

Filed on - 21/06/2022
Order reserved on 07/10/2023
Order pronounced/ 16/12/2023.
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. 13/2022

Applicant : Shri Abdul Ashfaq
Grievance S/o Abdul Samad Patel,
Petitioner Retired Steno (HG) BDCOE,
R/o: Giripeth, Pipri (Meghe),
Wardha, Tah. & Distt-Wardha (MS).

- VERSUS -

Non-Applicants: 1. The Principal,
Bapurao Deshmukh College of
Engineering,
Sevagram, Wardha (MS)
2. The Chairman,
Bapurao Deshmukh College of
Engineering,
Sevagram, Wardha (MS).

ORDER

(Delivered on 16/12/2023)

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

2. The Applicant was appointed as Steno-Typist-cum Clerk by order dated 08.11.1983 in the institution of the Non-Applicants and

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he had joined his post on 10.11.1983 initially for a consolidated salary of Rs. 400/- per month. And in July-1984, the Applicant was placed in the pay-scale of Rs. 260-495 with a starting basic pay of Rs. 300/- per month with other allowances as declared by Govt. of Maharashtra from 01.08.1984. The Applicant was promoted to the post of Stenographer as per order dated 22.05.1987 and he was continued in the same capacity till July-1992. The Applicant was promoted to the post of Stenographer (Higher Grade) by order dated 18.08.1992 in the pay-scale of Rs. 2000-3200 per month with other allowances as declared by Govt. of Maharashtra from time to time. It is submitted by the Applicant that he continued in the same capacity till his retirement i.e. till 31.08.2019. The Applicant has filed the copies of the orders as mentioned above. The Applicant has stated that the Non-Applicants had implemented the recommendations of VI th Pay Commission to the staff members from March-2010 which was due from January-2006 but no arrears were paid from January-2006 to February-2010. The Applicant has filed the copy of fixation of salary as per VI th Pay Commission.

3. It is submitted by the Applicant that he had rendered continuous service for 36 years in the same college till his retirement on 31.08.2019. The Applicant has filed the copy of relieving order dated 31.08.2019 and as per Govt. of Maharashtra Rules and UGC Rules, the Non-Applicants had implemented the recommendation of V th Pay Commission to their teaching and non-teaching staff w.e.f. 01.07.2000 retrospectively from 01.01.1996, the recommendation

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of VI th Pay Commission was implemented w.e.f. 01.03.2010 retrospectively from 01.01.2006 and implementation of VII th Pay Commission, which is due from January-2016 is still pending.

4. It is further submitted by the Applicant that the Applicant had filed the case for release of Gratuity under payment of Gratuity Act at Labour Court, Wardha and his case PGA No. 26/2021 was compromised in January-2022 and his claim was settled and order dated 08.02.2022 was passed. The Applicant has filed the copy of order.

5. It is further submitted by the Applicant that he is retired from service of the Non-Applicants on 31.08.2019 and he had received the letters dated 23.07.2020, dated 10.12.2020 and on dated 04.02.2021 for release of dues and the Applicant has prayed for release of his salary from May-2019 to August-2019. The Applicant has claimed the arrears of difference of Dearness Allowance from March-2010 to December-2015 amounting Rs. 1,51,426/- (Rs. One Lakh Fifty One Thousand Four Hundred Twenty Six) only. The Applicant has claimed the arrears of salary as per pay-scale of 5th Pay Commission, amounting to Rs. 70,498/- (Rs. Seventy Thousand Four Hundred Ninety Eight) only. The Applicant has claimed arrears as per pay-scale recommended by 6th Pay Commission amounting to Rs. 5,98,929/- (Rs. Five Lakh Ninety Eight Thousand Nine Hundred Twenty Nine) only from March-2010. The Applicant has also claimed the difference of salary as per pay-scale recommended by VII th Pay Commission from 1st January,

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2016 to his date of retirement i.e. till 31.08.2019 amounting to Rs, 14,63,319/-(Rs. Fourteen Lakh Sixty Three Thousand Three Hundred Nineteen) only. The Applicant has also claimed interest @ 8% per annum till date of filing the Grievance Petition and also claimed interest @ 8% per annum on the total amount from the date of order till its realisation.

