

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 578 OF 2010

Shri Anant S. Patil,
Junior Programmer,
Department of Computer Science,
S.P. Chowgule College,
Margao, Goa. Petitioner.

V/s.

1. State of Goa, through
Directorate of Higher Education,
having Office at Junta House,
Panaji-Goa.

2. Goa University,
through its Registrar
Taleigao Plateau, Goa.

3. The Principal,
Smt. Parvatibai Chowgule
College of Arts & Science,
Margao – Goa. Respondents.

Mr. M. S. Sonak and Mr. Supekar, Advocates for the petitioner.

Mr. S. Bandodkar, Addl. Govt. Advocate for respondent No.1.

Ms. A. Agni, Advocate for respondent No.2.

Mr. S. D. Lotlikar, Senior Advocate with Mr. H. Kankonkar,
Advocate for respondent No.3.

**CORAM :- D.G. KARNIK &
F.M. REIS, JJ.**

Date :- 7th September, 2010.

ORAL J U D G M E N T : (Per D.G. KARNIK, J.)

1. Rule. By consent, the Rule is made returnable forthwith. Learned Counsel for the respondents waive service for the respective respondents. Heard.

2. The petitioner is aggrieved by the communications dated 12th February, 2009 and 25th February, 2009, the copies of which are at Exhibits “K” and “L” to the petition. The grievance of the petitioner is that the communications at Exhibits “K” and “L” affect his civil right of being entitled to certain benefits on the basis that he is a teaching staff. The Counsel for the petitioner submits that the petitioner is a member of teaching staff, who had always been classified as “Supporting Academic Staff” since the time of his appointment. The Counsel for the respondent University submits that the post of “Supporting Academic Staff” is not a teaching staff, but it is a non-teaching staff post.

3. It appears that till the year 2008, the petitioner was granted benefits in the matter of leave on the basis that the post of Supporting Academic Staff is a post of teaching staff. The effect of the impugned communications is withdrawal of such benefits with retrospective effect.

4. Admittedly, no hearing was given to the petitioner before sending him the impugned communications. Since the effect of the communication dated 12th February, 2009 is withdrawal of certain benefits which the petitioner was enjoying, in our view, the petitioner ought to have been given an opportunity of being heard before issuing the said communication. Since the said communications are likely to affect the civil rights of the petitioner which have been issued without hearing the petitioner, the same are required to be set aside.

5. We, accordingly, quash and set aside the impugned communications dated 12th February, 2009 and 25th February, 2009 issued by the respondents No.1 and 3. It would be open to the respondents to pass appropriate orders, after giving opportunity to the petitioner of being heard in the matter. All contentions are kept open.

Rule is made absolute in the above terms. There shall be no order as to costs.

D.G. KARNIK, J.

F.M. REIS, J.

ssm.