

Filed on - 10/12/2020  
Order reserved on 10/06/2022  
Order pronounced/ 15/10/2022.  
issued on -



**Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur  
BEFORE THE GRIEVANCES COMMITTEE.**

(Presided over by Shri Ajay C. Chaphale, former District Judge.)

**Grievance Petition No. 01/2021**

**Applicant :** Dr. Dilip Kumar Merkap,  
**Grievance** R/o Care Shri P.D. Barwad,  
**Petitioner** Plot No. 49, 6<sup>th</sup> Lay Out,  
Dharampeth Gruh Nirman Society,  
Jaiprakash Nagar  
Nagpur-440025.

**- VERSUS -**

**Non-Applicant:** 1. Ankush Shikshan Sanstha,  
345, Shraddha House, 6<sup>th</sup> Floor,  
Kingsway, Nagpur-440001.  
Through its President/Secretary

2. G.H. Raison Law College,  
345, Shraddha House, 5<sup>th</sup> Floor,  
Kingsway, Nagpur-440001.  
Through its Principal/Acting  
Principal/In-charge.

**ORDER**

(Delivered on 15/10/2022)

1. The Applicant approached this Grievances Committee under section 79 of the Maharashtra Public Universities Act 2016 to claim relief for grievances. The facts giving rise to grievances and to claim relief are as under:

- (i) The Applicant had applied for the post of Assistant Professor in the Non-Applicant No. 2 College on the basis of advertisement published on 27.7.2013, the

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Applicant had made an application through proper channel, as he was working in Govindrao Wanjari College of Law, Nagpur as a permanent full time faculty. He attended the interview on 27.9.2013 conducted by the Staff Selection Committee and he was selected. The Non-Applicant No.1 institution had issued appointment order dated 02.01.2014 in pursuance of the appointment. The Applicant had joined as Assistant Professor on 07.01.2014 in the Non-Applicant No. 2 College. The Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur had approved his appointment by letter dated 18.01.2014 but the Non-Applicant No. 1 institution has denied payment of full salary since beginning to the Applicant, even increment payable to the Applicant, for his Ph.D. was also not paid and according to the Applicant till September-2020 total amount of Rs. 33,60,325/- (Rs. Thirty Three Lakhs Sixty Thousand Three Hundred Twenty Five only) is withheld by the Non-Applicant No. 1 institution.

- (ii) It is submitted by the Applicant that his wife was suffering from Cancer since April-2019 and she expired on 17.01.2020 and huge amount was required for her treatment. But unpaid amount was not released by the Non-Applicant No. 1 institution and, therefore, the Applicant was required to take hand loans from friends to meet expenditure on his wife's treatment but except giving of loan of Rs. 50,000/- (Rs. Fifty Thousand only) which was returned by him through instalment, the Non-Applicant No. 1 institution had not extended any help to him. According to the Applicant, the Non-Applicant No.1 institution is illegally withholding his

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due amount. The Applicant has claimed full amount of his salary in terms of the appointment order and other benefits as prescribed by the Govt. of Maharashtra, University Grants Commission and Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur and he has claimed Rs. 33,60,325/- (Rs. Thirty Three Lakhs Sixty Thousand Three Hundred Twenty Five only) which is illegally withheld by the Non-Applicant No. 1 institution from January-2014 to September-2020 with interest. He has also claimed the amount of increment for which he is entitled as he is having qualification of Ph.D., he has also prayed to direct the Non-Applicant No. 1 & 2 to maintain his EPF account.

2. The Non-Applicant No. 1 & 2 have resisted the claim of the Applicant by filing reply. It is submitted that the Applicant has filed the Writ Petition No. 2037/2021 before the Hon'ble High Court of judicature at Bombay, Bench at Nagpur and prayers made in said Writ Petition are regarding grant of benefits as per the 6<sup>th</sup> Pay Commission and 7<sup>th</sup> Pay Commission and therefore, the Applicant has approached two forums. It is further submitted that the Applicant has claimed his salary as per the recommendations of the Pay Commission but the recommendations of the Pay Commission are not applicable to the Minority Un-aided Institution and therefore, in absence of any direction from the Govt. of Maharashtra regarding applicability of pay scale to the Minority Un-aided Institution, it cannot be fastened upon the management.

