



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6045 OF 2019

Dr. Alpana w/o Pradeep Kulkarni
@ Alpana d/o Prabhakar Jahagirdar,
Age: 55 years, Occu.: Retired/Service,
R/o.08, Nandadeep Apt., Somesh Colony,
Behind Kalamandir, Nanded 431601.
Presently residing at :-
A/201, Nancy Brahma Residency,
Opp. Bavdhan Police Chowki,
NDA Pashan Road, Bavdhan,
Pune – 411021.

.. PETITIONER

VERSUS

1. State of Maharashtra,
Through its Secretary,
Higher and Technical Education,
Mantralaya, Mumbai.
2. The Director,
Directorate of Technical Education,
3, Mahapalika Marg, Mumbai.
3. The Joint Director,
Directorate of Technical Education,
Regional Office, Osmanpura,
Aurangabad – 431005.
4. Shri Sharda Bhawan Education Society's
Nanded Pharmacy College (Poly),
Through its Principal,
Shyam Nagar, Nanded – 431605.

.. RESPONDENTS

...

Mr. S. V. Dixit, Advocate for the petitioner.
Mr. N. S. Tekale, AGP for respondent Nos.1 to 3 – State.
Mr. A. N. Sabnis, Advocate for respondent No.4.
Mr. C. V. Dharurkar, Advocate for respondent No.5.

...

**CORAM : SMT. VIBHA KANKANWADI AND
S. G. CHAPALGAONKAR, JJ.**

**RESERVED ON : 22nd APRIL, 2024.
PRONOUNCED ON : 7th MAY, 2024.**

JUDGMENT [Per Smt. Vibha Kankanwadi, J.] :-

. Rule. Rule made returnable forthwith. Heard learned Advocates for the appearing parties finally by consent.

2. Present petition has been filed for issuing writ of mandamus against respondent No.2 to grant senior pay scale and selection grade scale to the petitioner taking into consideration the first date of appointment of the petitioner and the gratuity amount along with the interest at the rate of 18% per annum.

3. The factual matrix leading to the present petition are that the petitioner came to be employed with respondent No.1 College as a lecturer on 14.08.1987. She stood retired on 22.03.2008. The petitioner had then opted the voluntary retirement after serving for about 21 years. The petitioner contends that she was holding diploma in Pharmacy and thereafter, she had completed M. Pharm degree on 14.06.1988. As per various Government Resolutions, especially Government Resolution dated 26.05.1992 in relation to Career Advancement Scheme, the senior pay scale as well as selection grade ought to have been given upon the completion of 10 years of service from the date of the appointment. She has been granted first benefit

from 01.08.1998 as per order of respondent No.2 dated 07.05.2007, which is wrong. She was also entitled to receive amount of Rs.7,00,000/- towards gratuity, but amount of Rs.5,00,000/- only has been given under the said head. The outstanding amount has been claimed along with interest.

4. Affidavit-in-reply of Umesh Teniprasad Nagdeve, the In-charge Joint Director of Technical Education, has been relied by respondent Nos.1 to 3. The other facts are admitted, however, it is stated that as regards the petitioner is concerned revised order came to be passed on 29.07.2022 after it was realized that there was some mistake taking into consideration the date of the appointment of the petitioner. However, it has been contended that as regards gratuity is concerned as per the Gratuity Act, the amount which is to be paid to the petitioner depends upon the last basic pay multiplied by the length of qualifying service (for six months it is considered as one qualifying service) and it is to be divided by four for calculating the gratuity amount. Here, the length of service is 20 years and seven months only, so the petitioner was not entitled for the total gratuity amount i.e. Rs.7,00,000/-. It is further stated that the petitioner tendered her voluntary resignation after completing 20 years of service and therefore, as per the sanctioned orders of the Accountant General dated 01.04.2009, 19.12.2011 and 21.10.2020 she was entitled for

total amount of Rs.5,16,908/- only. Due to the voluntary retirement, she was not entitled for Rs.7,00,000/-. Hence, the contention of the petitioner that she had not received the gratuity as per sixth pay commission, is denied and not accepted. The revised order dated 29.07.2022 has been given along with the affidavit-in-reply. In the said revised order, a chart is given, which reads as under :-

