

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.4101 OF 2001

- 1) Vilas s/o Narayan Thorat,
Age-36 years, Occu:Lecturer,
R/o-Boradi, Tq-Shirpur,
Dist-Dhule,
- 2) Subhash s/o Gopal Lohar,
Age-37 years, Occu:Accountant,
R/o-As Above,
- 3) Nimba s/o Pandharinath Patil,
Age-36 years, Occu:Peon,
R/o-As Above,
- 4) Shantaram s/o Shravan Badgujar,
Age-32 years, Occu:Peon,
R/o-As Above.

...PETITIONERS

VERSUS

- 1) Kisan Vidya Prasarak Sanstha,
Shirpur, Through its President,
Vyankatrao s/o Tanaji Randhir,
Age-78 years, Occu:Social service,
R/o-Boradi, Tq-Shirpur,
Dist-Dhule,
- 2) Kisan Vidya Prasarak Sanstha,
Shirpur, Through its Secretary,
Vishwasrao s/o Vyankatrao Randhir,
Age-49 years, R/o-As Above,

- 3) Balkavi Thombre College of
Physical Education, Boradi,
Tq-Shirpur, Dist-Dhule,
Through its Principal,
Shri B.D. Patil, Age-42 years,
R/o-As Above,
- 4) National Council for Teachers
Education, Bhopal, Through its
Regional Director, Manas Bhuvan,
Shamla Hills, Bhopal (M.P.),
- 5) North Maharashtra University,
Through its Registrar,
Jalgaon,
- 6) State of Maharashtra

...RESPONDENTS

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Mr.V.J. Dixit, Senior Counsel with Mr. L.V.
Sangit Advocate for Petitioners.

Mr.S.P. Brahme Advocate for Respondent
Nos. 1 to 3.

Respondent Nos.4 and 5 though served, absent.
Mr.S.G. Sangale, A.G.P. for Respondent No.6.

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**CORAM: S.V. GANGAPURWALA AND
A.I.S. CHEEMA, JJ.**

DATE : 6TH MAY, 2015

ORAL ORDER :

1. In this Writ Petition, Petitioner Nos.2
to 4 have settled the matter with the Respondent -
institution. As such, the Petition is now

concerned with regard to Petitioner No.1, who was appointed on 20th October 1994 and was terminated on 30th October 2004.

2. The Petitioner No.1 herein was an employee of Respondent institution running B.Ed. Course. The Petitioner No.1 was appointed as lecturer with the Respondent college.

3. Mr. Sangit, learned counsel for the Petitioner states that Petitioner No.1 was not paid salary as per the 5th Pay Commission pay-scale. Instructions are issued by the North Maharashtra University as well as State Government to all the respective colleges that the employees working with colleges recognized by the State be paid salary in consonance with 5th Pay Commission pay-scale with effect from 1st January 1996. Said Government Resolution is dated 13th June, 2000. According to the learned counsel the Petitioner No.1 (hereinafter referred to as "Petitioner") is

entitled for the benefit of 5th Pay Commission pay-scale from 1st January 1996 as laid down in Government Resolution dated 13th June 2000. According to the learned counsel, the Respondent - management had subsequently illegally terminated the services of the Petitioner in the year 2004. However, inspite of the orders of reinstatement passed by the College Tribunal and confirmed up-to the Apex Court, the Petitioner No.1 is not reinstated.

4. Mr. Brahme, the learned counsel for Respondents submits that the Petitioner could not have been reinstated as the said college is closed down. The Petitioner was awarded alternate employment, however he did not accept. Learned counsel submits that the Petitioner is not possessing qualification required for the post of lecturer. The Petitioner did not possess NET/SET qualification. If the employee does not possess necessary qualification, he cannot claim salary on

par with other employees who had requisite qualification. In support of his submissions, the learned counsel has placed reliance on a case of **M.P. Rural Agriculture Extension Officers Association vs. State of Madhya Pradesh, reported in A.I.R. 2004 (SC) 2020**. According to the learned counsel, no grievance has been made out by the Petitioner since his appointment in the year 1994. Writ Petition was filed belatedly in the year 2001. The Petitioner is not entitled for the said relief.

5. We have considered the submissions canvassed by the learned counsel for the respective parties.

6. Government Resolution dated 13th June 2000 is explicitly clear which lays down benefit of 5th Pay Commission to the employees working in private institutions also.

7. It is a fact that the Respondents had appointed the Petitioner as a lecturer on 20th October 1994. The approval was also granted to the appointment of the Petitioner.

8. The Respondent management extracted the work from the Petitioner. It would be too late in the day for the Respondents to contend that Petitioner was not possessing requisite qualification and is not entitled for the benefit of 5th Pay Commission.

9. The Writ Petition was filed in the year 2001. There is delay on the part of the Petitioner in seeking the remedy. It is said that concerned college is also closed down. Considering the aspect of the hardship, it would be appropriate to direct the Respondents to give the benefit of 5th Pay Commission pay-scale to the Petitioner No.1 with effect from 1st May 1999.

10. In light of above, we pass following order:

O R D E R

(A) Respondent Nos.1 to 3 shall give the benefit of 5th Pay Commission to the Petitioner No.1 with effect from 1st May 1999 till the date Petitioner No.1 was in service.

(B) The said benefit shall be calculated by the concerned Respondents and shall be paid to Petitioner No.1 within a period of THREE MONTHS.

(C) In case there are some other orders passed about the employment of the Petitioner No.1, the parties would be governed by the said orders.

. Rule made partly absolute in the above terms. No costs. Writ Petition disposed of, accordingly.

[A.I.S.CHEEMA, J.]

asb/MAY15

[S.V. GANGAPURWALA, J.]