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 Order reserved on 02/07/2022.  
 Order pronounced/ 21/11/2022.  
 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. 07/2021**

**Applicant :** Prof. Nisha Shantaram Shelare,  
**Grievance** C/o Shashibushan Wahane,  
**Petitioner** Flat No. 703, Girish Hights,  
 Near LIC Square, Mohan Nagar,  
 Kamptee Road, NAGPUR.

**- VERSUS -**

**Non-Applicants:** 1. Mehmuda Shikshan & Mahila Gramin  
 Vikas Bahuuddeshiya Sanstha,  
 Opp. PWD Office Residency Road,  
 Sadar, Nagpur-440 001.  
 Through its Secretary  
 2. Principal,  
 Central India College of Law,  
 Godhani, Nagpur.

**ORDER**

(Delivered on 21/11/2022)

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

- (i) The Applicant was appointed as a regular and permanent Assistant Professor in Non-Applicant No. 2

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Central India College of Law, Godhani, Nagpur in the year 2014-15 but she has not been paid salary. The Applicant has filed the copy of the application dated 20.03.2021 addressed to the Principal of the Non-Applicant No. 2 college in which the Applicant had claimed to release salary, alongwith four other teachers of the Non-Applicant college. The Applicant has also filed the copy of letter dated 22.03.2021 which was addressed to the Hon'ble Vice-Chancellor of the Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur and in the said letter also the Applicant alongwith other four members of teaching staff of the Non-Applicant College had stated the claim for grant of salary from the year 2020. The Applicant has also filed the copy of letter of approval dated 03.11.2015 issued by the Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur and it shows that the appointment of the Applicant as Assistant Professor in the Non-Applicant No. 2 college of law was approved from the session 2014-15 from the date of joining.

2. The Non-Applicants have resisted the claim of the Applicant by filing reply. It is submitted by the Non-Applicants that the Grievance Petition is not maintainable because petition came to be filed by suppressing material facts for the purpose to claim more money without work, from the Non-Applicant college.

3. It is submitted by the Non-Applicants that the Applicant has joined in the Non-Applicant College as a regular Assistant Professor in Law and the Applicant was required to compulsorily remain present for full time in college working hours but the

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Applicant not remained present for full time during working hours in the college and she is also working as an Advocate in the court. She is enrolled as an Advocate with Bar Council and having enrolment No. MAH/6247/2010 dated 24.08.2010 and though she came to be appointed as a regular faculty in the Non-Applicant College but she herself used to mark her attendance in the register maintained by the Non-Applicant for Contributory Lecturers and she immediately used to leave from college after taking only two lectures in a day. The Non-Applicants have filed the copy of extract of attendance sheet maintained by Non-Applicant college for Contributory Lecturers. The Non-Applicants have also requested to the Applicant to furnish the copy of Surrender of Certificate of Bar Council and attend the full time college but she failed to furnish the copy of Surrender Certificate to the Non-Applicant college. The Non-applicants have filed the copy of letter dated 31.10.2017 regarding the Surrender of Legal Practice Certificate which was issued to the Applicant and according to the Non-Applicants, the Applicant had never worked as a full time lecturer in the Non-applicant college and she was continued with legal practice after taking few lectures in the Non-Applicant college. And she was paid the remuneration by the Non-Applicant as per lecturer engaged by Applicant. And she not attended the Non-Applicant college regularly. And even most of the time she remained absent. It is further submitted by the Non-Applicants that the Grievance Petition filed by the Applicant is

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devoid of any merit and it is liable to be dismissed and the Applicant is not entitled for the relief as claimed.

4. The Applicant has filed the rejoinder to the reply filed by the Non-Applicants and it is submitted that she has filed the Grievance Petition for claiming benefits of salary as per 6<sup>th</sup> & 7<sup>th</sup> Pay Commission and the Non-Applicants have stated that she had never worked as a full time lecturer. According to the Applicant, the University has granted the onwards approval to the appointment of the Applicant as a full time lecturer and even assuming but not admitting that the Applicant has not worked as a full time lecturer but no action has been taken by the Non-Applicant management till this date. Therefore, submissions of the Non-Applicant management needs to be discarded.