6. The Non-Applicants have resisted the claim of the Applicant by filing reply. They have admitted that the Applicant is the ex-employee (non-teaching staff) of their college and he retired from services on 31.08.2019 on attaining the age of 58 years. They have also admitted that initially the Applicant was appointed as Steno-Typist-cum-Clerk and he was promoted to the post of Stenographer w.e.f. 01.08.1987 and he was also granted the pay scale and other allowances as per Govt. rules from time to time. They have also admitted that the Applicant was promoted to the post of Stenographer (Higher Grade) and continued in the same capacity till his retirement i.e. till 31.08.2019.

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7. It is submitted by the Non-Applicants that the Applicant was appointed purely at the institute/management level without following due process of selection and appointment as per provisions made in the rules of University and his all appointments in various capacities were not approved by the affiliating University.

8. The Non-Applicants have submitted that they have implemented the recommendations of V th and VI th Pay Commission to the teaching and non-teaching employees in the

college w.e.f. 01.07.2000 and 01.03.2010 respectively and the Applicant was granted benefits of pay scale as per V th and VI th Pay Commissions. It is submitted by the Non-Applicants that due to deficit in the income of the college because of reduction in admissions since academic year 2014-15, salary of the staff for each month could not be paid by the Non-Applicants on regular basis for the reason of irregularity in fees reimbursement by the State Govt., therefore, on the day of Applicant's retirement, the Applicant's salary for the period of 22 months i.e. from November-2017 to August-2019 was pending with the Non-Applicants. And they have paid the pending salaries when the college had received the amount of reimbursement from the State Govt. and now the salary of only 3 months from June-2019 to August-2019 is remained to be paid. And it will be paid as soon as the Non-Applicants receives the amount of fees reimbursement from the State Govt.

9. It is further submitted by the Non-Applicants that the Applicant made representation on 23.07.2020 for getting arrears of difference in salary as per V th and VI th Pay Commission for the period from March-2010 to December, 2015, after the period of more than 10 years and therefore, his claim is barred by limitation because monetary claim could be granted only if party approaches the court within a period of 3 years from the date on which the amount is due and payable and therefore, the Non-Applicants have denied that the Applicant is entitled to claim the difference of arrears of salary, Dearness Allowances as per recommendations of V th and

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VI th Pay Commission. And they have also denied the interest and the calculations made by the Applicant.

10. It is further submitted by the Non-Applicants that for implementation of recommendations of 7th Pay Commission, there is no circular issued by University Grants Commission, New Delhi or by All India Council for Technical Education, New Delhi or Govt. of Maharashtra to the non-teaching staff working in the private un-aided Engineering College and Govt. of Maharashtra has released Two Notifications dated 07.09.2019 and dated 16.09.2022 and these Two Notifications are applicable only to non-teaching staff in the Non-Govt. aided college and they have denied the claim of the Applicant regarding implementation of pay scale as per 7th Pay Commission.

11. It is further submitted by the Non-Applicants that University has published a Direction No. 12/2022 and prescribed the procedure for all type of grievances and as per Clause 11(1), aggrieved applicant has to submit the grievances within the period of 3 years from the date of accrual of cause of action and in this case there is a claim of arrears of difference of salary as per V th and VI th Pay Commission for the period from March-2010 to December-2015. Therefore, it has been submitted by the Non-Applicants, not to entertain the grievance of the Applicant as per prayer clause No. 2, 3 & 4 as per application.

12. The Applicant has filed rejoinder, it is submitted that his claim is within the limitation as Grievance Petition is filed in the

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month of June-2022 and he is retired in the month of August-2019 and cause of action was continued till his retirement. It was within the knowledge of the Non-Applicants that the Applicant was getting salary as per rules of Govt. of Maharashtra and allowances declared from time to time. It is further submitted by the Applicant that there was no appointment of any retired or existing non-teaching staff member of the Non-Applicants college having approval by the Rashtrasant Tukadoji Maharaj Nagpur University/Govt. of Maharashtra and initial appointment of the Applicant was through Selection Committee and no permission was required to be taken from the University or Govt. of Maharashtra to appoint or promote any non-teaching staff and approval of the University is required only for the appointment of teaching faculty.