अ. क.	अधिव्याख्यात्याचे नाव, विद्याशाखा व कार्यरत संस्था	नियमित नियुक्तीचा दिनांक	पूर्वी मंजूर केलेला वरिष्ठ श्रेणी दिनांक	सुधारित वरिष्ठ श्रेणी दिनांक	पूर्वी मंजूर केलेला निवड श्रेणी दिनांक	सुधारित निवड श्रेणी दिनांक	अभिप्राय
१	श्रीम. अल्पना प्रदीप कुलकर्णी सेवानिवृत्त अधिव्याख्याता औषधनिर्माणशास्त्र, इन्स्टिट्यूट ऑफ फार्मसी, नांदेड	२४/०८/१९८७	०१/०८/१९९४	२८/०८/१९९४	०१/०८/१९९८	२८/०८/१९९८	* दि.०१/०८/१९८८ ची नियुक्ती गृहित धरून यापूर्वी वरिष्ठ श्रेणी/ निवड श्रेणी प्रदान केलेली आहे. * परंतु संचालनालयाचे पत्र दि. ०६/०६/१९८८ अन्वये श्रीम.कुलकर्णी यांच्या नियुक्तीस दि. २८/०८/१९८७ पासून मान्यता दिलेली आहे. * तरी दि. २८/०८/१९८७ पासूनच्या नियमित नियुक्तीनंतर एम फार्मसी अर्हता धारण करीत असल्यामुळे चौथ्या वेतन आयोगातील तरतूदीनुसार ६ वर्षांनी वरिष्ठ श्रेणी दि. २८/०८/१९९३ रोजी देय. *नियमित नियुक्तीनंतर ११ वर्षांनी निवड श्रेणी दि.२८/०८/१९९८ रोजी देय.

English translation of the said chart is as under :-

Sr. No	Name of Lecturer, Faculty and the name of the Institution	Date of Regular Appointment	Date of Priorly sanctioned Senior Pay scale	Date of Reformed Senior Scale	Date of Previously approved selection Grade	Date of Reformed Selection Grade	Remark

	working						
1	Smt. Alpana Pradip Kulkarni, Retired Lecturer, Pharmacy, Institute of Pharmacy, Nanded.	24.08.1987	01.08.1994	24.08.1993	01.08.1998	24.08.1998	* Considering the appointment on Date : 01.08.1988 the Senior Grade/Selection Grade is given previously. * But as per the letter dated 06.06.1988 of the Directorate the appointment of Smt. Kulkarni is approved from 24.08.1987. * However, from the regular appointment from the date 24.08.1987 holding M. Pharmacy qualification, Senior Grade (Scale) after 6 years as per the provisions of 4th Pay Commission is payable on 24.08.1993. * Selection Grade is payable on date 24.08.1998, after 11 years of regular appointment.

[Translated by Senior Translator and Interpreter,
High Court of Bombay Bench at Aurangabad]

5. Learned Advocate for the petitioner is then accepting the date that has been given in the above chart in respect of Senior Grade i.e. date 24.08.1993 to be the correct date, but he submits that as regards selection grade is concerned, it ought to have been 24.08.1997, but it has been wrongly stated as 24.08.1998 and in the last column, it is said that the selection grade has been given after 11 years. When in fact as per the Government Resolution since the petitioner has completed M. Pharm, she would get one year concession and therefore, that date deserves to be corrected. He submits that now in view of the explanation given in the affidavit-in-reply regarding the gratuity, the petitioner has no objection in respect of the same.

The rejoinder has also been filed by the petitioner after the affidavit-in-reply was filed on behalf of respondent Nos.1 to 3.

6. In view of the aforesaid position, the dispute has been narrowed down. Now, it is only in respect of date of the selection grade. It is also to be noted that it is an accepted position that the Government Resolution dated 27.02.2003 contemplates the grant of benefit of one year to those who had completed M. Pharm i.e. the exemption of one year for acquiring M. Pharm qualification while in service. It can be so demonstrated in the order annexed along with affidavit-in-reply and would make it clear that upon completion of 10 years from the service, the said selection grade would be available. It is not in dispute that the petitioner acquired the said qualification in service. The petitioner had acquired the said degree of M. Pharm on 14.06.1988. Accordingly, now, the revised order dated 29.07.2022 needs to be modified to the extent of selection grade date and on these facts, the petition deserves to be partly allowed. Hence, the following order :-

ORDER

- I) The writ petition is hereby partly allowed.
- II) Respondent No.2 is directed to grant selection grade pay scale to the petitioner from 24.08.1997. Rest of the order dated 29.07.2022 to remain as it is.

III) The arrears to be paid to the petitioner in two installments of having duration of four months and the first installment to start from 20.05.2024.

IV) Rule is made absolute in the above terms.

[S. G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm