

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****WRIT PETITION NO. 9857 OF 2015**

1. Shri Ratan S/o Khanderao Bandgar
Age : 56 years, Occ : Service,
R/o At post Halgara, Tq. Nilanga,
Dist. Latur.
2. Vishwanath S/o Sadashiv Sutar
Age : 52 years, Occ : Service,
R/o At post Kokalgaon, Tq. Nilanga,
Dist. Latur.
3. Shri Amrut @ Ambrata S/o Rewenappa Mulje
Age : 37 years, Occ : Service,
R/o Palapur, Tq. Nilanga,
Dist. Latur.
4. Shri Vasant S/o Goroba Sagar
Age : 56 years, Occ : Service,
R/o at post Kokalgaon, Tq. Nilanga,
Dist. Latur.

..PETITIONERS**-VERSUS-**

1. The State of Maharashtra
Through its Principal Secretary
Higher and Technical Education,
Mantralaya, Mumbai.
2. The Joint Director of Technical Education,
Maharashtra State, Regional Office at
Station Road, Osmanpura, Aurangabad.

3. The University Grants Commission,
Bahadur Shah Zafar Marg,
New Delhi
(Through Western Regional Office
at Pune).
4. The All India Council for Technical
Education, New Delhi, AICTE
Western Regional Office,
Industrial Assurance Building,
IInd Floor, V.N. Road,
Churchgate, Mumbai.
5. Swami Ramanand Teerth Marathwada
University, Dyantirth, Vishnupuri,
nanded, Tq. & Dist. Nanded.
6. The Maharashtra Shikshan Samiti,
Nilanga, Dist. Latur
Through its Secretary
7. The Maharashtra College of Engineering,
Nilanga, Tq. Nilanga, Dist. Latur
Through its Principal.

..RESPONDENTS

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Advocate for Petitioners : Mr. Chavan P.S.
AGP for Respondent/State : Mr. S.R. Yadav
Mr. R.N. Dhorde, Senior counsel i/b Mr. S.M. Vibhute, Advocate
for Respondent Nos. 6 and 7.
Advocate for Respondent no.3 : Mr. Deshpande Sanjeev B.
Advocate for Respondent No.5 : Mr. V.P. Latange
Advocate for respondent No.3 : Mr. Alok Sharma

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CORAM : S.S. SHINDE & P.R. BORA, JJ.

Dated: December 10, 2015

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ORAL JUDGMENT (S.S. SHINDE, J) :

Heard.

2. Rule. Rule made returnable forthwith. By consent of the parties, heard finally.

3. This Petition is filed with following prayers :-

“B. By appropriate writ, order or direction, in the nature of writ of certiorari, this Hon'ble Court may please to quash and set aside the impugned orders dated 21.08.2015 (Exh.E) issued by Respondent No.6.

C. By appropriate writ, order or direction, this Hon'ble Court may please to direct the respondent nos. 1 to 5, to compel the respondent no.6 management to implement the pay scale of Rs.5200-20200 including AGP Rs. 2700/-, HRA 20% and DA 105% from 01.01.2006 as per the recommendations made by 6th Pay Commission in favour of petitioners.

D. By appropriate writ, order or direction, this Hon'ble Court may please to direct the respondents No.1 to 5, to see that, the pay scale suggested by the 6th Pay Commission as applied by the State Government is being implemented by respondent no.6 management with effect from 01.01.2006 along with arrears of salary

and other benefits to the petitioners.”

4. The background facts for filing the Writ Petition are as under :

It is the case of the petitioners that, the petitioners are the permanent employees of respondent no.6 management and working on the post of 'Instructor' from the year 1984, 1986, 1992 and 1999 respectively. Without any notice, authority and powers, by the impugned order dated 21.08.2015, respondent management converted the services of petitioners from full time to part time in the pay scale of Rs.4500-125-7000 without any DA. It is the case of the petitioners that, in the impugned order it is vaguely stated that, as per the syllabus of University the services of the petitioners were rendered as part time. It is the case of the petitioners that, as per the staffing pattern adopted by all the recognized and affiliated institutions and Colleges, Respondent No.6 is required to appoint seven posts of work shop staff including Mechanist

Instructor, Turner, Fitter, Welder, Carpenter etc. and against this Respondent Management has appointed only four posts including the petitioners. Hence, the reason assigned by the Management is totally contrary to the staffing pattern. The respondent – management is also not paying the salary and other benefits as per the policy decision taken by the State Government, University Grants Commission, All India Council for Technical Education and University.

5. It is the case of the petitioners that, the respondent No.1 by Government Resolution dated 07.05.2010 has implemented the recommendations of 6th Pay Commission, thereby granted the benefits to non-teaching staff of recognized institutions and colleges from 01.01.2006. It is the case of the petitioners that, as per the directions given by the State Government, respondent nos. 2 to 5 directed all the recognized institutions and colleges to revise the pay scale, as suggested by the pay commission from

01.01.2006.

6. At the outset, the learned counsel appearing for the petitioners, on instructions, confines the Petition to prayer clause 'B'. He submits that, so far prayer clauses 'C' and 'D' are concerned, the petitioners will take appropriate remedy at the appropriate time, and for time being, petitioners are not pressing the relief claimed in prayer clauses 'C' and 'D'. Therefore, the adjudication of the present Petition is confined only to prayer clause 'B', leaving open the appropriate remedy as available in law to be availed at the appropriate time for redressal of grievance raised in the Petition and prayer clauses 'C' and 'D'.

7. We have considered the submissions advanced by the learned counsel appearing for the petitioners, the learned A.G.P. appearing for the Respondent/State and the learned Senior counsel appearing for the Respondent Nos. 6 and 7. With their

able assistance, we have perused the pleadings in the Petition, annexures thereto and affidavit in reply filed by Respondent Nos. 6 and 7.

8. Upon perusal of the documents placed on record, it appears that, firstly, the impugned order is passed without hearing the petitioners, in breach of principles of natural justice. The impugned order drastically affects on the service career of the petitioners, and therefore, in all fairness the said order could not have been passed in breach of principles of natural justice and secondly, it is not demonstrated before this Court by the Respondent Nos.6 and 7, how the said order is legally sustainable in law. Though the learned Senior counsel appearing for the Respondent Nos. 6 and 7 has submitted that, the alternate remedy of filing the appeal is available, the same cannot be construed as Bar to entertain the Writ Petition, when the impugned order is passed in breach of principles of natural justice. In that view of the matter, the Petition

deserves to be allowed.

9. The Petition is allowed in terms of prayer clause `B'. The impugned order dated 21.08.2015 (Exh-E) issued by Respondent No.6 is quashed and set aside.

10. Rule made absolute in terms of prayer clause `B'. The Petition stands disposed of accordingly.

Sd/-
(**P.R. BORA, J.**)

Sd/-
(**S.S. SHINDE, J.**)

SGA/-