IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

WRIT PETITION NO.6786 OF 2022

Dinkar Anandrao Jaybhay,
Age- 59 years, Occu- Service,
R/o. Vijay Nagar, Pathardi,
Tq. Pathardi, Dist. Ahmednagar. ..Petitioner

Versus

1] The State of Maharashtra
Through the Secretary of Higher Education
Department, Mantralaya Mumbai

2] The Director of Higher Education
Maharashtra State, Pune

3] The Joint Director Higher Education
Pune Regional office, Pune.

4] The Accounts Officer,
(Higher Education Grants),
Pune Region, 17, Dr. Babasaheb Ambedkar
Road, Pune, Dist. Pune

5] Savitribai Phule Pune University,
Ganesh Khind Pune, Through its Registrar

6] Shri Anand College of Science,
Through its Principal,
Pathardi, Dist. Ahmednagar ...Respondents

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AND

WRIT PETITION NO.6774 OF 2022

Anita Balakrishna Pawase
Age- 52 years, Occu- Service,
R/o. Anand Nagar, Pathardi,
Tq. Pathardi, Dist. Ahmednagar. ..Petitioner

Versus

1] The State of Maharashtra
Through the Secretary of Higher Education
Department, Mantralaya Mumbai

2] The Director of Higher Education
Maharashtra State, Pune

3] The Joint Director Higher Education
Pune Regional office, Pune.

4] The Accounts Officer,
(Higher Education Grants),
Pune Region, 17, Dr. Babasaheb Ambedkar
Road, Pune, Dist.Pune

5] Savitribai Phule Pune University
Ganesh Khind Pune, Through its Registrar

6] Shri Anand College of Science,
Through its Principal,
Pathardi, Dist. Ahmednagar ...Respondents

.....

AND

WRIT PETITION NO.6772 OF 2022

Jagannath Dadabhau Barshile,
Age- 55 years, Occu- Service,
R/o. Pathardi – Shevgaon Road,
Anand Nagar, Pathardi,
Tq. Pathardi, Dist. Ahmednagar. ..Petitioner

Versus

1] The State of Maharashtra
Through the Secretary of Higher Education
Department, Mantralaya Mumbai

2] The Director of Higher Education
Maharashtra State, Pune

3] The Joint Director Higher Education
Pune Regional office, Pune.

4] The Accounts Officer,
(Higher Education Grants),
Pune Region, 17, Dr. Babasaheb Ambedkar
Road, Pune, Dist. Pune

5] Savitribai Phule Pune University
Ganesh Khind Pune, Through its Registrar

6] Shri Anand College of Science,
Through its Principal,
Pathardi, Dist. Ahmednagar ...Respondents

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AND

WRIT PETITION NO.6763 OF 2022

Shaikh Muktar Fakir
Age- 55 years, Occu- Service,
R/o. Tisgaon, Tq. Pathardi,
Dist. Ahmednagar. ..Petitioner

Versus

1] The State of Maharashtra
Through the Secretary of Higher Education
Department, Mantralaya Mumbai

2] The Director of Higher Education,
Maharashtra State, Pune

3] The Joint Director Higher Education
Pune Regional office, Pune.

4] The Accounts Officer,
(Higher Education Grants),
Pune Region, 17, Dr. Babasaheb Ambedkar
Road, Pune, Dist. Pune

5] Savitribai Phule Pune University
Ganesh Khind Pune, Through its Registrar

6] Shri Anand College of Science,
Through its Principal,
Pathardi, Dist. Ahmednagar ...Respondents

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In all the Petitions :

Shri. Dr. R. R. Deshpande h/f. Ms. Priyanka R. Deshpande,
Advocate for the Petitioners
Shri. B. B. Bhise, AGP for Respondent Nos.1 to 4 – State.
Shri. V. P. Golewar h/f. Shri. A. R. Joshi, Advocate for Respondent No.5
Shri. Prashant R. Nangare, Advocate for Respondent No.6
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CORAM : NITIN B. SURYAWANSHI
AND
ABASAHEB D. SHINDE, JJ.

Reserved on : SEPTEMBER 01, 2026
Pronounced on : OCTOBER 05, 2026

JUDGMENT (*PER:* ABASAHEB D. SHINDE, J.) :

. Rule. Rule is made returnable forthwith. With consent of the parties, these Writ Petitions are heard finally at the stage of admission.

