

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

WRIT PETITION NO. 4090 OF 2016

Dr. Narra Hari Babu,
age 54 years, occ. Service,
R/o Shirpur, Taluka
and District Dhule ...Petitioner

VERSUS

- 1] The State of Maharashtra,
through its Principal Secretary,
Higher & Technical Education
Department, Mantralaya, Mumbai,
- 2] The Director of Higher Education,
Maharashtra State, Central
Building, Pune, District Pune,
- 3] The Joint Director of Higher
Education, Department of
Higher Education,
District Jalgaon ...Respondents

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Shri D.S.Bagul, advocate for petitioner
Shri P.N.Kutti, A.G.P. for respondents/State

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

**DATE OF RESERVING
THE JUDGMENT : 14.6.2016
DATE OF PRONOUNCING
THE JUDGMENT : 20.6.2016**

JUDGMENT (Per Santigrao S.Patil, J.)

Rule. Rule made returnable forthwith.
With the consent of the learned counsel for the parties, heard finally.

2] The petitioner is serving as a Lecturer in S.P.D.M. Arts, S.B.B. and S.H.D. Commerce, and S.M.A. Science College, Shirpur, District Dhule since 5th September, 1988. He acquired Ph.D. qualification on 12th August, 1988. One Dr.C.M.Pawara, who is the junior most Lecturer, joined the service in the said College on 8th October, 1990. He acquired Ph.D. on 13th May, 2008. After implementation of the recommendations of the VI Pay Commission the basic pay of the petitioner came to be fixed at Rs.44,230/-, while that of Dr.C.M.Pawara at Rs. 46,310/-, though he is junior to the petitioner. According to the petitioner this amounts to discrimination as prohibited under Article 14 of the Constitution of India. He, therefore, filed the present petition

for getting his pay stepped up to the extent of the pay of his junior Dr.C.M.Pawara in view of Note 6 Appendix I of the Government Resolution, dated 12th August, 2009.

3] The learned counsel for the petitioner submits that in view of the judgment in the case of **Sudamrao Keshawrao Aher & others vs The State of Maharashtra and others (2014 (1) All MR 697)**, wherein the same controversy has been set at rest, the petitioner is entitled to get his pay stepped up to bring it at par with that of his junior Dr.C.M.Pawara.

4] The learned A.G.P. opposed the petition. However, he could not show anything to controvert the claim of the petitioner.

5] Note 6, Appendix I of the Government Resolution dated 12th August, 2009 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 highest 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."

6] We considered the facts of the present petition and appreciated the arguments of the learned counsel for the petitioner and that of the learned Assistant Government Pleader with reference to Note 6 Appendix I above, and the principles laid down 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 petition.

7] In the above circumstances, we do not find any impediment in accepting the claim of the petitioner for stepping up of his pay to bring it at par with the pay of his junior fixed as per the

recommendations of the VI Pay Commission with effect from 1st September, 2008.

8] In the result, the petition is allowed. We direct the respondents to step up the salary of the petitioner to bring it at par with that of Dr. C.M.Pawara, refix the pay of the petitioner accordingly and pay arrears to him as expeditiously as possible and in any case within a period of three months from today in accordance with the judgment and order passed by this Court in the case of **Sudamrao Keshawrao Aher and others vs The State of Maharashtra and others** (supra).

9] Rule is accordingly made absolute in the aforesaid terms. The parties are left to bear their own costs.

(SANGITRAO S. PATIL)
JUDGE

(S.S.SHINDE)
JUDGE