

Prajakta Vartak

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 599 OF 2023
WITH
INTERIM APPLICATION NO. 11723 OF 2025

Dr. Hanumant Vishnutirth Adavi
Versus

...Petitioner

The State of Maharashtra & Ors.

...Respondents

Ms. Gayatri Singh i/b. Mr. Makarand Bakore for Petitioner.
Mr. B. V. Samant, Addl. G.P. with Ms. P. N. Diwan, AGP for State.

CORAM: G. S. KULKARNI &
DR. NEELA GOKHALE, JJ.
DATE: 17 AUGUST 2026

P.C.

1. The petitioner, by this petition under Article 226 of the Constitution of India, who is a State Government pensioner, has prayed for fixation of his pension in accordance with the Rules framed by the All India Council for Technical Education (“AICTE”), in terms of the Office Memorandum dated 30 July 2015 issued by the Government of India. It is in such context, the petitioner has contended that the pension granted to him by the State Government is inadequate and is required to be revised in view of the benefits arising from the implementation of the Fifth and Sixth Pay Commissions, which have been extended to pensioners.

2. Ms. Gayatri Singh, learned senior counsel for the petitioner, has placed reliance on the Government Resolution dated 05 May 2009 as also the Office

Memorandum dated 01 September 2008. She has also drawn our attention to Government Resolution dated 20 August 2010, which pertains to the revision of pay scales of teachers and equivalent cadre at the Degree/ Diploma level in Technical Education under the AICTE Scheme (6th Pay Commission). The said G.R. categorically provides that, after considering all aspects of the scheme announced by the All India Council for Technical Education vide its notifications referred to at Serial Nos.3 & 4, the Government had decided to revise the pay scales and Dearness Allowance of all teachers and equivalent cadres working in Government and non-Government aided institutions with effect from 01 January 2006, in accordance with the provisions of the said scheme, with the additional provisions prescribed in paragraph 8 of this Resolution for enhancing and improving the quality of education.

3. It was further provided that the other allowances applicable to the teachers and librarians in these institutions, as well as the age of superannuation and leave package, shall be governed by the provisions applicable to State Government Employees. Thus, the G.R. provided for implementation of the revised pay scales for teachers and librarians in Degree & Diploma level Government and non-Government aided institutions conducting professional courses which are as follows :

“A. Revision of pay scales for teachers working in degree level institutions -

1. General

(i) There shall be only three designations in respect of teachers in university departments and Engineering colleges, namely, Assistant Professor, Associate Professor and Professor. However, there shall be no

change in the present designation in respect of Library Personnel at various levels.

(ii) No one shall be eligible to be appointed, promoted or designated as Professor, unless he/she possesses a Ph.D. and satisfies other academic conditions, as laid down by the AICTE from time to time. This shall, however, not affect those who are already designated as 'Professor'.

(iii) The pay of teachers and librarians in these institutions shall be fixed according to their designations in two pay bands of Rs.15600-39100 and Rs.37400-67000 with appropriate "Academic Grade Pay" (AGP). Each Pay Band shall have different stages of Academic Grade Pay which shall ensure that teachers and librarians covered under this Scheme, subject to other conditions of eligibility being satisfied, have multiple opportunities for upward movement during their career.

(iv) Posts of Professors shall be created in under-graduate (UG) institutions as well as in post-graduate (PG) institutions. The ratio of Professors to (01) (02) Maintenance Grants to Dr. Babasaheb Ambedkar Technical University, Lonere, District Raigad (2203 052 3)

104 - Assistance to Non-Government Technical Colleges and Institutes-

(01) (03) Engineering Colleges (2203 016 7)

(01) (02) Polytechnic (2203 015 8)

105 — Polytechnics-

(00) (01) Government Polytechnics (2203 020 2)

(00) (02) Expansion and Development of Government Polytechnics (2203 021 1)

(00)(08) Establishment of New Government Polytechnics (2203 265 1)

(00) (02) Removal of Regional Imbalance (2203 04 99)

(00) (11) Introduction of Double Shift in government Polytechnics (2203 276 9)

108 Examinations —

(01) (01) Board of Technical Examination (2203 028 3)

112 - Engineering / Technical Colleges and Institutes —

(00) (01) Government Engineering and Architectural Colleges (including hostels) (2203 032 7)

(00) (10) Establishment of New Engineering Colleges (2203 267 1)"

4. On behalf of the petitioner, our attention is also drawn to the Notification dated 22 January 2010 issued by the AICTE, whereby the AICTE notified the

All India Council for Technical Education (Pay Scales, Service Conditions and Qualifications for the 'Teachers and other Academic Staff in Technical Institutions (Degree) Regulations, 2010, in which the following category of pensioner has been provided:-

"Pension:

- (i) For teachers and other cadres in AICTE approved institutions in receipt of pension, the Central Government rules for pension and gratuity as applicable to Central Government employees shall be applicable.
- (ii) In view of the new pension scheme effective from 1.1.2004, no new cases of conversion to pension scheme shall be allowed."

