

Filed on - 25/10/2013
Order reserved on 17/06/2023
Order pronounced/ 15/07/2023
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. 24/2013

Applicant : Dr. Smt. Leena Sunil Konde,
Grievance Assistant Professor,
Petitioner Rutugandh 739, New Subhedar Lay Out,
Near Dattatrayanagar Corporation
School, NAGPUR

- VERSUS -

Non-Applicants: 1. President/Secretary,
Shri Sachhidanand Shikshan Sanstha
Koradi, Distt-Nagpur.
2. Principal,
Arts, Commerce & Science College,
Koradi, Distt-Nagpur.

ORDER

(Delivered on 15/07/2023)

1. The Applicant had approached this Grievances Committee under Section 79 (1) of Maharashtra Public Universities Act 2016 by filing this Grievance Petition and the Applicant had challenged the punishment imposed by the Non-Applicants regarding withholding of increment and this Grievances Committee had given relief to the Applicant as claimed, by Order dated 28.11.2019. The Non-Applicants had challenged the order dated 28.11.2019 by filing Writ Petition (W.P.) No. 2589 of 2020 and the Writ Petition as mentioned above filed by the Non-Applicants, is partly allowed by

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the Hon'ble High Court and Hon'ble High Court has quashed and set aside the order dated 28.11.2019 passed in the Grievance Petition No. 24 of 2013 and Hon'ble High Court remanded back the matter to this Grievances Committee to decide the same afresh, after taking into consideration, the observations made in the order and as per the observations made in the order passed by the Hon'ble High Court, it is observed that from impugned order, it cannot be said that the members of the Committee participated in decision making process and they agreed to the view expressed in the impugned order as per the observations made in the Paragraph No. 15 of the judgment and it is also mentioned by the Hon'ble High court in Paragraph No. 14 of the judgment dated 03.04.2023 that to show that Committee as a whole has taken the decision it is necessary that the members shall sign the decision alongwith the Chairman.

2. As per the direction of the Hon'ble High Court in the judgment dated 3rd April, 2023 in the Writ Petition No. 2589 of 2020, the Applicant appeared on 18.04.2023.
3. Brief facts giving rise to the grievances and the claim of relief are as under:

The Applicant is working as an Assistant Professor in Botany in the Non-Applicant's College at Koradi since 01.01.2000 and her increment due in July-2013 was stopped by the Non-Applicants on the ground that she had made wrong entries in her daily diary regarding classes and unit test which she had conducted and

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allegation is made that she misguided the college administration, though it is the case of the Applicant that she had engaged her classes and unit test on 12.01.2013 and noted the same in her daily diary and in no way she had misguided the college administration, and she has claimed the release of increment due in July-2013.

The Non-Applicants have resisted the claim of the Applicant by filing reply and it is submitted by the Non-Applicants that the Applicant had made false entry in her daily diary dated 12.01.2013 regarding holding of unit test of theory and practical work and it was not only false but also misleading. It is further submitted by the Non-Applicants that on 12.01.2013, "Krida Jyot" of University was to be received by the students and all the staff members at entry point of Koradi Naka and it was to be escorted by all the students and staff members of the college at a distance of 5 k.m. and no curricular activities had taken place in the college on 12.01.2013 and even no students had attended any class but in spite of this, the Applicant had shown in her daily diary that she had conducted unit test of students on 12.01.2013 and as the dishonest intention of the Applicant and indulging in false-hood was clearly established, therefore, minor punishment was imposed. It is further stated by the Non-Applicants that the opportunities were provided to the Applicant before issuing the order and even the Applicant has raised unnecessary misleading allegations against the Principal of the college and there is no inferiority in the action taken

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by the management and it is submitted that the petition is liable to be rejected.

4. In view of the facts and circumstances of the case and in view of the submissions of the Applicant and Non-Applicants and considering the claim of the Applicant, following points arises for consideration and the committee has recorded its findings thereon with the reasons given here in after.

<u>Points</u>	<u>Findings</u>
(i) Whether the action taken by the Non-Applicants against the Applicant by imposing punishment of withholding the increment due in July-2013 is proper and legally sustainable?	No
(ii) What order?	As per order given below

REASONS

As to Point No. (i):

5. It is the case of the Applicant that the Non-Applicant No. 2 principal has stopped her increment which was due in July-2013 on untenable ground that she had made wrong entries in daily diary regarding conducting of classes and unit test and misguided the college administration, though in fact she had engaged her classes on 12.01.2013 and made the entries in daily diary but inspite of this her increment in July-2013 was stopped without giving any reason.