2. Since the common question of fact and law are involved in these Petitions, the same are being decided by this common Judgment.

3. By these Writ Petitions filed under Article 226 of the Constitution of India, the Petitioners have challenged the communication dated 08.04.2022 issued by Respondent No.4, the Accounts Officer (Higher Education Grants), Pune Region, Pune, thereby proposing recovery by virtue of refixation of their pay scale. The Petitioners are also seeking direction to declare that they are entitled for Career Advancement Scheme (for short, 'CAS') benefits from their initial appointments.

Alternatively, they have also prayed that the services rendered by them from date of their joining be considered for the purpose of conferring the CAS benefits. Besides above reliefs, the Petitioners have sought direction for restraining Respondent Nos.1 to 6 from making any recovery of amount already paid to them under the head of erroneous payment of the CAS benefits.

4. It is the case of the Petitioners that, they were appointed as 'Assistant Professors' prior to 13.10.1992. Respondent No.5 – University granted permanent approval to their services. Since they were appointed prior to 13.10.1992, they were exempted from passing NET / SET examination. On 13.02.2001 they were granted Senior Pay Scale. On 13.02.2004 they were granted second promotion in selection grade. On 13.02.2007 they were promoted to the post of 'Associate Professor', which, according to them, was a promotion to a higher pay scale. Respondent No.4, however, by impugned order, reduced their pay sale from June 2022 and initiated recovery of excess amount paid to them under the pretext that their initial appointments were made by Local Selection Committee and that they failed to pass NET / SET examination. The Petitioners, therefore, have approached this Court.

5. For the sake of convenience, the details of the Petitioners are summarized in the following tabular form.

Sr. No.	I. WP No.	II. Name of Petitioner	III Date of first appointment as Assistant Professor	IV Date of Permanent Approval granted by University	V. Date of exemption granted from NET/SET by University	VI. Date on which Ist promotion granted in Senior Scale	VII. Date on which IInd promotion granted in Selection Grade	VIII. Date on which IIIrd promotion granted as Associate Professor	IX. Salary revised as 7th pay commission	X. Salary reduced vide I.O. & impugned endorsement	XI. Current Status retired or in service
1)	6786/2022	Dinkar Anandrao Jaybhay	01.07.1991	03/12/2007 w.e.f. 01/07/1991	22/02/2010	13/2/2001 AGP Rs.7000/-	13/02/2004 AGP Rs. 8000/-	13/02/2007 AGP Rs.9000/-	Rs.1,66,400/-	Rs.1,01,100/- Salary reduced from the month of June 2022 payable in July 2022	Retired as on 31.10.2022
2)	6763/2022	Shaikh Muktar Fakir	08.07.1991	15/07/2008 w.e.f. 08/07/1991	22/02/2010	13/02/2001 AGP Rs.7000/-	13/02/2004 AGP Rs.8000/-	13/02/2007 AGP Rs.9000/-	Rs.1,81,800/-	Rs.1,71,400/- Salary reduced from the month of June 2022 payable in July 2022	In service due to retire on 31/05/2027
3)	6772/2022	Barshile Jagannath Dadabhau	08.08.1991	05/03/2007 w.e.f. 08/08/1991	18/02/2010	13/02/2001 AGP Rs.7000/-	13/02/2004 AGP Rs.8000/-	13/02/2007 AGP Rs.9000/-	Rs.1,81,800/-	Rs.1,13,700/- Salary reduced from the month of June 2022 payable in July 2022	In service due to retire on 31/05/2027
4)	6774/2022	Pawase Anita Balakrishna	01.07.1992	05/03/2007 w.e.f. 01/07/1992	23/02/2010	13/02/2001 AGP Rs.7000/-	13/02/2004 AGP Rs.8000/-	13/02/2007 AGP Rs.9000/-	Rs.1,66,400/-	Rs.1,01,100/- Salary reduced from the month of June 2022 payable in July 2022	In service due to retire on 30.11.2029

6. We have heard learned Counsel for the Petitioners, learned AGP for Respondent Nos.1 to 4, learned Counsel for Respondent No.5 – University and learned Counsel for Respondent No.6 – College and with their able assistance, perused the record.