13. It is further submitted by the Applicant that he was a regular, confirmed and permanent employee of the Non-Applicant's college and his service was without single break in service for 36 years, and even he was confirmed by confirmation letter No. CEWS/Estt.85-86/484 dated 23.04.1986 and he was also granted Contributory Provident Fund w.e.f. 01.04.1986 as per letter No. CEWS/Estt./85-84/492 dated 23.04.1986. The Applicant was also granted Gratuity as per payment of Gratuity Act.

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14. Non-Applicants have filed additional submissions on dated 01.10.2022 and it is submitted that the claim made by the Applicant in the rejoinder regarding granting him Contributory Provident Fund and Gratuity do not prove that his appointment was approved

by the affiliating University and it is submitted that for appointment of teaching and non-teaching staff on regular approved basis prior permission, selection through committee constituted by the affiliating University and approval after appointment is necessary. The Non-Applicants have denied that the Applicant had submitted many representations for getting arrears of 5th and 6th Pay Commission and also the arrears of Dearness Allowances during the service. The first representation of the non-teaching staff union regarding demand of arrears of difference of 5th and 6th Pay Commission and Dearness Allowance was received on 01.01.2020. The Non-Applicants have filed the additional submission on dated 04.02.2023 and it is submitted that the Applicant has claimed arrears of difference in salary as per 6th Pay Commission scale from 01.01.2006 to 01.03.2020 and interest @ 8% per annum from 01.03.2010 to the date of Grievance Petition but it is submitted by the Non-Applicants in this regard that in the Writ Petition No. 3489/2020, the Hon'ble Bombay High Court, Nagpur Bench, directed the Non-Applicants society to pay the arrears of difference of salary to the petitioners in that Writ Petition as per the recommendations of 6th Pay Commission w.e.f. 01.03.2010 to the staff working in their college. And the Applicant has not pursued his demand of arrears of difference of salary as per 6th Pay Commission during the period from 01.01.2006 to 01.03.2020. Even after judgement of Hon'ble Supreme Court in the case of Mahatma Gandhi Mission which came to be passed in the year 2017 and it is submitted by the Non-Applicants that Applicant is not

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entitled for arrears of difference of salary as per 6th Pay Commission from 01.01.2006 to 01.03.2010.

15. The Applicant has filed the reply dated 06.05.2023 to the additional submissions filed by the Non-Applicants. It is submitted that most of the private engineering colleges in Maharashtra including the autonomous technical institution have implemented the recommendations of 6th & 7th Pay Commission and amount of arrears have been credited to the accounts of teaching and non-teaching staff and Applicant has claimed the relief as claimed.

16. The Applicant has filed the written notes of arguments on 16.09.2023. It is submitted that he had joined the college on 10.11.1983 and after having served for 36 years he is retired on 31.08.2019 from the post of Stenographer (Higher Grade).

17. It is further submitted by the Applicant that before 2010, the Non-Applicants used to implement the payment of Dearness Allowances to its employees as and when declared by the State Govt. But since 2010, it was kept pending and therefore, the Applicant has also claimed the arrears of Dearness Allowances as per Schedule-A and pending salary with interest as per Schedule -D attached with the main grievance petition. And the Applicant has claimed the release of salary and arrears of difference of Dearness Allowances as per the recommendations of 5th Pay Commission and 6th Pay Commission and 7th Pay Commission.

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18. The Non-Applicants have also filed the written notes of arguments on 07.10.2023 and it is submitted that Applicant has not explained as to why he did not claim the arrears of difference in salary as per 5th and 6th Pay Commission and arrears of difference in Dearness Allowance from March-2010 to December-2015 and therefore the claim of the Applicant is barred by limitation. Even the Applicant's claim for interest on arrears of difference in salary is barred by limitation and Non-Applicants have denied the claim of Applicant as per Schedule-A to D and it is further submitted that there is no Circular/GR/Notification for implementation of 7th Pay scale to the non-teaching staff working in the Private Un-aided Engineering Colleges. And it is submitted that Non-Applicants have paid the entire balance salary to the Applicant and also paid entire Gratuity amount to the Applicant.

