

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

Writ Petition No. 812 of 2016

District : Dhule

1. Sarjerao s/o. Madhavrao Bhamare,
Age : 65 years,
Occupation : Retired,
R/o. 104/2, Shree Krupa
Suyog Nagar,
Wadibhokar Road, Deopur,
Dhule - 424 002.
2. Murlidhar s/o. Dinkar Patil,
Age : 65 years,
Occupation : Retired,
R/o. 93, Adarsh Colony,
Near Maruti Mandir, Deopur,
Dhule - 424 002.
3. Hiralal s/o. Zinga Patil,
Age : 63 years,
Occupation : Retired,
R/o. 38, Madhur Sadan
Rajendra Nagar, Deopur,
Dhule.
4. Vijay s/o. Baburao Salunkhe,
Age : 62 years,
Occupation : Retired,
R/o. 7, Chatrapati Shivaji
Hsg. Soc., Tulasiramnagar,
Deopur, Dhule - 424 002.
5. Dilip s/o. Pandit Patil,
Age : 64 years,
Occupation : Retired,
R/o. 10B, Rajendranagar,
Near Kirti Apartment,
Gondur Road, Deopur,
Dhule.

6. Madhukar s/o. Mukundrao Pawar,
Age : 62 years,
Occupation : Service,
R/o. 105, Shaskiy Vasahat,
Deopur, Dhule - 424 002.
7. Hemchandra s/o. Kanhaiyalal
Mahajan,
Age : 59 years,
Occupation : Service,
R/o. 33, Gulmohar Colony,
Gondur Road, Deopur, Dhule.
8. Mrs. Sandhya Sanjay Patil,
Age : 50 years,
Occupation : Service,
R/o. 23, Aai, Tryambak Nagar,
Deopur, Dhule - 424 002.

versus

1. The State of Maharashtra,
Through its Principal Secretary,
Higher & Technical Education
Department, Mantralaya Annex,
Mumbai - 32.
2. The Director of Higher Education,
Maharashtra State,
Central Building, Pune,
District : Pune.
3. The Joint Director of Higher
Education,
1st Floor,
Maharashtra Jeevan Pradhikaran
Building, Jalgaon,
District : Jalgaon.
4. S.S.V.P.'s L.K. P.R. Ghogrey
Science College, Deopur,
Dhule, District : Dhule,
Through its Principal.

.. Respondents.

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Mr. P.A. Pisal, Advocate, for the petitioners.

*Mr. V.S. Badakh, Asst. Government Pleader, for
respondent nos.1 to 3.*

Mr. D.R. Shelke, Advocate, for respondent no.4.

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With

Writ Petition No. 961 of 2016

District : Ahmednagar

Dr. Dattatraya s/o. Manohar Gujarathi,
Age : 56 years,
Occupation : Service,
R/o. 3, Orange Corner,
College Road, Sangamner,
District : Ahmednagar 422 605.

.. Petitioner.

versus

1. The State of Maharashtra,
Through its Principal Secretary,
Higher & Technical Education
Department, Mantralaya Annex,
Mumbai - 32.
2. The Director of Higher Education,
Maharashtra State,
Central Building, Pune,
District : Pune.
3. The Joint Director of Higher
Education,
Department of Higher Education,
17, Dr. Ambedkar Road, Pune,
District : Pune.
4. Sangamner Nagarpalika Arts,
D.J. Malpani Commerce &

B.N. Sarada Science College,
Sangamner, Dist. : Ahmednagar,
Through its Principal.

.. Respondents.

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Mr. P.A. Pisal, Advocate, for the petitioner.

*Mr. V.S. Badakh, Asst. Government Pleader, for
respondent nos.1 to 3.*

Respondent no.4 served (Absent).