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3. It is submitted by the Non-Applicant No. 1 & 2 that the salary and allowances of the teachers of private un-aided college is a matter of contract between the management and the teacher and no order can be passed in absence of statutory provisions to issue instructions to un-aided private colleges to pay the same salary and allowances to its teachers which are to be paid to the teachers of Govt. aided colleges and if the colleges are directed to pay the same salary and allowances of teachers as of Govt. colleges/aided colleges, it will have to increase the fees. It is further submitted by the Non-Applicant No. 1 & 2 that the Maharashtra Civil Services (Revised Pay) Rules are applicable to Govt. Employees and not to the Employees of private organisations. It is submitted that the Pay Commissions are also governed by the University Grants Commission but the State Regulations are not applicable in the present case as the Non-Applicant institution is an un-aided institution. It is submitted by the Non-Applicant No. 1 & 2 that the Non-Applicant No. 2 college is neither funded nor maintained by the University Grants Commission and the Govt. of Maharashtra by its resolution dated 15.02.2011 has not fully accepted the University Grants Commission Regulations dated 30.06.2010. Therefore, the University Grants Commission Regulations cannot be made applicable in this case.

4. It is further submitted by the Non-Applicant No. 1 & 2 that the Direction No. 4 of 2012 has not been approved by the

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Management Council and therefore, it is not binding to them. It is further submitted by the Non-Applicant No. 1 & 2 that the Govt. of Maharashtra issued Notification dated 30.01.2019 and made into effect the recommendations of Pay Commission w.e.f. 01.01.2016 but the said rules cannot be made applicable to the employees/teachers of private un-aided minority institution and it is applicable only to the Govt. employees and Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur or any other semi Govt. Organisation have not passed the resolution, thereby accepting the Govt. Resolution i.e. Pay Commission. It is submitted by the Non-Applicant No. 1 & 2 that the Non-Applicant management is paying regular salary to its employees as per the appointment order and there is no complaint from any of the employees regarding non-payment of salary. And, therefore, the Applicant's contention is totally false and baseless and after accepting appointment order, the Applicant is estopped from claiming more than what has been mentioned in the appointment order and in the appointment order no where it was stated that the Applicant shall be paid as per the recommendations of the Pay Commission and the recommendations of Pay Commission are not applicable to the minority un-aided colleges. The Non-Applicant No. 1 & 2 have denied all the allegations regarding alleged incidents of threatening the Applicant by submitting that it is baseless and defamatory and the Applicant wants to extract money from the Non-Applicant institution. It is further submitted by the Non-Applicant No. 1 & 2 that the

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Applicant's initial appointment itself is illegal because the Applicant was removed by the earlier organization and the Applicant had resigned from that organization and he cannot be appointed as a Principal of the law college. It is further submitted that the amount of Rs. 50,000/- (Rs. Fifty Thousand only) was given as an advance to the Applicant and he was also given a special leave for 6 months for which no amount was deducted from his salary and in fact the Applicant should be directed to refund the excess amount paid to him.

5. It is submitted by the Non-Applicant No. 1 & 2 that the Applicant has raised the grievances about the not updating his service book and not maintaining EPF account but the service book of all the employees are duly updated from time to time and all the entries have been duly recorded. And as the Applicant himself absconding, therefore, appropriate disciplinary action is initiated against him for the misconduct and for remaining absent without intimation or sanction.

6. It is further submitted by the Non-Applicant No. 1 & 2 that as the Applicant has received all the benefits, therefore, he is now estopped from claiming additional benefits and in the similar matter employees of the Priyadarshini College filed Writ Petition No.927/2019, which has been admitted by the Hon'ble High Court and the Non-Applicant No. 1 & 2 have requested to keep the present

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matter in abeyance till the decision of the said Writ Petition. It is submitted that the Grievance Petition needs to be dismissed.

7. The Applicant has filed certified copy of the order dated 13.09.2022 passed by the Hon'ble High Court Bench at Nagpur in Civil Writ Petition No. 2037/2021 (Dr. Dilip Kumar Merkap V/s. State of Maharashtra and others), the said Civil Writ Petition No.2037/2021 was filed by the Applicant and the said Writ Petition is disposed of by the Hon'ble High Court and this committee is directed to decide the representation of the Applicant within three months from the date of receipt of the order.

8. In the facts and circumstances of the case and in view of the submissions of the Applicant and the Non-Applicant No. 1 & 2, following points arises for consideration and the Committee has recorded its findings thereon with the reasons given here in after.

