4, Additional Government Advocate Mr. Bandodkar pointed out that presently College Tribunal is not constituted and the State Government has already taken steps to constitute College Tribunal in terms of SC-7. Mr. Bandodkar assures the Court that State Government shall take expeditious steps to constitute College Tribunal. The statement is accepted.

7. In view of the above, it is clear that remedy by way of appeal in terms of SC-7 before the College Tribunal is not presently available to the petitioner. In view of this peculiar circumstance, we are of the considered opinion that, this is a fit case in which the petitioner should be relegated to the remedy of appeal under Section 30 of the Goa University Act, 1984.

8. Mr. Costa Frias for the petitioner states that he would prefer an appeal against the impugned order of compulsory retirement before the Executive Council of the Goa University within a period of two weeks.

9. In the event an appeal is preferred within two weeks by the petitioner, the same shall not be dismissed on the ground of limitation and shall be disposed of by the Executive Council of the Goa University in accordance with law expeditiously.

10. Writ petition stands disposed of.

A. P. LAVANDE, J.

F. M. REIS, J.

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