7. Learned Counsel for the Petitioners would submit that, the Petitioners were duly qualified for being appointed to the post of 'Assistant Professors'. Respondent No.6 appointed the Petitioners to the said posts after following due procedure of law. Respondent No.5 – University also granted permanent approval to their services. Since they were appointed prior to 13.10.1992, they were exempted from passing NET / SET examination as per Government Resolution dated 27.06.2013 (for short, 'the said Government Resolution'). He would further submit

that, the Respondents failed to consider Statute 415 of Respondent No.5 – University in its proper perspective. In fact, Clause - 3 of Statute 415 empowers Respondent No.6 – College to fill up a temporary vacancy. He would further submit that, before taking the impugned action of reducing pay-scale of the Petitioners and initiating recovery, opportunity of hearing was not given to the Petitioners. He, therefore, urged that, the Writ Petitions deserve to be allowed.

8. Per contra, learned AGP would submit that, in the light of the fact that the initial appointments of the Petitioners were as part-time Lecturers and as it is only after 2013 that the Petitioners' appointments were regularized, it cannot be presumed that they were exempted from passing NET/SET examination. He would therefore submit that, the Petitioners were erroneously granted higher pay-scale and therefore, Respondent No.4 was justified in reducing pay-scale of the Petitioners by initiating recovery of excess amount paid to them as they were not entitled thereto. He, therefore, urged that the Writ Petitions be dismissed.

9. The controversy involved in these Petitions falls in a narrow compass as to whether, once Respondent No.5 – University grants permanent approval to the services of the Petitioners with effect from their initial date of appointment, can Respondent Nos.1 to 4 raise objection in respect of the said approvals.

10. Indisputably, the Petitioners were appointed prior to 13.10.1992 on the respective dates as indicated in the aforesaid tabular form. They were exempted from passing NET / SET examination as per the said Government Resolution. After completing the probation period, the services of the Petitioners are deemed to have been confirmed. Respondent No.5 - University granted permanent approval to their services from the date of their initial appointments in the year between 2007 – 2008. We are, therefore, of the view that, once Respondent No.5 – University has granted permanent approval to the services of the Petitioners after verifying as to whether their appointments are proper or not, Respondent Nos.1 to 4 could not have raised objection at the later stage.

11. We find that, the issue involved in these Writ Petitions is squarely covered by the Judgment of the Co-ordinate Bench of this Court in the case of ***Baburao Ramji Wadje vs. The State of Maharashtra and Others***, decided on 09.06.2026 in ***Writ Petition No.7412 of 2022***, to which one of us (**Nitin B. Suryawanshi, J.**) is a Party. The relevant observations of this Court read thus :

> *"5. In support of the petition, petitioner has relied upon the various orders passed by the Co-ordinate Bench of this Court [Coram: Ravindra V. Ghuge and S. G. Dige, JJ.] in similar facts, such as order dated 13.04.2022 passed in Writ Petition No.11545 of 2021, order dated 08.09.2021 [Coram: S. V. Gangapurwala and R. N. Laddha, JJ.] passed*

in Writ Petition No.5164 of 2021, order dated 05.02.2024 [Coram: Smt. Vibha Kankanwadi and S. G. Chapalgaonkar, JJ.] passed in Writ Petition No.10170 of 2021, order dated 31.01.2020 [Coram: S. C. Dharmadhikari and R. I. Chagla, JJ.] passed by the Co-ordinate Bench of this Court at Principal Seat in Writ Petition No.4959 of 2017 and the order dated 16.07.2020 [Coram: S. S. Shinde and V. G. Bisht, JJ.] passed in Writ Petition No.11746 of 2018.

6. In all these orders, this Court has taken a view that since the University has granted approval, who was required to consider whether appointment was proper or not, the Government cannot raise objection to that effect at a later stage. It is also held that, 'The Government Resolution dated 27.06.2013 clarifies that the UGC Regulations dated 19.09.1991 requiring a candidate to possess NET/SET qualification is made effective in the State under G. R. dated 23.10.1992'.