5. It is submitted by the Applicant that she is a permanent employee and the issue is placed before this committee about the appointment and the applicability of 7<sup>th</sup> Pay Commission. It is submitted that the Govt. of Maharashtra has issued the Resolution dated 08.03.2019 and dated 11.09.2019 and by said resolutions, the 7<sup>th</sup> Pay Commission has been made applicable w.e.f. 01.01.2016. It is applicable to all the colleges which are aided or un-aided colleges affiliated to the University and the Non-Applicant management has no option but to comply the Govt. Resolution and to pay the legitimate salary with arrears and interest as per the recommendation of the 7<sup>th</sup> Pay Commission and though the

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Applicant is a full time lecturer approved by the Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur but the Non-Applicant management has never issued any letter to the Applicant stating that she is not entitled to the salary as a full time lecturer.

6. The Non-Applicants have filed reply to the rejoinder of the Applicant. It is submitted that the Applicant has deliberately suppressed the facts. She was working as an advocate and she was not working on full time basis in the Non-Applicant college. The Non-Applicants have filed the letter dated 13.01.2022 issued by the Bar Council of Maharashtra and Goa in order to show that the Applicant is a practicing advocate and she was not working as a full time faculty in the Non-Applicant College though appointed as regular approved faculty. The Non-Applicants have further submitted that the Applicant was requested to file the copy of Sanad Surrender Certificate and to attend the full time college and she herself has voluntarily signed as Contributory Lecturer on the attendance sheet. The Non-Applicants have filed the copy of attendance register of contributory lecturer and even the Applicant was paid as per the lectures taken by her and she was not paid full time salary but in order to extract money illegally, from the Non-Applicant college, she has filed the present Grievance Petition for which the Applicant is not entitled.

7. It is further submitted by the Non-Applicants that the Applicant has not disputed the facts that she is a practicing Advocate, the Non-Applicants have also filed the copy of extract of

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case status to show that the Applicant was practicing as an Advocate before the Hon'ble High Court at Nagpur and she was not working as a full time faculty in the Non-Applicant college.

8. It is further submitted by the Non-Applicants that though the Applicant had not worked as a full time lecturer but the Non-Applicant college had not taken any action against the Applicant. It was for the reason that the Applicant was continuously giving assurance that she will submit her Sanad Surrender Certificate and therefore, the Non-applicant College had not taken action against the Applicant and Non-Applicant college has suspended her service for a period of one year from 24.12.2021 as the Applicant has failed to submit her Sanad Surrender Certificate and also failed to work as a full time faculty, the copy of suspension letter dated 03.02.2022 is filed by the Non-Applicants.

9. It is further submitted by the Non-Applicants that the Govt. Resolution dated 08.03.2019 is applicable to the full time working teachers and as the Applicant failed to render full time service, therefore, she is not entitled for salary as per 6<sup>th</sup> & 7<sup>th</sup> Pay Commission and her Grievance Petition is liable to be rejected.

10. The Non-Applicants have also filed the submission and it is submitted that the Society of the Non-Applicant college on 18.09.2017 has passed the resolution and the Applicant was asked to submit her Surrender Certificate of Sanad of Practice but she failed to submit the same. And she was doing her legal practice and

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attending few lectures in the Non-Applicant college and it was also required to management of the Society of the Non-Applicant college to pay to the Applicant on the basis as per lectures taken by the Applicant till the Applicant submits her Surrender Certificate and attend the college on full time basis. The Non-Applicants have also filed copy of that. It is further submitted by the Non-Applicants that the Non-Applicant college asked the Applicant to join as full time faculty and submit the copy of Surrender of Practice Certificate but the Applicant failed to submit the certificate, and she was working on clock time basis, and therefore, the Applicant has failed to establish the material facts.

11. The Non-Applicants have further submitted by additional submission that the Non-Applicant college had never disputed the fact that the Applicant was appointed as a regular faculty but the Applicant failed to attend the full time college as she was engaged in her private practice as an Advocate. And she used to leave the college after taking few clock wise lectures. She is duly registered as a practicing Advocate and it is submitted that before joining the Non-Applicant college as an Assistant Professor, the Applicant had given an Application that at the time of joining she was practicing as Lawyer. She was also giving private coaching to the law students. The Non-Applicants have filed the copy of Application dated 21.06.2016. the Non-applicants have also filed the copy of affidavit of Dr. Ayyappan Purushothaman Pillai and also filed the copy of affidavit of Dr. Jagadeeswara Rao Inuganti, they were the members

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of the Selection Committee and it is submitted that the Applicant had duly assured that she will supply the copy of Sanad Surrender Certificate to the Non-Applicant college in due course of time but the Applicant had given false assurance to the Non-Applicant college to Surrender her legal practice certificate and she was agreed to attend the Non-Applicant college on part time basis and therefore, the Applicant is not entitled for benefits of 6<sup>th</sup> & 7<sup>th</sup> Pay Commission.