<b><u>Points</u></b>	<b><u>Findings</u></b>
(i) Whether the Applicant is entitled for pay scale as applicable to him as per revised pay scale as recommended by the 6 <sup>th</sup> Pay Commission and 7 <sup>th</sup> Pay Commissions with the arrears of difference of salary and other benefits as applicable?	Yes.
(ii) Whether the Applicant is entitled for claiming the relief as prayed?	As per order
(iii) What Order?	As per order given below

*[Signature]*  
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**REASONS**

As to Point No. (i) to (iii) :

9. In this case the Non-Applicant No. 1 & 2 have raised the objection as to maintainability of this Grievance Petition because according to the Non-Applicants, the Applicant has also filed the Writ Petition No. 2037/2021 before the Hon'ble High Court, Bench at Nagpur and in the Writ Petition, the Applicant has also claimed the benefits as per the 6<sup>th</sup> Pay Commission and 7<sup>th</sup> Pay Commission and therefore, the Applicant has approached two forums for claiming same relief. But the Applicant has filed the certified copy of the order dated 13.09.2022 passed by the Hon'ble High Court in the Civil Writ Petition No. 2037/2021 which was filed by the Applicant and as per the order of the Hon'ble High Court, the Writ Petition is disposed of and this Grievance's Committee is directed to decide the representation of the Applicant as expeditiously as possible preferably within 3 months from the date of the order of receipt of the order. And, therefore, now it is clear that the claim of the Applicant regarding revised pay scale as per the recommendations of 6<sup>th</sup> Pay Commission and 7<sup>th</sup> Pay Commission is not sub-judiced before the Hon'ble High Court as the Civil Writ Petition No. 2037/2021 is disposed of. Therefore, the petition of the Applicant is maintainable before this forum.

10. The Non-Applicant No. 1 & 2 have come forward with the case that the recommendations of Pay Commission are not applicable to the minority un-aided institution in absence of any direction from the Govt. of Maharashtra and therefore, it cannot be fastened upon the management. Regarding the applicability of the Govt. Resolution to the minority institution, the Applicant has placed reliance on the decision of the Hon'ble Bombay High Court in case of Prof. Smt. Manorama Prakash Khandekar V/s. State of Maharashtra and others (Writ Petition No. 5448/2011 decided by

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the Hon'ble Bombay High Court, Nagpur Bench) reported in 2020(4) Mh.L.J 410, wherein it is held by the Hon'ble Bombay High Court that, *"The general rules and regulations relating to the conditions of service and tenure of teachers under the employment of Minority Institutions are required to be consistent with such rules and regulations as framed by the State. Applicability of the provisions of Article 30(1) of the Constitution to a Minority Institution would not make it immune from the operation of regulatory measures"*

11. Though there was dispute as to applicability of Govt. Resolution to the un-aided institution. But as per Circular dated 12<sup>th</sup> August, 2009 issued by the Govt. of Maharashtra by its Higher & technical Education Department on the subject of revision of pay scale of the teachers in equivalent cadre in higher education as per UGC scheme, said circular provided the subject of revision of pay scale of different categories of teachers in Universities and Colleges governed by the enactment of the State Legislature and the Non-applicant No. 2 college is affiliated to Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur. It is also held by the Hon'ble Supreme Court in the case of Secretary Mahatma Gandhi Mission & Another V/S Bhartiya Kamgar Sena & Others reported in (2017) 4 (Supreme Court cases 449) that, *"In our opinion, the G.R. dated 12.08.2009 can be safely construed to be one made in exercise of the power under Section 8(3) of the Universities Act conferring a legal right on the teaching staff of the affiliated colleges irrespective of the fact whether they are aided or not."*

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It is further held by the Hon'ble Apex Court in the judgment that, *"The colleges run by appellants are admittedly colleges affiliated to the Universities functioning under the Act. Therefore, their teaching staff would be entitled to the revised pay-scales in terms of the G.R. dated 12.08.2009."*

It is held by the Hon'ble Bombay High Court Bench at Nagpur in Writ Petition No. 481 of 2019 (MS. Veena D/o Kewalram Katankar & Others V/S State of Maharashtra and others) that it is not in dispute that college is affiliated to the University and despite being un-aided institution, was bound by terms of said circular. It is Further, held by the Hon'ble Bombay High Court that, *"considering the terms of the said circular and having regard to the fact that the college was affiliated to the University we hold that on and from the respective dates of according of the approval of the recommendations by the Vice-Chancellor, the petitioners 1 to 8 are entitled in Law to claim that they be paid salary in accordance with the revision of pay-scales, as ordained by the said circular."*

12.