5. Our attention is also drawn to the Office Memorandum dated 30 July 2015 issued by the Government of India, Ministry of Personnel, PG & Pensions, Department of Pension & Pensioners' Welfare, in regard to revision of pension of pre-2006 pensioners, which is applicable to Central Government employees.

6. Thus, the contention of the petitioner is that there is discrimination in the grant of pension, which, according to the petitioner, is not in accordance with the norms applicable to Central Government employees or the AICRE norms.

7. The petition is opposed on behalf of the State Government and to that effect, a reply affidavit of Mahendra Keshaw Dawane, Deputy Director, in the office of Directorate of Technical Education, is placed on record.

8. We find from the record that the petitioner was appointed as Professor in College of Engineering Pune till 27 December 1988 and thereafter he was appointed as Principal in Government College of Engineering Karad for 4 days

under the Joint Director Regional Office Pune. He retired on Superannuation as Principal on 01 January 1989 from Government College of Engineering Karad. It is not in dispute that the petitioner was the DDO (Drawing & Disbursement Officer) of the Institute and he forwarded his pension proposal to respondent no.4 office as per the various Government Resolutions issued from time to time. Respondent no. 4 sanctioned the pension of the petitioner PPO No M/87695 dated 13 November 1990. The petitioner retired during the applicability of the fourth pay commission. Respondent No.4 revised the pension payable to the petitioner in accordance with fifth pay commission as applicable and informed Respondent No. 8 vide a letter dated 06 October 2020. It is the respondent No.4's categorical case that thereafter Respondent No. 8 vide letter dated 26 August 2021 revised the pension of the Petitioner in the sixth and seven pay commission respectively as applicable and informed to the petitioner.

9. In regard to the petitioner's contention regarding the applicability of the Office Memorandum dated 30 July 2015 issued by the Central Government, the petitioner had made a representation dated 21 February 2021 to respondent no.4 seeking revision of his pension in accordance with the said office memorandum. However, respondent no.4, by letter dated 28 April 2021, informed the petitioner that the norms/rules of the Central Government contained in the Office Memorandum dated 30 July 2015 had not been adopted by Respondent No. 1 and that there was no G.R. to that effect. Accordingly, the petitioner's representation was rejected. It is also contended that the petitioner's reliance on the letter dated 21 December 2019 (Exhibit I to the petition) was misplaced, as

the said letter was subsequently cancelled by the Deputy Director by letter dated 03 January 2022, and the cancellation was communicated to respondent no.4 and the petitioner respectively.

10. It is also the case of the respondents as set out in paragraph 9 of the reply affidavit that as per the Office Memorandum dated 01 September 2008 issued by the Central Government, was applicable to all the pensioners/ family pensioners who were drawing pension/family pension on 01 January 2006 under the Central Civil Services (Pension) Rules 1972 and hence, the said rules were applicable to the employees of the Central Government only and not to the employees of State Government. It is pointed out that the State Government employees are governed by the Maharashtra Civil Services (Pension) Rules 1982 and that nowhere in the norms or the rules of the Central Government under Office Memorandum dated 30 July 2015 or other Office Memorandum is adopted by the State Government/respondent no.1 or to that effect, no G.R. was issued by State Government.

11. Mr. Samant, learned Additional G. P., has also drawn our attention to the communication dated 28 April 2021 issued by the Office of the Accountant General to the petitioner, in which the petitioner's contention in regard to the applicability of the Central Government Office Memorandum dated 30 July 2015 cannot be accepted. The reasons are elaborate. The contents of the communication are required to be noted which read thus:-

"1. As communicated by the Assistant Registrar (Public Grievances

Cell), Bombay High Court vide their letter dated 04.10.2019, your grievances were forwarded to Director of Technical Education, Maharashtra State, Mumbai vide this office letter dated 31.10.2019 to examine the claim for grant of revised pension @ 23,700/- w.e.f. 01.01.2006 and submit the proposal along with supporting GR from Govt. of Maharashtra, if the revision of pension is admissible to Shri H.V,Adavi. Action taken by this office was also intimated to you vide this office letter dated 04.11.2019.

2. The proposal received from the Jt. Director, Technical Education, Mumbai vide letter dated 21.12.2019, to grant revised pension @ Rs.23,700/- (50% of minimum pay of Rs.37400 + GP Rs.10,000/- w.e.f. 01.01.2006) on the basis of revised pay scales granted w.e.f. 01.01.2006 vide Govt. of Maharashtra GR dated 20.08.2010 and Central Govt. OM date 30.07.2015 was not considered by this office as it was not supported by relevant GRs of Govt. of Maharashtra. Accordingly, this office vide letter dated 06.02.2020 has intimated the pension sanctioning authority i.e. Jt. Director, Technical Education, Mumbai that as Shri Adavi has retired prior to 01.01.2006, as per GR dated 30.10.2009 (revision of pension of pre-2006 pensioners) revision/consolidation of pension in his case will be directly done by the Pension disbursing authority concerned (Treasury Officer).

