

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

WRIT PETITION NO. 5573 OF 2014

DR. NANASAHEB SHANKARRAO GAIKWAD AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. Bhagat N.T.

AGP for Respondents: Mr.A.S.Shinde.

Advocate for Respondent No.4 : Mr. Ashok Sharma.

Advocate for Respondent No.5 : Mr. Kakde Yuvraj V.

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CORAM : **S. V. GANGAPURWALA and
V. L. ACHLIYA, JJ.**

DATE : 24th February, 2015.

PER COURT:

1 Mr.Bhagat, learned counsel for the Petitioners submits that the Petitioners are working as Associate Professors and have Ph.D. qualification. One Dr.Shinde and Dr.Pawar, who are junior to the Petitioners, are being paid more salary than the Petitioners. According to the learned counsel, only because these two junior persons acquired Ph.D. qualification subsequently, their salary is stepped up. However, the Petitioners, who have acquired Ph.D. qualification much earlier and are on the same post, are granted less salary. The learned counsel relies on the judgment of the Apex Court in a case of **Er.Gurcharan Singh Grewal & Anr. Vs. Panjab State Electricity Board & Ors**, reported in, **[2009 (3) SCC 94]**, and the judgment of the Division Bench of this Court in a case of **Sudamrao Keshawrao Aher & Ors. Vs. The State of Maharashtra & Ors.**, reported in, **[2014 (1) ALL MR 697]**.

2 Mr.Shinde, learned AGP submits that Dr.Shinde and Dr.Pawar got more benefits of the increment because at the relevant time, their salary

was more and the increment is calculated with percentage to the salary. The Petitioners got less benefit of the increment because at the relevant time, their salary was less compare to juniors Dr.Shinde and Dr.Pawar. The said fixation has been done as per the Rules.

3 We have heard Mr.Sharma, learned counsel also.

4 It is not disputed that the Petitioners, Dr.Shinde and Dr.Pawar all are working as Associate Professors. It is also not disputed that the Petitioners have qualification of Ph.D. and Dr.Shinde and Dr.Pawar have been awarded Ph.D. much later to the Petitioners. The Petitioners, no doubt, are seniors to Dr.Shinde and Dr.Pawar as the said contention is not repelled by the Respondents. It is trite that a senior cannot get less pay than his junior. The Apex Court in the case of *Er.Gurcharan Singh Grewal (supra)* has observed as under:

“13. Something may be said with regard to Mr.Chhabras submissions about the difference in increment in the scales which the appellant No. 1 and Shri Shori are placed, but the same is still contrary to the settled principle of law that a senior cannot be paid lesser salary than his junior. In such circumstances, even if, there was a difference in the incremental benefits in the scale given to the appellant No.1. and the scale given to Shri Shori, such anomaly should not have been allowed to continue and ought to have been rectified so that the pay of the appellant No.1 was also stepped up to that of Shri Shori, as appears to have been done in the case of the appellant No. 2.”

5 In the said case, the Apex Court directed the Respondents to rectify the said pay scale and to remove the anomaly by stepping up the pay of the Petitioner therein to that of his junior. The Division Bench of this Court also in the case of *Sudamrao Keshawrao Aher (supra)* had directed to remove the said anomaly and disparity so as to step up the salary of the senior to that of the junior.

6 The Petitioners have already given a representation to that effect with the Respondents (Exhibit – 'B') page No.39.

7 In light of the above, we pass the following order :

- I. The Respondents – Authorities shall consider and decide the application dated 15th January, 2014 (Exhibit – 'B') for revision of the pay scale of the Petitioners i.e. stepping up the pay scale by bringing it to the level of the juniors working with the Petitioners considering the judgment of the Apex Court in the case of *Er.Gurcharan Singh Grewal (supra)* so also the judgment of the Division Bench of this Court in the case of *Sudamrao Keshawrao Aher (supra)*, expeditiously, and the same shall be decided within a period of four months from today.
- II. Accordingly, the writ petition is disposed of. No costs.

[V. L. ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]