12. In the facts and circumstances of the case and in view of submissions of the Applicant and Non-Applicants, 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 Applicant is entitled for pay scale as applicable to her as per revised pay scale as recommended by the 6 <sup>th</sup> Pay & 7 <sup>th</sup> Pay Commission with arrears of difference of salary? | Yes                      |
| (ii) What Order?                                                                                                                                                                                                   | As per order given below |

### REASONS

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

13. It is the case of the Applicant that though she is appointed as Assistant Professor on regular post in the college of Non-applicant and even her appointment is duly approved by the Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur by letter dated 03.11.2015 but she has not been paid the salary as per the

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applicable pay scales and even the Non-Applicants have not paid the salary to her as per the revised pay scale on the basis of recommendations of 6<sup>th</sup> Pay Commission and 7<sup>th</sup> Pay Commission. On the contrary the Non-Applicants have come forward with the case that though the Applicant was appointed as Assistant Professor on regular vacant post and even approval has been granted by the Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur to her appointment but she has never worked in the college as a full time teacher and she has worked as a Contributory Lecturer and besides working as Contributory Lecturer, she is also doing legal practice in Hon'ble High Court and Hon'ble District Court of Nagpur. And in the support of their contentions, the Non-applicants have filed the copies of extract from the attendance sheet which was prepared for Contributory Teachers in order to show that the Applicant has signed the attendance sheet as a Contributory Lecturer. The Non-applicants have also filed the copies of affidavit of two members of the Selection Committee viz. Dr. Ayyappan Purushothaman Pillai and Dr. Jagadeeswara Rao Inuganti. As per the copies of affidavit both the members have stated the fact that at the time of interview it was brought to the notice of the Applicant that in order to get appointed as regular faculty/ Assistant Professor, she will be required to leave her practice and private coaching classes and she will be required to submit Surrender of practicing certificate to the college. In order to show that the Applicant was working as a regular faculty in the college of Non-Applicant she has filed the copy

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of approval letter dated 03.11.2015 issued by the Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur which shows that the appointment of Applicant as an Assistant Professor in the Central India College of Law was approved from the session 2014-15 and the approval was granted from the date of joining. The Applicant has also filed the copy of letter dated 20.03.2021 addressed to the Principal of the college which shows that the Applicant alongwith other four members of the teaching staff of the college had made grievance in the said letter that they have not received regular salary from the management of the college and even as per copy of the letter dated 12.03.2021 they had intimated to the Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur about their grievances of non-payment of salary.

14. In the facts and circumstances of the case, the important aspect which needs to be considered as to whether on the basis of approval granted by the Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur to the appointment of the Applicant as an Assistant Professor as regular faculty in the Non-Applicant college. She is entitled to claim the revised pay scale on the basis of recommendations of 6<sup>th</sup> Pay Commission and 7<sup>th</sup> Pay Commission and further the important aspect which needs to be considered as to whether for the reason of non-submission of the Surrender of Practicing Certificate to the Bar Council, the Non-Applicants are entitled for not releasing the payment of salary to the Applicant on the basis of revised pay scale as per 6<sup>th</sup> Pay Commission and 7<sup>th</sup> Pay

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Commission and the further question arises that for the reason of signing the attendance sheet of Contributory Lecturers instead of attendance sheet of regular faculty, the Applicant is not entitled to claim the salary as a regular employee of the Non-Applicant college.

