

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.11816/2015

Shaikh Imran Shaikh Usman & others.

..Petitioners..

Versus

Marathwada College of Education & others.

..Respondents..

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Shri S.V.Dixit, Advocate for the Petitioners.

Shri A.N.Kakade, Advocate for Respondent Nos.1 & 2.

Shri M.A.Deshmukh Advocate h/f Shri S.G.Chapalgaonkar,
Advocate for Respondent No.3.

Ms.R.P.Gour, AGP for Respondent No.4.

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**CORAM: S.V. GANGAPURWALA &
K.L. WADANE, JJ.**

DATE: 15.11.2016

ORDER :

1] The learned counsel for the petitioners submits that the petitioners are appointed with the respondent no.1 – institution by following due procedure of law. However, they are not paid salary as per the Sixth Pay Commission. The petitioners had approached the Grievance Committee. The Grievance Committee had passed the order in favour of the petitioners. The same was accepted by the Management

Council also. Earlier also, the petitioners had filed writ petition seeking payment of salary as per the Sixth Pay Commission. The respondent no.1 in the said writ petition filed an affidavit thereby categorically stating that they have started paying the salary to the petitioners as per Sixth Pay Commission from 1.8.2013. In the affidavit, they also stated that the management has also agreed to pay the arrears of Sixth Pay Commission to the petitioners. The learned counsel submits that though such an affidavit has been filed, the said affidavit has not been abided by the respondents. The same was in respect of the petitioner no.1, so also in respect of the petitioner no.2, the same stand was taken.

2] Mr.Kakade, the learned counsel for the respondent no.1, on instructions submits that the salaries are paid and no amount is due and payable to the petitioners in respect of the salary.

3] It is not disputed that all these petitioners had approached the Grievance Committee with a grievance that they are not being paid salary as per the Sixth Pay Commission. The Grievance Committee accepted the

grievance of the petitioners and held that the petitioners are entitled for the salary as per the Sixth Pay Commission. The same was referred to the Management Council. The Management Council has also accepted the same. The respondent no.1 has not assailed the order passed by the Grievance Committee and the Management Council. It would transpire that earlier also, the writ petitions were filed by the petitioner nos.1 and 2 in which the respondent no.1 has filed an affidavit thereby clearly accepting its liability to pay the arrears of salary to the petitioners as per the Sixth Pay Commission. Paragraph no.3 of the said affidavit reads as under:-

"3] The deponent submits that, the Management has also started to pay the salary to the petitioner as per 6th Pay Commission as an Associate Professor from 1st August 2013. The Management has also agreed to pay the arrears of 6th Pay Commission to the petitioner."

4] Considering the said affidavit in reply filed in respect of the petitioner nos.1 & 2 and the orders of the Grievance Committee, having been accepted by the respondent no.1, there is no impediment to hold that the

respondent nos.1 & 2 are bound to pay the salary to the petitioners as per the Sixth Pay Commission alongwith its arrears.

5] The respondent nos.1 & 2 shall pay the salary to the petitioners as admissible as per the Sixth Pay Commission to the petitioners regularly so also the arrears. The arrears shall be paid within a period of six months from today. However, the regular salary as per the Sixth Pay Commission shall be paid regularly. The writ petition is accordingly disposed of. No costs.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)