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Order reserved on 03-07-2021.
Order pronounced/ 17/07/2021.
issued on -
Duration-- 1 Year, 6 Months, 10 Days.



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

(Presided over by Shri. Arvind J. Rohee, former District Judge.)

Grievance Petition No. 02/2020

Applicant : Dr. Madhuri Namdeorao Gajbhiye,
Grievance C/o Namdeorao Gajbhiye,
Petitioner Near Sontakke Boys Hostel,
Nagpur Road, Katol,
Distt-Nagpur

- VARSUS -

Non-Applicant: 1. Shikshan Prasarak Mandal,
Katol, District-Nagpur-441302.
through its President
2. Shikshan Mahavidyalaya,
Katol, Distt-Nagpur- 441302.
through its Principal

ORDER

(Delivered on 17/07/2021)

1. By this petition under section 79 (1) of the Maharashtra Public Universities Act 2016 the Applicant approached this forum mainly for seeking the following reliefs:-

- (1) Unpaid House Rent Allowance and Transportation Allowance alongwith monthly salary.
- (2) The Arrears of Rs. 4,49,733/- towards House Rent Allowance and Transportation Allowance till October-

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2018 alongwith 18% per annum interest thereon and payment of subsequent allowances.

(3) Revision of pay as per the recommendations of 7th Pay Commission w.e.f. 01.01.2016.

(4) Revocation of suspension order No. SPM/124/2019 dated 18.11.2019 issued by Non-Applicant No. 1 as illegal and untenable.

2. The Applicant joined as Assistant Professor in Marathi subject in Non-Applicant No. 2 college w.e.f. 22.02.2000. Her appointment is duly approved by Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur. The said college is affiliated to Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur. The course for B.Ed. college is also approved / recognized by the National Council for Teacher Education (NCTE), New Delhi w.e.f. 05.10.2000. It appears that initially the Applicant was appointed in Nabira Mahavidyalaya, Katol run by the same institute/society and on establishment of B.Ed. College, the Applicant is absorbed w.e.f. 05.10.2000.

3. It is alleged by the Applicant that although the college receives no grant from the Govt. still her appointment being regular, she is entitled to get the prescribed salary as per rules and also benefit of revision of pay as per the Pay Commissions. It is also alleged that the Non-Applicants failed to pay salary as per rules including House Rent Allowance and Transportation Allowance instead of repeated representations. Ultimately, the Applicant approached the Hon'ble High Court of Bombay Bench at Nagpur in Writ Petition No. 3686/2011 by order dated 19/06/2017, in the aforesaid Writ Petition Hon'ble High Court directed the Non-Applicants to fix the salary of the Applicant in proper pay scale and to release the arrears thereon for the period preceding 3 years of filing of the previous Writ Petition No. 1034/2010. It is stated by the Applicant that since the aforesaid order is not complied with, she was required to file Contempt Petition against the Non-Applicants and thereafter payment was made to some

extent, except House Rent Allowance and Transportation Allowance. She also claims that the revision of pay as per the 7th Pay Commission w.e.f. 01.01.2016 and arrears therefrom till the order of closure of the B.Ed. course is issued by the NCTE dated 06.08.2000, by which recognition granted to the institution is withdrawn from the end of the academic session. This decision is taken by the Western Regional Committee (WRC) of NCTE in exercise of the powers vested under Section 17(1) of the National Council for Teacher Education Act, 1993. The aforesaid decision is communicated to the Non-Applicants by the Regional Director of NCTE.

4. It is stated that inspite of order passed by the Hon'ble High Court, since full payment is not made the present petition is filed.
5. On notice, the Non-Applicants appeared and resisted the claim. They however, admitted the Applicant's appointment and closure of the institution/B.Ed. College on their request and after securing no objection from Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur. It is, however, denied that the Applicants is entitled to full salary as claimed or arrears of House Rent Allowance and Transportation Allowance. According to them after decision of Hon'ble High Court, the office of Non-Applicant No. 2 has settled the arrears of salary and pay bills of Rs. 8069530/- from February-2007 to August-2018 were drawn and after deducting amount of full salary paid to the Applicant Rs. 3942536/- were paid to her towards salary till 25.10.2018. Thereafter, amount of Rs. 1882125/- is also paid to the Applicant from time to time after deducting Income Tax and other deductions for the period from September-2018 to May-2020 and the amount is credited in the Bank Account No. 195912662 stands in the name of the Applicant at Bank of Maharashtra, Katol. It is also stated that the last payment made to the Applicant was dated 10.07.2020 and now nothing is due to them.