6. In the facts and circumstances, as the dispute is based on the Show Cause Notice issued by the Non-applicants and

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explanation given by the Applicant. Therefore, the important aspect which needs to be considered as to whether the explanation given by the Applicant to the Show Cause Notice issued by the Non-Applicants is proper and found to be satisfactory as to the allegations made against the Applicant by the Non-Applicants and therefore, the record in this regard is of much significance and it is necessary to refer the correspondence between the Applicant and the Non-Applicants in respect of issue of Show Cause Notice and explanation given by the Applicant.

7. The Applicant has filed the copy of Show Cause Notice dated 28.03.2013 issued by the Principal of the Non-Applicant's College, thereby calling the explanation from the Applicant that on dated 12.01.2013 there were no classes conducted by her but in her daily diary, there are entries regarding conducting of classes and unit test and the Applicant was asked to Show Cause as to why such false entries were made in daily diary to misguide the college administration. The copy of letter of explanation dated 01.04.2013 shows that the Applicant had replied the Show Cause Notice and stated that she had engaged her classes on 12.01.2013 and the same was noted in her daily report. And she had not misled the college administration. The Non-Applicants took the action and issued a letter dated 05.04.2013 to the Applicant whereby the Applicant was informed that her explanation was not satisfactory and she was asked to give explanation that the Applicant had come

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to the college at 1.00 p.m. on 12.01.2013. Therefore, when she had conducted the classes and unit test, the Applicant had replied the notice by letter of explanation dated 12.04.2013, wherein the Applicant stated that Non-Applicant stated in letter dated 05.04.2013 that the Applicant attended the college at 1.00 p.m. but the Applicant in her reply stated that how classes and unit test could be conducted at 1.00 p.m. and the Applicant had specifically stated in letter of explanation dated 12.04.2013 that she had attended the college at 8.00 a.m. and followed the schedule as stated in her daily note and she left the college at 1.00 p.m..

8. After receiving the explanation from the Applicant as per letter dated 12.04.2013, the Non-Applicant No. 2 issued a Show Cause Notice dated 25.04.2013 to the Applicant and called the explanation as to why her one increment should not be stopped by giving reason that her explanation was not found satisfactory and she had not used the proper language in her letter of explanation and she had contravened the rules. The Show Cause Notice was issued by the Non-Applicant on 25.04.2013 and it was replied by the Applicant by letter dated 29.04.2013 and the Applicant had stated that she was victimized and warning given to stop the increment was with prejudiced mind and she further stated that she does not agree with the warning regarding stoppage of her one increment.
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9. There is an allegation against the Applicant that she made a false entry on 12.01.2013 in her daily diary showing that she had conducted the classes and also unit test. On perusal of copy of daily diary dated 12.01.2013, it appears that it is also signed by the Head of the Department and therefore, it appears that the Head of Department had signed it after verifying the entries made in the daily diary on 12.01.2013, and as per the explanation given by the Applicant, the entries in daily diary were correct, and as per the explanation given by the Applicant in her letter dated 12.04.2013 she had attended the college at 8.00 a.m. and followed the schedule as stated in her daily note and she left the college at 1.00 p.m.

As there is an allegation against the Applicant for making false entries in the daily diary regarding conducting of classes and unit test and therefore, it was also necessary on the part of the Non-Applicants to make enquiry from the students who attended the classes and unit test conducted by the Applicant as mentioned in the daily diary, in order to ascertain as to whether in fact the Applicant had conducted classes and unit test as mentioned in the daily diary but there is nothing on record in this regard.

10. The Non-Applicants have filed the written notes of arguments and it has been submitted that on 12.01.2013 "Krida Jyot" of University, was to be received by the students and all the staff members at entry point at Koradi Naka and was to be escorted by them to the college and there were two other functions i.e.

"Swami Vivekanand Jayanti and Rashtramata Maa Jijau Jayanti" which was also required to be attended by entire staff and students of the college and no curricular activities took place in the college on the said date, and regular time of the college was 9.00 a.m. to 1.00 p.m. and it is further submitted that certified copy of relevant extract of Bio-Matric Machine on 12.01.2013 shows that the Applicant reported the college at 13.02 p.m. Therefore, the explanation submitted by the Applicant is baseless. It is further submitted that the order of imposing minor penalty of withholding of one increment is in accordance with the Paragraph No. 48 of Ordinance No. 122.