19. 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.

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<u>Points</u>	<u>Findings</u>
(i) Whether the Applicant is entitled for pay scale to him as per the revised pay scale as recommended by the Pay Commissions with the arrears of differences of salary and other benefits as applicable?	Applicant is entitled for the revised pay scale with other benefits as per the recommendations of 6 th Pay Commission from 01.03.2010 till his retirement i.e. 31.08.2019
(ii) What Order	As per order given below

REASONS**As to Point No.1:**

20. On perusal of the record and on perusal of the submissions/reply of the Applicant and Non-Applicants and also on the basis of the compromise taken place in between the Applicant and Non-Applicants before the Labour Court, Wardha regarding payment of Gratuity under the payment of Gratuity Act as the Labour Court, Wardha has passed the order in Appln PGA/26/2021 dated 08.02.2022, it is clear that the Applicant was initially appointed as a Steno-Typist-cum-Clerk in the institution of the Non-Applicant and from time to time he was promoted on the basis of his seniority and he was retired from the post of Stenographer (Higher Grade) on 31.08.2019.

21. As the Applicant as a non-teaching staff, claiming revised pay-scale as per recommendations of Pay Commissions and so far as the claim of the non-teaching staff as to revised pay-scale as per the recommendations of Pay Commissions is concerned, Hon'ble Bombay High Court, Aurangabad Bench has decided the Writ Petition No. 11259 of 2017 "Vinayak Laxmnarao Gadhekar and others V/S State of Maharashtra and others" and in the said judgment, Hon'ble High Court has mentioned that "*the State Govt. had framed Maharashtra Non-Agricultural Universities and affiliated college Standard Code (revised pay scale of Non-Teaching Employees) Rules, 2009 prescribing pay scale as per the*


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recommendation of 6th Pay Commission. Rules were framed in accordance with the powers conferred under Maharashtra Universities Act and the petitioners being employees of Non-Teaching staff serving in affiliated college are governed by such rules and thus their salaries and pay allowances should be in compliance with said rules. Notification had also been accordingly issued” and by the said Judgment, Hon’ble High Court had directed the respondent management institution to implement the pay scales prescribed by 6th Pay Commission as adopted by State of Maharashtra w.e.f. 1st January, 2006 and pay the benefits accordingly to the petitioners/non-teaching staff.

22. 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) at paragraph No. 80, “Therefore, we see no justification in excluding the Non-Teaching Employees of the un-aided educational institutions while extending the benefit of the revised pay scale to the non-teaching employees of the aided educational institutions. Such a classification, in our opinion, is clearly violative of Article 14 of the Constitution of India”. Therefore, it is clear that the benefits as per revised pay scale recommended by 6th Pay Commission are to be given to the non-teaching staff of the un-aided institution which are affiliated to the University.

23. In the present case so far as the Applicant’s claim for arrears of difference as per revised pay-scale as recommended by

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the 6th Pay Commission w.e.f. 01.01.2006 is concerned. In this regard the Non-Applicants have filed the copy of judgment dated 17.11.2022 passed by the Hon'ble Bombay High Court, Bench at Nagpur in the Writ Petition No. 3489/2020 and Writ Petition No. 2121/2021. These Writ Petitions were filed by the teaching staff and Non-Applicants of the present case i.e. Principal of Bapurao Deshmukh College of Engineering, Wardha and President of Yashwant Rural Education Society, Wardha were the respondents and the petitioners in that Writ Petitions had claimed the arrears of difference of salary as per the recommendations of Pay Commissions. The Hon'ble High Court in paragraph No. 36 of the judgment dated 17.11.2022 has observed, "*the learned counsel for petitioners/teachers failed to show any document by which it could be said that the teachers in the present case have pursued their demand during the period from 01.01.2006 to 01.03.2010 or immediately thereafter or even after the judgment of the Hon'ble Supreme Court in the case of Mahatma Gandhi Mission (supra) which came to be passed in the year 2017. In that sense, we find substance in the submissions of the Management that, for the absence of any justification for belated claim, the teachers are not entitled for arrears of pay in terms of VI CPC for the period from 01.01.2006 till 01.03.2010, by which date the management implemented the recommendation of VI CPC.*" It is held by Hon'ble High Court in the Writ Petitions as mentioned above that, "*the petitioners, except the petitioner No. 8 in W.P. No. 3489/2020 and petitioner nos. 5 and 6 in W. P. Nos. 2121/2021 are entitled for the revised pay scales with*