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With

Writ Petition No. 962 of 2016

District : Ahmednagar

1. Baban s/o. Raghunath Adik,
Age : 61 years,
Occupation : Service,
R/o. "Shashideep", Ward No.1,
A/P/T Shrirampur,
Dist. Ahmednagar - 413709.
2. Gorakh s/o. Haribhau Barhate,
Age : 58 years,
Occupation : Service,
R/o. Opp. Dr. Bhalgat Hospital,
District Bank Colony,
Block No.1, Ward No.7,
Shrirampur, Tal. : Shrirampur,
District : Ahmednagar - 413 709.
3. Shirish s/o. Nana Gawali,
Age : 55 years,
Occupation : Service,
R/o. Near Patel High School,
Purnwadnagar, Ward No.7,
Shrirampur, Tal. : Shrirampur,
Dist. Ahmednagar - 413 709.

.. Petitioners.

versus

1. The State of Maharashtra,
Through its Principal Secretary,
Higher & Technical Education
Department, Mantralaya Annex,
Mumbai - 32.
2. The Director of Higher Education,
Maharashtra State,
Central Building, Pune,
District : Pune.
3. The Joint Director of Higher
Education,
Department of Higher Education,
17, Dr. Ambedkar Road, Pune,
District : Pune.
4. C.D. Jain College of Commerce,
Shrirampur, Tal. : Shrirampur,
Dist. : Ahmednagar - 413 709,
Through its Principal. .. Respondents.

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Mr. P.A. Pisal, Advocate, for the petitioners.

*Mr. V.S. Badakh, Asst. Government Pleader, for
respondent nos.1 to 3.*

Mr. V.D. Sapkal, Advocate, for respondent no.4.

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With

Writ Petition No. 979 of 2016

District : Ahmednagar

1. Suhas s/o. Dhondiba Avhad,
Age : 51 years,
Occupation : Service,

R/o. "Dnyandeep", Goldencity,
Akole Bypass Road, Sangamner,
Dist. : Ahmednagar.

2. Mohan s/o. Babanrao Waman,
Age : 51 years,
Occupation : Service,
R/o. Ratangad Bungalow,
Opp. Sangamner College,
Sangamner,
District : Ahmednagar.
3. Kamal d/o. Rangnath Dhakane,
Age : 50 years,
Occupation : Service,
R/o. "Dnyandeep", Goldencity,
Akole Bypass Road, Sangamner,
District : Ahmednagar.
4. Shobha d/o. Sakharam Borhade,
Age : 50 years,
Occupation : Service,
R/o. "Nilrohit", Saishradhanagar,
Behind 132 KV, Sangamner,
Dist. : Ahmednagar.
5. Lata w/o. Keshav Deshmukh,
Age : 59 years,
Occupation : Service,
R/o. Principal Bungalow,
Sangamner College, Sangamner,
Dist. : Ahmednagar.

.. Petitioners.

versus

1. The State of Maharashtra,
Through its Principal Secretary,
Higher & Technical Education
Department, Mantralaya Annex,
Mumbai - 32.
2. The Director of Higher Education,
Maharashtra State,
Central Building, Pune,
District : Pune.

3. The Joint Director of Higher Education,
Department of Higher Education,
17, Dr. Ambedkar Road, Pune,
District : Pune.

4. Sahakar Maharshi Bhausaheb Santuji
Thorat College of Arts, Science
& Commerce, Sangamner,
Dist. : Ahmednagar,
Through its Principal.

.. Respondents.

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Mr. P.A. Pisal, Advocate, for the petitioners.

*Mr. V.S. Badakh, Asst. Government Pleader, for
respondent nos.1 to 3.*

Respondent no.4 served (Absent).

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**CORAM : S.S. SHINDE &
SANGITRAO S.PATIL, JJ.**

**Date of reserving
the judgment : 29th March 2016**

**Date of reserving
the judgment : 7th April 2016**

JUDGMENT (Per Sangitrao S. Patil, J.):

1. Common questions of law and facts are involved in the present petitions. Hence they are being decided by this common judgment.

