

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

WRIT PETITION NO.6365 OF 2013

Rustum s/o. Abaji Kale,
Age 61 Yrs. Occu. Pensioner,
R/o. Shankar Nagar
Near Shivaji College, Parbhani
Tq. & Dist. Parbhani **PETITIONER**

VERSUS

- 1] The State of Maharashtra,
Through Secretary,
Agriculture, Animal Husbandry,
Milk Development and Fisheries
Department, Mantralaya, Mumbai
- 2] The Registrar,
Marathwada Agricultural University
Parbhani, Dist. Parbhani
- 3] The Associate Dean
College of Veterinary and Animal
Science, Parbhani
Tq. & Dist. Parbhani
- 4] Registrar
Maharashtra Veterinary and Fisheries
Science University, Seminary Hill
Nagpur
- 5] The State of Maharashtra
Through Principal Secretary
Animal Husbandry, Dairy Development
& Fisheries Dept.,
Mantralaya, Mumbai-32
[Resp.No.5 added as per Court's
Order dtd.01.02.2016] **RESPONDENTS**

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Mr.M.P.Kale, Advocate for the Petitioner
Mr.S.B.Yawalkar, AGP for Respondent No.1
Mr.M.N.Navandar, Advocate for Respondent No.2
Mr.P.G.Rodge, Advocate for Respondent No.3.
Respondent No.4 – served.

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WITH

WRIT PETITION NO.6377 OF 2013

Sattayya s/o. Yankayya Parre,
Age 61 Yrs. Occu. Retired
R/o. Sai Corner, Marathwada
Plot, Parbhani,
Tq. & Dist. Parbhani

PETITIONER**VERSUS**

- 1] The State of Maharashtra,
Through Secretary,
Agriculture, Animal Husbandry,
Milk Development and Fisheries
Department, Mantralaya, Mumbai
- 2] The Registrar,
Marathwada Agricultural University
Parbhani, Dist. Parbhani
- 3] The Associate Dean
College of Veterinary and Animal
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Science University, Seminary Hill
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5] The State of Maharashtra
Through Principal Secretary
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Mr.P.G.Rodge, Advocate for Respondent No.3.
Respondent No.4 – served.

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

Reserved on : 13.06.2016
Pronounced on : 17.06.2016

JUDGMENT: [Per S.S.Shinde, J.]:

These Writ Petitions are filed,
seeking directions to the respondents
particularly respondent Nos.3 and 4 to extend
the benefits of time bound pay scale w.e.f.
2005 as per Rule 11 (1) A of the Maharashtra
Civil Service [Pay] Rule, 1981 and as per the
Government Resolutions dated 21.09.1999 and
29.04.2000 in favour of the petitioners.

2] The learned counsel appearing for the petitioners submits that the petitioners have worked continuously with concerned respondent nos. 2 and 4, from the year 1973 up to their retirement in the year 2009. Therefore, they are entitled to the benefit of the scheme of time bound pay scale. It is submitted that the petitioners, after completion of their 12 years service in the year 1987 were entitled for promotional pay scale. However, the said benefit was not extended to the petitioners. After continuous persuasion, respondent no. 2 on 24th August, 1993, issued an order of promotion, appointing the petitioners as Agriculture Assistants in the pay scale of Rs.1200-30-1440/-. It is submitted that respondent no.2 promoted some of the similarly situated candidates like the petitioners on next promotional pay scale of Rs.5000-150-8000/-. It is submitted that,

the State Government issued various Resolutions wherein the provision to extend the benefit of time bound pay scale started since the year 1995 onwards for the Class-III and Class-IV employees. The first Resolution issued by the State Government was on 8th June, 1995, followed by the Government Resolutions dated 20th March, 1997, 20th July, 2001, 10th September, 2007, 10th November, 2008, 1st April, 2010 and 5th July, 2010. Keeping in view provisions in the said Government Resolutions, respondents ought to have granted benefit to the petitioners.

3] In pursuance of the notices issued to the respondents, respondent nos. 3 and 4 have filed affidavits-in-reply in both the Petitions. It is stated in the said affidavits-in-reply that the petitioners had already availed the benefits of the Pay of the Promotional posts two times i.e. firstly in the year 1993, as regular promotion to the

post of Agricultural Assistant and thereafter, secondly the benefit of time bound pay scale of the promotional post in the year 2001 as per Government Resolution dated 3rd August, 2001, and therefore, the petitioners are not again entitled to get the benefits of time bound pay scale of higher post as per Government Resolution dated 21.09.1999. Further the Government Resolutions referred to by the petitioners are pertaining to giving benefits of "*Assured Career Progression Scheme*" ['ACP' for short] are not applicable to the cases of the petitioners.

4] The learned AGP appearing for the respondent – State tenders across the Bar a letter written by the Department of Agriculture, Animal Husbandry and Dairy Development to the Assistant Government Pleader and submits that, *ACP* is not made applicable for the employees who have

rendered or rendering the services in respondent No.4 University.

5] We have given careful consideration to the submissions of the learned counsel appearing for the petitioners, the learned AGP appearing for the respondent – State, and the learned counsel appearing for the respective respondents. With their able assistance, we have carefully perused the replies filed by the respondents and also other documents placed on record. There was no scheme introduced by the Government of Maharashtra prior to the Year 1995 so as to extend the benefits to those employees who were serving in respondent nos.2 and 4 Universities at the relevant time, on completion of 12 years service period. It is for the first time that, the Government of Maharashtra, by issuing Resolution in the Year 1995, introduced the scheme to extend the benefit of time bound pay scale to the

employees in whose case there is no post available for actual promotion of the said employee. Therefore, such benefit would not have been extended in case of the petitioner prior to the year 1995. Both the petitioners have been promoted to the post of Agricultural Assistant, and therefore, they have received the benefit of the promotional post. Thereafter as stated in the affidavit-in-reply filed by respondent nos. 3 and 4, the benefit was extended for the 2nd time in the year 2001, as per the Government Resolution dated 3rd August, 2001, and the pay scale of the petitioners was revised. Their pay scale as Agriculture Assistant was Rs. 4000-6000/- and thereafter in the year 2001, after revision it was fixed in the pay scale of Rs.4500-7000/-.

6] As rightly contended by the learned AGP appearing for the respondent – State that ACP is not made applicable to the employees,

rendering the services in respondent no.4 University. Therefore, the reliefs prayed by the petitioners cannot be granted. Hence, Petitions stands rejected. No costs.

Sd/-
[**SANGITRAO S.PATIL**]
JUDGE

Sd/-
[**S.S.SHINDE**]
JUDGE