15. Admittedly, the Applicant was appointed on vacant post of Assistant Professor in the college of Law of the Non-Applicant, her appointment was also approved by the Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur. Though the Non-Applicant have come forward with the case that even after appointment of the Applicant as regular faculty, she worked as Contributory Lecturer and she used to sign the attendance sheet of Contributory Lecturer and even she had not submitted the copy of letter of surrender of certificate of practice. But it is pertinent to note that inspite of the fact as stated by the Non-Applicants, the Non-Applicants did not take any step against the Applicant till filing of this Grievance Petition. The Non-Applicants even did not inform the Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur which had accorded the approval to the appointment of the Applicant on regular basis, regarding the facts for the purposes of cancellation or withdrawal of approval, therefore, conduct of Non-Applicants shows that they have accepted the services of the Applicant as Assistant Professor on regular basis. Though the allegations is made by the Non-Applicants that assurance was given by the Applicant to submit the letter of Surrender of Certificate of practice and she had not

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submitted it to the Non-Applicants. And she was not allowed to engage in full time service but for this purpose a separate action if any is required to be taken by the concerned authority and merely for the reason of non-submission of letter of surrender of certificate of registration as practicing lawyer and signing of attendance sheet of Contributory Lecturer by the Applicant does not affect right to receive salary as regular employee being approved lecturer. And this factor is of much significance in this case for coming to the conclusion and for taking decision and this factor goes in favour of the Applicant. Hence, the Applicant being an approved Assistant Professor is entitled to receive the salary as a regular employee. So far as the legal position in this regard is concerned, a teacher whose appointment is duly approved by the Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur is entitled to receive the revised pay scale as per the recommendations of the Pay Commission.

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*

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*entitled in Law to claim that they be paid salary in accordance with the revision of pay-scales, as ordained by the said circular."*

16. 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."*

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."*

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17. Regarding the applicability of the Govt. Resolution to the minority institution, it is held by the Hon'ble Bombay High Court in the case of Prof. Smt. Manorama Prakash Khandekar V/s. State of Maharashtra and others (Writ Petition No. 5448/2011 decided by the Hon'ble Bombay High Court, Nagpur Bench), reported in 2020(4) Mh.L.J 410 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"*

18. Therefore, as the Applicant's appointment was approved by the Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur for a post of Assistant Professor in the Non-Applicants college as per letter of approval dated 03.11.2015 and approval was effective from the date of joining and as per the copy of joining letter on record the Applicant had joined her post on 22.10.2014, therefore, in view of the reasons and legal position as discussed above, the Applicant is entitled for revised pay scale as per the recommendations of 6<sup>th</sup> Pay Commission from 22.10.2014 to 31.12.2015. So far as the Applicant's claim regarding revised pay scale as per the recommendations of 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 institution as mentioned therein including affiliated colleges and the date of implementation of revised pay scale is from 1<sup>st</sup> January, 2016. The Govt. of Maharashtra had also issued Govt. Resolution

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dated 11<sup>th</sup> September, 2019 regarding applicability of pay scale to the institution including university affiliated colleges. The Rashtrasant Tukadoji Maharaj Nagpur University had also issued the Direction No. 20 of 2019 for implementation of the revised pay scale as per 7<sup>th</sup> Pay Commission. Therefore, the Applicant is entitled to claim revised pay scale as per the recommendations of 7<sup>th</sup> Pay Commission from 1<sup>st</sup> January, 2016 till the date, she had worked in the Non-Applicant college and as per the copy of notice dated 03.02.2021 Annexure-G filed by the Non-Applicants on record, the services of the Applicant were suspended from 24.12.2021 for the reason of non-submission of letter of surrender of legal practice and the Applicant's services were suspended on 24.12.2021. Therefore, the copy of notice Annexure-G filed by the Non-Applicants itself makes clear that till 23.12.2021, the Applicant was working as an approved Assistant Professor in the Non-Applicants college and therefore, the Applicant is entitled for revised pay scale as per the recommendations of 7<sup>th</sup> Pay Commission from 1<sup>st</sup> January, 2016 to 23.12.2021. Therefore, finding to Point No. 1 is recorded accordingly.

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

- (i) The Applicant is entitled for revised pay-scales with other benefits as admissible as per the recommendations of 6<sup>th</sup> Pay Commission from 22.10.2014 to 31.12.2015 and to the revised pay scale with other benefits as admissible as per the recommendation of 7<sup>th</sup> Pay Commission from 01.01.2016 to 23.12.2021.

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- (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 infavour of the Applicant within four months from the date of this order.
- (iii) If the Non-Applicant No. 1 & 2 fails to release the payment to the Applicant within the period of four months, the Non-Applicants shall be liable to pay interest at the rate of 8% per annum on the unpaid amount from the date of this order.
- (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: 21/11/2022

(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