

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.4304 OF 2016

[Dr. (Mrs.) Kalpana Sharad Jadhav and others .vs. The State of Maharashtra and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri B.G. Kulkarni, Advocate for the petitioners,
Smt. G.R. Tiwari, AGP for respondent nos.1 to 3,
Shri A.S. Agrawal, Advocate h/f Shri P.B. Patil, Advocate for respondent no.4.

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CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATED : DECEMBER 15, 2016.

The only prayer made by the petitioners in the instant petition is for a direction against the respondent nos.1 and 4 to release the unpaid salary of the petitioners, within a time frame.

Shri Kulkarni, the learned counsel for the petitioners states that the respondent nos.1 and 4 have not released the salary payable to the petitioners from the date of their joining the services, but has released the same from the date on which their pay fixation was approved. It is stated that the respondents cannot be permitted to withhold the salary of the petitioners for long.

Smt. Tiwari, the learned Assistant Government Pleader appearing on behalf of the respondent nos.1 to 3 states on instructions that the claim of the petitioners for the unpaid salary is not disputed. It is stated that the claim of the petitioners is forwarded to the office of Directorate of Higher Education and since there is no budgetary provision made for the salary that is liable to be released in favour of the petitioners, the salary could not be released, till date.

We do not find any justification in the action on the part

of the respondent nos.1 and 4 of not releasing the unpaid salary to the petitioners. The respondent nos.1 and 4 could not have withheld the salary of the petitioners from August-2013 to March-2014. The salary ought to have been released in favour of the petitioners as soon as the pay fixation was made. Since the services of the petitioners are approved, it was necessary for the respondent nos.1 and 4 to release the salary at least within a short time after April-2014. The respondent nos.1 and 4 cannot be permitted to deprive the petitioners of their unpaid salary only because there is no provision in the budget for paying the same to the petitioners. It was necessary for the respondent nos.1 and 4 to make a provision in the budget in respect of payment of salary to the petitioners.

Hence, for the reasons aforesaid, the writ petition is allowed. The respondent nos.1 and 4 are directed to release the arrears of salary payable to the petitioners within two months. Order accordingly. No costs.

JUDGE

JUDGE