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other benefits, in terms of recommendations of VI (but w.e.f. 01.03.2010) and VII Central Pay Commissions (w.e.f. 01.01.2016)."

24. Therefore, it is clear as per the order of the Hon'ble High Court that the employees of the Non-Applicants institution are entitled for revised pay scale as per the recommendations of 6th Pay Commission w.e.f. 01.03.2010 and therefore, the Applicant in this case is also entitled for revised pay scale as per 6th Pay Commission from 01.03.2010 till his retirement i.e. 31.08.2019. Though the Applicant has claimed the revised pay scale as per the recommendations of 7th Pay Commission from 01.01.2016 but as the Applicant is the non-teaching staff and he was retired on 31.08.2019, therefore, the Applicant is not entitled to receive the benefits of revised pay scale as per 7th Pay Commission. Because as per the Maharashtra Govt. Resolution dated 10.12.2020, revision of pay scale as per the recommendations of 7th Pay Commission is made effective to the non-teaching staff from 01.11.2020 for monetary benefits to them i.e. non-teaching staff. Therefore, Applicant is not entitled to claim the revised pay scale as per 7th Pay Commission and in view of the reasons discussed above, the Applicant is entitled only for difference of arrears if any as per the recommendations of 6th Pay Commission from 01.03.2010 to his retirement i.e. till 31.08.2019. Therefore, the Committee has recorded its findings to the point No. 1, accordingly.

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

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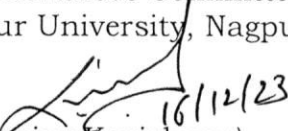
- (i) The Applicant is entitled for the revised pay scale with other benefits as per the recommendations of 6th Pay Commission from 01.03.2010 till his retirement i.e. 31.08.2019.
- (ii) The Non-Applicants shall calculate the difference of pay/salary and other benefits, if any, for which the Applicant is entitled as per the recommendations of 6th Pay Commission from 01.03.2010 till his retirement dated 31.08.2019 and release the payment of difference if any in favour of the Applicant within six months from the date of this order.

Nagpur.

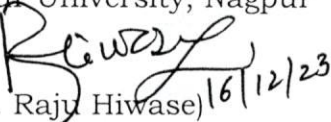
Dated: 16/12/2023.



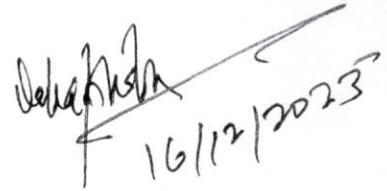
(Dr. Samay Bansod)
Member, Grievances Committee,
RTM Nagpur University, Nagpur



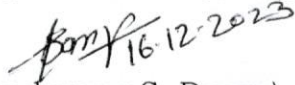
(Dr. Sanjay Kavishwar)
Member, Grievances Committee,
RTM Nagpur University, Nagpur



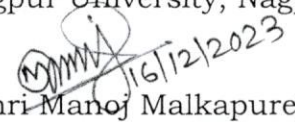
(Dr. Raju Hiwase)
Member, Grievances Committee,
RTM Nagpur University, Nagpur



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



(Dr. Pandurang S. Dange)
Member, Grievances Committee,
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(Shri Manoj Malkapure)
Member, Grievances Committee,
RTM Nagpur University, Nagpur



(Adv. Rajat Kumar Maheshwari)
Member-Secretary
Grievances Committee,
RTM Nagpur University, Nagpur