6. It is also stated that the claim of payment of House Rent Allowance and Transportation Allowance agitated by the Applicant alongwith other reliefs before the Hon'ble High Court in Writ Petition No. 6462/2019 at Nagpur Bench which is pending consideration. As per prayer clause I & III and hence the present Grievance Petition cannot be entertained.
7. It is also stated that since the college was running on no grant basis, the Applicant is not entitled to benefits of 7th Pay Commission although benefits of 5th and 6th Pay Commission were already granted to her in persons the order passed by the Joint Director of Higher Education which is approved by the Hon'ble High Court in Writ Petition No. 3686/2011.
8. So far as, the order of suspension is concerned, it is stated that since the Applicant indulged in defaming the institution by submitting false and frivolous complaints before number of authorities, she was to be under suspension. However, full salary is paid to her during the period of suspension and since the college was closed. No Departmental Inquiry was initiated against the Applicant. The claim is, therefore, not maintainable and the Grievance Petition is liable to be dismissed.
9. The members of the Grievances Committee present heard submission advanced by the Applicant and Shri Prakash Nabira, Estate Officer of Society on behalf of the Non-Applicants. The Statement giving details of payment made to the Applicant from 28.02.2018 to 10.07.2020 is also submitted by the Non-Applicants.
10. The members of the Grievances Committee present held discussion and deliberations on the submissions made and the issues involved in the matter. We have also carefully perused the case record. Unanimous decision is then taken and the order is authored.

by Chairman of the Grievances Committee for and on behalf of the members of the Grievances Committee, which is duly approved by them.

11. On the basis of the submissions made, the following points arise in this petition and findings recorded is as under : -

<u>Points</u>	<u>Findings</u>
(1) Whether the Applicant is entitled to the arrears of House Rent Allowance and Transportation Allowance?	Since the matter is pending before the Hon'ble High Court In Writ Petition No. 6462/2019, no order.
(2) Whether the Applicant is entitled to the salary till closure of the institution by the end of the Academic Session 2020-21 i.e. till 31.05.2021?	Yes, but as per 6 th CPC
(3) Whether the Applicant is entitled to revision of pay as per the recommendations of 7 th Pay Commission w.e.f. 1.1.2016?	No
(4) Whether the suspension order dated 18.11.2019 is liable to be revoked?	Does not arise.
(5) What Order?	As per the concluding para.

REASONS

12. As to issue No. 1:

It is obvious from record that the Applicant stated that along with the monthly salary, House Rent Allowance and Transportation Allowance is paid to her. She therefore claims it. The Non-Aplicants stated that she failed to submit any documentary proof about her residence and vehicle and hence she is not entitled to said relief. In this respect as stated earlier

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the issue is pending before the Hon'ble High Court in pending Writ Petition and propriety requires that the pending issue may be decided by the higher forum in order to avoid conflict of decision between the two forums. For this reason, the Grievances Committee thinks it appropriate not to pass any specific order regarding arrears of House Rent Allowance and Transportation Allowance and the said issue will be pending till decision of the Hon'ble High Court in Writ Petition No. 3462/2019 filed by the Applicant.

As to issue No. 2:

13. It is obvious from perusal of the Statement dated 30.06.2021 filed by the Non-Applicants giving details of the amount credited into bank account of the Applicant from February-2007 till August-2018 and thereafter till May-2020 of which copy is served on Applicant and she did not raise any dispute, except payment of House Rent Allowance & Travelling Allowance and applicability of 7th CPC. On interrogation with the Applicant at the time of hearing on 20.02.2021, she admitted that so far she received Rs. 39 lacs and some odds towards the claim and she was paid the salary till May-2020. The Non-Applicant clarified that the amount of Rs. 58 lacs is paid to the Applicant.

14. Considering the above facts, it is obvious that a decision was taken by the society to close the B.Ed. College on 13.12.2014 on account of less admission of students every year. However, the proposal was forwarded to the University seeking no objection to move the NCTE and accordingly the proposal was actually moved on 21.11.2019 which was accepted by the NCTE vide order dated 06.08.2020 and request for closure made by the society is granted from the end of the Academic Session, next following the date of communication of this order. The Non-Applicants have also stated that from last 3 years no students

were admitted in B.Ed. College. It is obvious that the B.Ed. college is actually closed by the end of the Academic Session 2020-21 i.e. 31.05.2021 although no students were admitted since last 3 years. However, till then the Non-Applicants are liable to pay the salary out of the funds and corpus of the society which is actually paid till end of May-2020. The Applicant is, therefore, entitled to get the salary as per the 6th Pay Commission already granted to her for the period from 01.06.2020 to 31.05.2021. The same be drawn up and it be paid to the Applicant within a period of 3 months from the date of receipt of copy of this order.