11. It is clear from the record that on 12.01.2013, the Applicant attended the college to welcome the "Krida Jyot" and she also attended the function of "Swami Vivekanand Jayanti and Rashtramata Maa Jijau Jayanti" at 11.00 a.m. and she attended the classes and conducted the unit test in respect of which she had made the entries in her daily diary, and her daily diary is also signed by the Head of the Department, and it appears that after verifying the entries, the Head of the Department had signed it. So far as punching of Bio-Matric Card at 13.02 p.m. on 12.01.2013 is concerned but on the basis of it, it cannot be said that the Applicant had not conducted the classes and unit test because the punching record shows only one entry and it can be considered as outgoing punching record. Therefore, in view of above discussion and on

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perusal of the Show Cause Notice and explanation given by the Applicant to the Non-Applicants from time to time and also on perusal of daily diary entry which is duly signed by the Head of the Department, Committee has come to the conclusion that in spite of the proper and satisfactory explanation given by the Applicant regarding the entries made by her in her daily diary, the Non-Applicants took the action by imposing punishment to stop one increment of the Applicant due in July-2013 affecting her future salary and also affecting her pension in future and benefits and such action on the part of the Non-Applicants amounts to violation of principle of natural justice. Though the Non-Applicants have submitted in their written submissions that the order of imposing minor penalty of withholding one increment is in accordance with the Paragraph No. 48 of Ordinance No. 122. As per paragraph No. 48 of Ordinance No. 122, in case of withholding of one increment, Departmental Enquiry as laid down in Paragraph No. 45 will not be necessary but in Chapter-I in Paragraph No. 3, it is clearly mentioned that the Ordinance shall apply to all teachers employed by the Nagpur University in its department and institutions maintained by it. According to Section 71(20) of Maharashtra Public Universities Act, 2016, Code of Conduct in respect of the teachers, Officers and other employees of the University and affiliated colleges is not to be in contravention of State Govt. policies and Section 71 is applicable to Statutes and in the present case, the action of imposing punishment of withholding of one increment due in July-

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2013 is against the principle of natural justice because in spite of proper and satisfactory explanation given by the Applicant, such punishment has been imposed thereby affecting her future salary and other benefits including pension.

12. Though as per Paragraph No. 48 of Ordinance No. 122, Departmental Enquiry as laid down in Paragraph No. 45 will not be necessary but as per paragraph No. 3 of Chapter-I of Ordinance No. 122, the Ordinance is applicable to all teachers employed by the Nagpur University in its departments and in the institutions maintained by it and in the present case, Applicant has not been appointed by the Nagpur University in its department and the Non-Applicant college is maintained by its management. Therefore, in view of Section 71(20) of Maharashtra Public Universities Act, 2016, it has to be considered that the action taken by the Non-Applicant, shall not be in contravention of State Govt. policies in this regard.

13. It is pertinent to note that in the present case the punishment of withholding of one increment is likely to affect, adversely the salary of Applicant in future and the amount of pension payable to the Applicant in future. And as per Rule 10 of Maharashtra Civil Services (Discipline and Appeal) Rule 1979 for such action an enquiry shall be held and therefore, the action taken on the part of the Non-Applicants without holding an enquiry will be in contravention of above mentioned rule.

14. The Members of the Committee have discussed the matter after hearing both parties and have considered all the factual and legal aspects as discussed above and the Committee has come to the conclusion that the action taken by the Non-Applicants against

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the Applicant thereby imposing the punishment of withholding of one increment of the Applicant due in July-2013 is not proper and also not legally enforceable and therefore, it is not legally sustainable, and thus the Applicant has established that there was no any misconduct on her part as alleged and therefore, it is a fit case to quash and set aside the imposition of punishment by Non-Applicants to withhold/stop one increment of the Applicant.

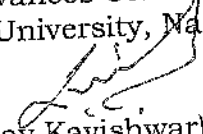
Hence, the Committee has recorded its finding to Point No. 1 in Negative and passed the following order.

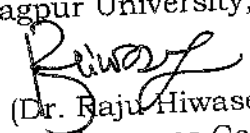
- (i) The punishment imposed by the Non-Applicants to withhold/stop one increment of the Applicant, is quashed and set aside.
- (ii) The Non-Applicants are directed to release the increment due in July-2013 which was withheld, and they are further directed to pay the arrears to the Applicant within Four Months from the date of this order.

Nagpur.

Dated: 15/07/2023.

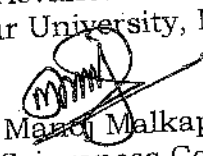

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