3. Your contention that “the said GR dated 30.10.2009 relates to the pension of post 01.01.2006 pensioners of the State Govt. governed by the MCS rules and this GR has absolutely no concern with your case, as your case relates with the 6th pay revision of pension of pre-2006 pensioners governed by the Central Govt. rules, which comes under the purview of C.C.S.(Pension) rules sanctioned by the Department of pension and Pensioners’ Welfare of Govt. of India”, is untenable for following reasons.

. Though, the pay structure recommended by the AICTE is adopted and part of expenditure on salary of Educational Institutions is met by the State Government through Central grant: expenditure on account of pension of such retired employees is entirely borne by the Government of Maharashtra for which no grant is provided by the Central Government.

. It is clearly stated in the said GR 20.08.2010 that the scheme announced by the AICTE vide its notification dated 22.01.2010 will be applicable to related Educational Institutions coming under the purview of State Legislature, provided State Government wishes to adopt and implement the scheme. Accordingly, after considering all the aspects of the scheme announced by the AICTE, the Government has decided to revise pay scales and Dearness Allowance of all teachers and equivalent cadres working in Government and non-Government aided institutions w.e.f 01-01-2006 as per the provision of the scheme with additional provisions prescribed in para-8 of the said resolution for enhancing and improving the quality of education. The other allowances applicable, the age of Superannuation and leave package in these institutions shall be as per the State Government.

4. Further, your contention that once the pension sanctioning authority i.e. Director of Technical Education, Maharashtra State, Mumbai has sanctioned and recommended to revise the pension @ Rs.23,700/- as per Central Governments OM dated 30.07.2015, the Accountant General office has no mandate to reject the revised pension recommended by the pension sanctioning authority, it is stated as under.

. Firstly, the Jt. Director, Technical Education, Mumbai does not have the Jt. Director, Technical Education, Mumbai does not have any mandate to sanction pensionary benefits outside the purview of MCS(P)Rules.1982 and Grs, Notifications issued by benefits outside the purview of MCS(P)Rules.1982 and GRs Notifications issued by Government of Maharashtra governing the grant of pensionary benefits from time to time. It seems of Maharashtra governing the grant of pensionary benefits from time to time. It seems that the Jt. Director, Technical Education, Mumbai has forwarded the pension proposal solely on the basis of representation made by Shri Adavi and without any supporting GR of Govt. of Maharashtra of representation made by Shri Adavi and without any support in GR of Govt. of Maharashtra grant revised pensionary benefits as per Central Governments OM dated 30.07.2015.

. Secondly, the role of the Accountant General Office in matters related to authorization of pensionary benefits in respect of retired employees of the State of Maharashtra, in his capacity as an Audit Officer of the State, is limited to scrutiny of proposal received from Pension sanctioning authority, in the light of the provisions contained in M.C.S. (Pension) Rules, 1982 and with reference to Government Resolutions issued from time to time. As the pension proposal forwarded by the Jt. Director, Higher Technical Education, Mumbai was not in accordance with relevant rules, same was returned to the Department to submit the same alongwith relevant GRs of Govt. of Maharashtra (i.e. Govt. of Maharashtra's order implementing the decision given by the Court or implementing the Central Govt. OM date 30.07.2015)

In the view of the above, your claim for revised pension w.e.f. 01.01.2006 @Rs.23,700/- (instead of Rs.18,532/-), in accordance with the rules applicable to All Centrally Funded Technical Institutes issued by the Government of India, Ministry of Human Resource Development, Department of India, DOPTs OM dated 30.07.2015, or as per the ruling in WP No.4292 of 2013, will be admissible subject to acceptance and implementation of the said orders by the Government of Maharashtra.

With due respect to your age, I humbly state that this office cannot authorise revised pension as claimed by you without appropriate orders of the Government of Maharashtra. The case is treated as closed at the end of this office.”

12. In the aforesaid backdrop, the contention of Ms. Singh that the AICTE pay

scales would be applicable to the petitioner, that the petitioner would be governed by the Office Memorandum dated 30 July 2015, and that the Central Government accordingly be directed to extend the said benefits, cannot be accepted. The petitioner is a pensioner of the State Government. He accepted the pension payment order issued to him on 13 November 1990 and has accordingly been drawing pension from the year 1990 until the filing of the present petition on 11 October 2022. Thus, the petitioner is now contending that he should be granted the benefits available to Central Government pensioners under the applicable rules. Such contention, in our opinion, cannot be accepted, as the said rules are not applicable to the petitioner. The petitioner from the very beginning of his pensionable service was governed by the pension regime applicable to State Government employees.

13. In the above circumstances, there is no merit in the petition. It is accordingly rejected. No costs.

14. The interim application would not survive. It is accordingly rejected.

(DR. NEELA GOKHALE, J.)

(G. S. KULKARNI, J.)