As to issue No. 3:

15.

It is obvious from record that in pursuance of the order passed by the Hon'ble High Court, the Applicant is held to be entitled to get the benefit of pay revision as per the 5th and 6th Pay Commission i.e. for the period from 01.01.1996 to 31.12.2005 and 01.01.2006 to 31.12.2015. During this period the college was running on no grant basis. However, a request is made for closure of the college only in the year 2019, although a decision was taken in 2014 to close the college for shortage of students. This being so, it can be said that till then the B.Ed. college was running by admitting few students. Thereafter, however, no students were admitted during last three years and as such there is no question of receipt of any fees from the students to pay salary to the employees out of it.

16.

It is obvious that the 7th Pay Commission is made applicable w.e.f. 01.01.2016. It can safely be said from perusal on record that the Applicant was paid salary as per 6th Pay Commission and arrears thereon by virtue of order of Hon'ble High Court. Total amount of over Rs.80 lacs is paid to the Applicant for the period from February-2007 till May-2020. The Applicant has not specifically denied this fact, specially when the

Non-Applicants have filed the statement giving details of payment made in the Bank account of the Applicant. A question for consideration is whether on the similar lines the Applicant is entitled to get the benefits of 7th Pay Commission from 01.01.2016 to 31.05.2021, the day on which the college is finally closed.

17. As stated earlier, since permission to undertake B.Ed. course is granted to the college on permanent no grant basis, the salary of the teaching and non-teaching staff employed in the college is to be paid out of fees received from the students admitted to the college and from other resources, if any. Although, it is the settled law that it would be the responsibilities of the affiliated unaided colleges and institutions to pay salary to its employees both teaching and non-teaching as per the recommendations of the Pay Commission, still in the peculiar facts and circumstances of this case, it is obvious that there was no source of income of the college by way of fees deposited by the students since it stopped giving admissions to the students from the year 2015-16 and thereafter applied for closure of the college. There being no income out of fees credited by the students, it is obvious that it is impossible for any unaided college to pay the salary as per the 7th Pay Commission. Although, the G.R. dated 08.03.2019 issued by Govt. of Maharashtra in Higher & Technical Education Department based on the G.R. issued by Central Govt. and Notification issued by University Grants Commission(UGC) and on its basis the said G.P. is accepted regarding revision of pay scales of teachers in Non-Agricultural Universities, affiliated colleges as per the 7th Central Pay Commission and based on it, the Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur issued Direction No. 20/2019 on 10.04.2019, still considering peculiar facts of the present case it will not be fair to grant benefit of 7th Pay Commission to the Applicant from the date of

implementation thereof i.e. 01.01.2016. The law position referred above can safely be said to be applicable when the unaided colleges are running with full strength of prescribed students, paying fees, out of which salary is paid to the employees.

18.

From the above discussion, it is obvious that the Applicant's payer for grant of benefit of 7th Pay Commission to her from 01.01.2016 till 31.05.2021 cannot be considered. As stated earlier she will, however, be entitled to get the benefit of 6th Pay Commission as ordered by Hon'ble high Court till that date.

As to issue No. 4:

19.

It is obvious from record that although the Applicant was put under suspensions on certain charges, the memorandum is not filed and as such Departmental Inquiry was not in fact initiated against her. It is also stated that she was paid full salary during the period of suspension. It is the settled law that if the period of suspension is not reviewed and extended after 3 months, it is deemed to have been revoked. There is nothing on record to show that the period of suspension is revoked by the Non-Applicants till closure of the college. In view of above, there is no need to pass specific order regarding revocation of the suspension order dated 18.11.2021 point No. 4 is, therefore, answered accordingly.

20.

From the above discussion, it is obvious that the Applicant partly succeeded in establishing her claim. The Non-Applicants are directed to settle the amount of salary as per the 6th Pay Commission to be paid to the Applicant for the period from 01.06.2020 to 31.05.2021 and the same be paid within a period of 3 months from the date of receipt of copy of this order.

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21. The Applicant's prayer for revision of pay as per 7th Pay Commission w.e.f. 01.01.2016 is, however, disallowed.
22. In the facts and circumstances of the case, the parties are directed to bear their respective costs of this petition.
23. Office to issue authenticate photo copy of this order to both parties at the earliest.

Nagpur.

Dated: 17-07-2021.

True copy

[Signature]

Superintendent,
Grievances, Discipline, Statute & Legal Services,
Rashtrasant Tukadoji Maharaj
Nagpur University, Nagpur.

[Signature]
(Aryind J. Rohee)

Chairman, Grievances Committee,
RTM Nagpur University, Nagpur.