Therefore, as the Applicant's appointment was approved by the Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur for his post of Assistant Professor as per letter dated 18.01.2014 and approval was effective from the date of joining and, therefore, as the Applicant has joined his duty in the Non-Applicant No. 2 college from 07.01.2014 as an Assistant Professor. Therefore, in view of the reasons discussed as above, the Applicant is entitled for the revised pay scale as per the recommendation of 6<sup>th</sup> Pay Commission from 07.01.2014 to 31.12.2015. so far as the Applicant's claim regarding revised pay scale as per the 7<sup>th</sup> Pay Commission is concerned, Govt. of Maharashtra issued the Govt. Resolution dated 8<sup>th</sup> March, 2019 and issued direction for revised pay scale of the teachers of the institutions' as mentioned therein including the affiliated colleges and the date of implementation of revised pay scale is from 1<sup>st</sup> January, 2016. The Govt. of Maharashtra has also issued Govt.

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Resolution dated 11<sup>th</sup> September, 2019 regarding applicability of pay scale to the institutions including the University affiliated colleges. The Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur has also issued Direction No. 20/2019 for implementation of the revised pay scale as per 7<sup>th</sup> Pay Commission. Therefore, the Applicant is also entitled to claim revised pay scale as per the recommendation of 7<sup>th</sup> Pay commission from the 1<sup>st</sup> January, 2016 and it is to be continued. The Applicant is also entitled for all other admissible benefits as per rule. Therefore, finding to point No. (i) & (ii) are recorded accordingly.

13. In view of the above findings recorded by the Committee, the Committee has passed the following order.

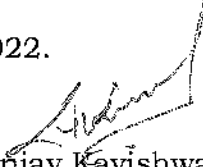
- (i) The Applicant is entitled to the revised pay-scales with other benefits as per the recommendations of 6<sup>th</sup> Pay Commission from 07.01.2014 to 31.12.2015 and to the revised pay scale with other benefits as per the recommendation of 7<sup>th</sup> Pay Commission from 01.01.2016 and it is to be continued as per applicable rules.
- (ii) The Non-Applicant No. 1 & 2 shall calculate the differences of salary and other benefits for which the Applicant is entitled as per the recommendations of 6<sup>th</sup> Pay Commission and 7<sup>th</sup> Pay Commission in accordance with the relevant Govt. Resolution/Circular issued by the Govt. of Maharashtra and release the payment in favour of the Applicant within four months from the date of this order. The Non-Applicant No. 1 & 2 are further directed to comply the requirement as per service rules.
- (iii) If the Non-Applicant No. 1 & 2 fails to release the payment within the period of four months, they shall be liable to pay interest at rate of 8% per annum on the unpaid amount from the date of this order.

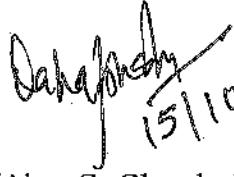
  
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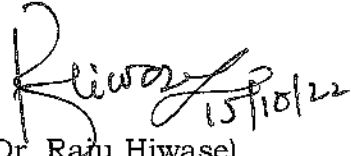
- (iv) If the Non-Applicant No. 1 & 2 fails to comply the aforesaid direction, the Applicant shall be entitled to take legal action against the Non-Applicant No. 1 & 2 by taking recourse of relevant provisions, according to law.

Nagpur.

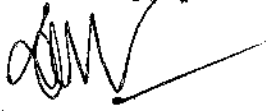
Dated: 15/10/2022.

  
(Dr. Sanjay Kavishwar)  
Member, Grievances Committee,  
RTM Nagpur University, Nagpur

  
(Ajay C. Chaphale)  
Chairman, Grievances Committee,  
RTM Nagpur University, Nagpur.

  
(Dr. Raju Hiwase)  
Member, Grievances Committee,  
RTM Nagpur University, Nagpur

**TRUE COPY**

  
Superintendent,  
Grievances, Ordinance, Statute & Legal Section,  
Rashtrasant Tukadoji Maharaj  
Nagpur University, Nagpur.