7. Admittedly, the petitioner was appointed on 27.08.1992, therefore, he is exempted from passing NET/SET examination. In view of the permanent approval granted by respondent No.4 University to the appointment of petitioner and as the CAS Assessment Committee has recommended to grant CAS benefits and selection grade to the petitioner after considering entire service record of the petitioner and after verifying his eligibility, respondent No.3 is not entitled to raise objection that the petitioner's service in the year 1992-93 and 1993-94 was temporary and he has not passed NET/SET examination, to deny CAS benefits to him.

8. Petitioner's case is squarely covered by the orders of the Co-ordinate Benches. Denial of CAS benefits to the petitioner by respondent No.3 is arbitrary and unreasonable and cannot be sustained in the facts of the present case. Petitioner is, therefore, entitled for CAS benefits from the date of his appointment."

12. We also find substance in the contention of learned Counsel for the Petitioners that, before taking the impugned action Respondent

Nos.1 to 4 neither put the Petitioners to the notice nor have granted opportunity of hearing to them. We, therefore, find that, the impugned action is violative of principles of natural justice. In this regard, a support can be drawn from the observations of the Hon'ble Apex Court in the case of ***Union of India and Anr vs. P. N. Natarajan and Ors. Etc***, *decided on 10.02.2010 in* ***Civil Appeal No(s).238-244 of 2004***, *wherein the Hon'ble Apex Court held thus:*

> *"11. We have considered the respective submissions and carefully scrutinized the records. Although, neither the learned Single Judge nor the Division Bench considered the issue of violation of the rules of natural justice, having given serious thought to the entire matter, we are convinced that the retiral benefits payable to the respondents could not be revised to their disadvantage without giving them action oriented notice and opportunity of hearing. By virtue of the option exercised by them under Section 12A (4) (b) and consequential action taken by the competent authority to fix their pension etc., the private respondents acquired a valuable right to accordingly receive the financial benefits and the same could not have been reduced without complying with one of the basic rules of natural justice that no one shall be condemned unearned. The rule of audi alteram partem has been treated as fundamental to the system established by rule of law and any action taken or order passed without complying with that rule is liable to be declared void - State of Orissa vs. Dr (Miss) Binapani Dei and others AIR 1967 SC 1269 and Sayeedur Rehman vs. State of Bihar and others (1973) 3 SCC 333.*
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> *12. It is not in dispute that before directing revision of the pension etc., payable to the private respondents, the Central Government did not give them action oriented notice and opportunity of showing cause against the proposed action. Therefore, it must be held that the direction given by the Central Government to revise the retiral benefits including the pension payable to the respondents was nullity.*

> *13. Dehors the above conclusion, we are convinced that the action taken by the appellants to revise and reduce the retiral benefits payable to the respondents was ex facie arbitrary, unreasonable and unjustified and the learned Single Judge did not commit any error by declaring that the Central Government did not have the jurisdiction to unilaterally alter/change the option exercised by the writ petitioners under Section 12A (4) (b) read with Section 12A (4C)."*

13. In the light of the aforesaid discussion and having regard to the ratio laid down by the Hon'ble Apex Court in the case of ***P. N. Natarajan*** *(supra)* and the Judgment of this Court in the case of ***Baburao Ramji Wadje*** *(supra),* we find that the action of Respondent Nos.1 to 4 thereby reducing the pay scale of the Petitioners, depriving them from the CAS benefits and initiating the recovery of amount of salary already paid to them, is arbitrary and unreasonable. The Writ Petitions, therefore, deserve to be allowed. In the result, we pass the following order.

ORDER

(A) The Writ Petitions are allowed.

(B) The impugned communication dated 08.04.2022 issued by the Respondent No.4 – The Accounts Officer (Higher Education Grants), Pune Region, thereby reducing the pay scale of the Petitioners and initiating recovery of amount already paid to them is hereby quashed and set aside.

(C) Respondent Nos.1 to 4 are directed to give CAS benefits to the services of the Petitioners from the date of their first appointments.

(D) Respondent Nos.1 to 4 are further directed to refund the amount recovered from the Petitioners, if any, pursuant to the impugned order.

(E) The Respondent Nos.1 to 4 are directed to comply with the aforesaid directions within a period of eight (8) weeks from the date of receipt of copy of this order.

(F) Rule is made absolute in the above terms.

(ABASAHEB D. SHINDE, J.) **(NITIN B. SURYAWANSHI, J.)**

GGP