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 Order reserved on 16/07/2022.
 Order pronounced/ 23/09/2022.
 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. 09/2021

Applicant : Dr. Vilas S/o Sureshrao Patil,
Grievance R/o Near Ganesh Mdandir,
Petitioner Katol, Distt-Nagpur-441302.

- VERSUS -

Non-Applicant: Shinde Education Society, Sawargaon
 Ta. Narkhed, Distt-Nagpur
 Through its President and Secretary.

ORDER

(Delivered on 23/09/2022)

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 was appointed as a Lecturer by appointment order dated 25.09.1993 issued by the Non-Applicant Institution in the Women's College of Education at Katol and his appointment of Lecturer was approved as on 12.05.1996 by letter dated 08.05.2009. the Applicant is working as an Officiating Principal in the College since 2008.

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2.

It is submitted by the Applicant that since his appointment and approval to the post of Lecturer, he has not been paid the salary as per the recommendations of 5th Pay Commission, 6th Pay Commission & 7th Pay Commission. According to him since month of July-2012 to June-2017 he has received only 40% of his salary and since 01.04.2020 till the date of filing of this Grievance Petition, he has not been paid any amount towards his salary and he has further submitted that since 01.07.2017, his salary was reduced to Rs. 13,000/- per month and therefore, he has claimed the amount of arrears as per revised pay scale as recommended by the Pay Commissions from time to time with the interest at the rate of 18% per annum.

3.

The Non-Applicant Institution has resisted the claim of the Applicant by filing reply. It is submitted by the Non-Applicant that the Women's College of Education was established by the Management on permanent no grant in aid basis and the payment of the salary depends on the fees received from the students and therefore, the management cannot be held to be liable to pay the salary as per the pay scale.

4.

It is submitted by the Non-Applicant that the Applicant had agreed for appointment in the permanent no grant college and knowing the status of the college and agreed with the terms and conditions as per the appointment order. The Non-Applicant has further submitted that the college is affiliated to the University, it cannot be

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ground to compel the management to perform the impossible obligations and the salary payment were made within limited financial sources available to the management from the collection of fees. The Non-Applicant has also given a chart showing the year-wise admissions and fees collected from the students. And it is submitted that the B.Ed. course is closed from the year 2017-18 and the D.Ed. course is also closed from the year 2018-19, and therefore, the claim of the Applicant of salary is not maintainable.

5. It is further submitted by the Non-Applicant that since 2017-18, the Applicant had no workload as there were no admissions and there was no receipt from the payment of fees. It is further submitted by the Non-Applicant that the present petition is filed after lapse of period of 25 years and as it is beyond 3 years therefore, his claim is barred by limitation and Non-Applicant has relied on the decisions of Hon'ble Supreme Court Cases in (i) 2008(8) SCC 648 (ii) 2007 (9) SCC 274 (iii) 1997 (11) SCC 13 (iv) 1997 (11) SCC 394 (v) 2002 (1) SCC 261 (vi) 1995 (5) SCC 628 (vii) AIR-1981 SC 122 (viii) AIR-1974 SC 338 (ix) AIR-1972 SC 2638 in support of his submissions that the claim of the Applicant is barred by limitation.

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

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<u>Points</u>	<u>Findings</u>
(i) Whether the Applicant is entitled for pay scale to him as per revised pay scale as recommended by the Pay Commissions with the arrears of difference of salary and other benefits as applicable?	The Applicant is entitled to revised pay scale with other benefits as per 6 th Pay Commission from 01.01.2006 to 31.12.2015 and as per the recommendation of 7 th Pay Commission from 01.01.2016 and it be continued as per applicable rules.
(ii) Whether the claim of the Applicant for arrears as per revised pay scale on the basis of recommendations of Pay Commission is barred by limitation?	No
(iii) What Order?	As per order given below

REASONS

As to Point No. (i) & (ii) :

7. On perusal of record, the copies of the documents submitted by the Applicant and on perusal of the submissions/reply of the Non-Applicant, it is not disputed that the Applicant was appointed in the Women's College of Education at Katol which is established by the Non-Applicant Institution. It is also not disputed as per the copy of letter of approval dated 08.05.2009 on record that

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the appointment of the Applicant as a Lecturer was approved by the Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur from 12.05.1996. Therefore, as per Govt. Resolution dated 20.08.2010 and Govt. Resolution dated 11.09.2019, the Applicant is entitled for revised pay scale as per the recommendations of 6th Pay Commission and 7th Pay Commission.

8. The Non-Applicant has come forward with the submission that the Applicant has not raised any grievance and has not claimed revised pay scale which is effective from 01.01.2006 and therefore, the claim of Applicant for arrears of revised pay scales is barred by limitation. In support of its contentions pertaining to the limitation, Non-Applicant has placed reliance on the decisions of the Hon'ble Supreme Court in the cases mentioned as above (i) to (ix) in paragraph No. 5 of this order.

9. The facts of the present case are totally different from the rulings cited above by the Non-Applicant in support of submissions that the claim of the arrears of revised pay scale is barred by limitation because in the present case the Applicant has right to claim the arrears on the basis of implementation of the recommendation of 6th Pay Commission and 7th Pay Commission which has been adopted by the Govt. of Maharashtra. And the Govt. of Maharashtra has made it applicable to the institution affiliated to the University. Though there was dispute as to applicability of Govt. Resolution to the un-aided institution. But as per Circular dated 12th 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 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 college of Women's Education (Shinde Mahila Adhyapak Mahavidyalaya, Katol) is affiliated to Rashtrasant Tukadoji Maharaj

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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."*

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."*

10.

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."*

11.

So far as the question as to grant of retrospective effect to claim the relief of arrears of salary and other benefits from the date of recommendations of the 6th Pay Commission and 7th Pay Commission is concerned; this aspect has been considered by the Hon'ble Bombay High Court, while deciding the Writ Petition No. 1262 of 2018 (D.Y. Patil College of Engineering Vs. All India Council for Technical Education and others) and in the judgment dated 7th September, 2018, it has been held and observed by the Hon'ble Bombay High Court that, *"the petitioners who are bound by norms and regulations framed by AICTE to ensure the proper norms and standards to be maintained in the technical institutions are bound by the mandate issued by the State Govt. directing even the un-aided institutions to make the revision of pay scale applicable from respective date. The petitioners cannot run away from the said*

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responsibility only on the count of a financial crunch being posed as an excuse and this is only defence which Shri Anturkar seeks to invoke in order to discharge the petitioners of their burden to pay the arrears according on accept of pay revision. We do not find that financial crunch can be used as a shield to refrain the petitioners from discharging its obligations in terms of the Govt. Resolution and the Rules of 2009. And it is further held by the Hon'ble High Court that "it is not open to the petitioners to canvass a specious argument that the petitioners are ready to implement the recommendations of the Pay commission but it would be restricted only to its current application and that the petitioners should not be directed to bear the burden of arrears".

12.

Therefore, as the Applicant's appointment was approved by the Rashtrasant Tukadoji Maharaj Nagpur University on 12.05.1996 and the Govt. of Maharashtra has accepted the recommendation of 6th Pay Commission and 7th Pay Commission, and the Applicant's service is continued in the same institution and college and therefore, in view of the reasons discussed as above and in view of the legal position as mentioned above, the Applicant is entitled for the revised pay scale as per recommendation of 6th Pay Commission from 01.01.2006 to 31.12.2015 and he is also entitled for revision of pay scale from 01.01.2016 as per the recommendation of 7th Pay Commission because in view of the legal position as per the decision of 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) and also as per the decision of Hon'ble Bombay High Court in the case of D.Y. Patil College of Engineering Vs. All India Council for Technical Education and Others in Writ Petition No. 1262 of 2018, the claim of the Applicant is within the limitation because it is given retrospective effect. 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.

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- (i) The Applicant is entitled to the revised pay-scales with other benefits as per the recommendations of 6th Pay Commission from 01.01.2006 to 31.12.2015 and to the revised pay scale with other benefits as per the recommendation of 7th Pay Commission from 01.01.2016 and it is to be continued as per applicable rules.
- (ii) The Non-Applicant shall calculate the differences of pay/salary and other benefits for which, the Applicant is entitled as per the recommendations of 6th Pay Commission and 7th 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 six months from the date of this order.
- (iii) If the Non-Applicant fails to release the payment within the period of six months, the Non-applicant shall be liable to pay interest at rate of 8% per annum on the unpaid amount from the date of this order.
- (iv) If the Non-Applicant fails to comply the aforesaid direction, the Applicant shall be entitled to take action against the Non-Applicant by taking recourse of relevant provisions, according to law.

Nagpur.

Dated: 23/09/2022

(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,
Rachtrasant Tukadoji Maharaj
Nagpur University, Nagpur.