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

3. Petitioner nos.1 to 5 in W.P. No. 812/2016 (since retired) were working as the Associate Professors while rest of the petitioners are presently working as Associate Professors with the respondent - Colleges. They have claimed benefit of Note 6, Appendix I of the Government Resolution dated 12th August 2009, which reads as under :-

"Note 6 - In case where a senior teacher promoted to a higher post before the 1st day of January 2006 draws less pay in the revised pay structure than his junior who is promoted to the higher post on or after the 1st day of January 2006, the pay in the pay band of such senior teacher should be stepped up to an amount equal to the pay in pay band as fixed for his junior in that higher post. The stepping up should be done with effect from the date of promotion of the junior teacher subject to the fulfillment of the following conditions :-

(i) both the junior and the senior teacher should belong to the same cadre and the posts in which they have been promoted should be identical in the same cadre.

(ii) the pre-revised scale of pay and revised Pay Band and Academic Grade Pay of the lower and higher posts in which they are entitled to draw pay should be

identical.

(iii) the senior teacher at the time of promotion should have been drawing equal or more pay than the junior.

(iv) the anomaly should be directly as a result of the application of the provision of these rules or any other rules or order regulating pay fixation on such promotion in the revised pay structure. "

4. The learned Counsel for the petitioners submit that the provisions of Note No.6 are squarely applicable to the cases of the petitioners. The juniors of the petitioners are getting more pay than that of the petitioners only because the juniors obtained Ph.D. degrees after 1st January 2006. This anomaly has to be removed by stepping up the pay of the petitioners to make them equivalent to the pay of their juniors and the petitioners should be paid arrears of pay with interest at the rate of Rs. 18 % per annum. The learned Counsel for the petitioners further submit that the similar issue has been decided by the Division Bench of this Court in the case of **Sudamrao Keshawrao Aher & others Vs. The State of Maharashtra & others, 2014(1) ALL MR 697** and the persons similarly situated with the present petitioners have been given benefit of Note 6 of the Government Resolution dated 12th August 2009, for stepping up of their pay with their juniors. The said judgment has been confirmed by the Hon'ble Supreme Court in

Petitions for Special Leave to Appeal (C) Nos.15053-15056/2015 vide order dated 17-11-2015. As such, the said issue is no more *res integra*. Therefore, they claim that the petitioners should be granted the same relief by allowing the Writ Petitions.

5. Respondent no.3 filed affidavit in reply in W.P. No. 812 of 2016 for himself and on behalf of respondent nos.1 and 2 to oppose the claims of the petitioners.

6. The learned Asst. Government Pleader appearing for respondent nos.1 to 3 could not controvert the contentions of the petitioners that consequent upon implementation of the VI Pay Commission recommendations, the persons who are junior to the petitioners are getting more pay than that of the petitioners and that the petitioners are entitled to get their respective pay stepped up. He further could not show that the judgment in the case of **Sudamrao Keshawrao Aher** (supra) is not applicable to the facts of the present petitions.

7. We considered the facts of the present petitions, arguments of the learned Counsel for the petitioners and that of the learned Asst. Government Pleader, the documents produced on record and the judgment in the case of **Sudamrao Keshawrao Aher** (supra). We are satisfied that the ratio laid down

in the case of **Sudamrao Keshawrao Aher** (supra) is fully applicable to the facts of the present petitions.

8. In the above circumstances, we do not find any impediment in accepting the claim of the petitioners for stepping up of their respective pay to bring them at par with the pay of their juniors fixed as per the recommendations of the VI Pay Commission with effect from 1st January 2006.

9. In the result, the Petitions are allowed.

We direct the respondents to compute the amount payable to the petitioners towards pay / pension in accordance with the judgment and order passed by this Court in the case of **Sudamrao Keshawrao Aher & others Vs. The State of Maharashtra & others** (supra) and release the said amount to them, as expeditiously as possible and preferably within a period of six months from today.

10. Rule is accordingly made absolute in the aforesaid terms. However, parties are left to bear their own costs.

(SANGITRAO S. PATIL)
JUDGE

(S.S. SHINDE)
JUDGE

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