

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

**WRIT PETITION NO.9260 OF 2015**

Dr. Maqdoom Mohiuddin s/o Mohd Afzaluddin  
Age - 57 years, Occu.: Service as Asso.  
Professor in Baliram Patil College, Kinwat,  
R/o : Idgah Raod, Gokunda,  
Tq. Kinwat, Dist. Nanded.

**.. PETITIONER**

**Versus**

1. The State of Maharashtra,  
Through the Secretary,  
Higher & Technical Education Department,  
Maharashtra State, Mantralaya,  
Mumbai - 32.
2. The Director of Higher Education,  
Maharashtra State,  
Central Building,  
Pune – 410 001.
3. The Joint Director,  
Higher Education, Nanded Region,  
Govt. Polytechnic College area,  
Nanded – 431 602.
4. The Secretary,  
University Grants Commission,  
Bahadur Shah Jafar Marg,  
New Delhi – 110 002.
5. The Registrar,  
Swami Ramanand Teerth  
Marathwada University, Nanded.
6. The Principal,  
Baliram Patil College, Kinwat,  
Tq. Kinwat, Dist. Nanded.

**.. RESPONDENTS**

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Mr. Sunil B Jadhav, Advocate for Petitioners;  
Mr. A.G.Magre , AGP for State;  
Mr. Alok Sharma Advocate for Respondent No.4;  
Mr. V.P.Latange, Advocate for Respondent No.5;  
Mr.Sanjay N.Gaikwad, Advocate for Respondent No.6 (absent)

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

**DATED : 03<sup>rd</sup> February, 2016.**

**JUDGMENT (PER:-P.R.BORA,J.)**

1) Heard. Rule. Rule made returnable forthwith. With the consent of learned Counsel for the parties the petition is heard finally.

2) The issue raised in the present petition is no more res integra in view of the judgment delivered by the Division Bench of this court in the case of Sudamrao Keshavrao Aher & Ors. Vs. The State of Maharashtra and Ors. - 2014(1) ALL MR 697.

3) It is not in dispute that, the petitioner was appointed as a Lecturer in respondent No.6 college vide appointment order dated 01.08.1990. It is further not in dispute that, while entering into the services, the petitioner was holding Ph.D. degree. It is further not in dispute that, one Dr.K.G.Karamunge who was also appointed as a Lecturer in respondent No.6 College with effect

from 01.08.1990, acquired the degree of Ph.D on 01.07.2007, whereas another Dr. A.T.Kamble was appointed as a Lecturer in respondent No.6 College with effect from 01.08.1991, and he secured the Ph.D. Degree on 23.12.2008. Thus, the petitioner, Dr. K.G.Karamunge and Dr. A.T. Kamble all are serving in respondent No.6 College in same cadre . However, since Dr. Karamunge and Dr. Kamle acquired the Ph.D. degree after 1<sup>st</sup> of January, 2006, both are provided additional increments, and resultantly were placed in the higher pay scale than the petitioner. In the circumstances, the petitioner has prayed for stepping up his salary at par with Dr. Karamunge and Dr. Kamble who are admittedly juniors to him .

4) The Petitioner has relied upon the Government Resolution dated 12.08.2009, note 6 of which provides that, in case where the senior teacher promoted to a higher post before the 1<sup>st</sup> 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 1<sup>st</sup> 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. In the present petition also, it is apparent that the incentives were given to the petitioner as also to his juniors, but in the process, the juniors are getting a substantial sum more every month than

the petitioner. This anomaly has occurred for the reason that, the teachers junior to the petitioner who have been awarded Ph.D. Degree after 01<sup>st</sup> January, 2006 are made entitled to three non compoundable increments, whereas the petitioner who acquired Ph.D. degrees before 1<sup>st</sup> January 2006, were extended only two increments.

5) The controversy as has been raised in the present petition, has been dealt with by the Division Bench of this Court in the matter of Sudamrao Keshawrao Aher & Ors. (cited supra). In para 15 of the said judgment, the Division Bench has observed thus:

“15. In present matter, according to us, the incentives while implementing 6<sup>th</sup> Pay Commission for Ph.D. cannot be so given so as to give a junior teacher more pay than the senior who is otherwise equally qualified. Rather he has more experience and is senior even in the acquisition of the Ph.D. Degree. All things given to be the same at a given point of time, junior teacher could not be getting more salary than the senior only because the junior has just acquired the Ph.D. Degree. The Constitution has goal under Article 39(d) that there should be equal pay for equal work. If the arguments as raised on behalf of the Respondents are accepted, the same would amount to discriminating to teachers only on the basis of junior teacher having acquired Ph.D. Degree recently under new Pay Commission. This would be

violative of the principles as enunciated in Article 16 of the Constitution and such position cannot be allowed to be maintained. It is different when one person is having higher qualifications. However, it would be discriminatory when both are having similar qualifications and a person not only senior in service but also equally qualified is so discriminated so as to be put in disadvantageous position as if it was a fault to have acquired Ph.D. Degree earlier.

6) In view of the observations made and the conclusions drawn by the Division Bench of this Court as above, the present petition deserves to be allowed. Accordingly, we direct the respondents to step up the salary of the petitioner at par with Dr. Karamunge and Dr. Kamble and compute the salary arrears payable to the petitioner in accordance with the judgment and order passed by the Division Bench of this Court in the case of Sudamrao Keshawrao & Ors. (cited supra) and release the said amount to the petitioner, as expeditiously as possible, and preferably within a period of six months from today.

7) Rule is accordingly made absolute in the aforesaid terms with no order as to costs.

**(P.R.BORA)**  
**JUDGE**

**(S.S.SHINDE)**  
**JUDGE**

SPR