

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3774 OF 2017

Dr. Ugalal Pandit Shinde & Ors.Petitioners
V/s.
The State of Maharashtra & Ors.Respondents

WITH
WRIT PETITION (ST) NO.17261 OF 2017

Dr. Sanjeevan Jagannath Kharat ...Petitioner.
V/s.
The State of Maharashtra & Ors. ...Respondents.

WITH
WRIT PETITION (ST) NO.13415 OF 2017

Dr. Eknath Shrawan Pagar & Ors. ...Petitioners.
V/s.
The State of Maharashtra & Ors. ...Respondents.

WITH
WRIT PETITION (ST) NO.21865 OF 2017

Dr. Uddhav A. Ashturkar ...Petitioner
V/s.
The State of Maharashtra & Ors. ...Respondents.

Mr. Pritesh K. Bohade, Advocate for Petitioners.
Mr. C.P.Yadav, AGP for the Respondent Nos.1 to 3-State.

**CORAM :- B.R.GAVAI &
SANDEEP K. SHINDE, JJ.**

DATE :- 9TH NOVEMBER, 2017.

P.C. :-

1] Rule. Rule is made returnable forthwith. Respondents waive service. Heard, by consent of parties.

2] The issue involved in these Petitions is no more *res integra*. Division Bench of this Court (Bench at Aurangabad) in Writ Petition No.10283 of 2012 alongwith companion Writ Petition, vide judgment and order dated 21/11/2013, considered the question with regard to anomaly in pay structure of the employees, on account of teachers junior to the Petitioners therein having been awarded Ph.D. Degree, after 01/01/2006. The Court considered the anomalous situation, since the Petitioners who were awarded Ph.D. Degree were entitled to three non-compoundable increments, whereas the teachers who had acquired Ph.D. Degree prior to 01/01/2006 were entitled to only two increments of Rs 420/- each, totaling to Rs 840/-. As against this, teachers in the first category, were entitled to increase in salary by almost Rs 9,000/- per month.

3] After considering the law laid down on the issue by the Apex Court, Division Bench of this Court (Bench at Aurangabad) in its order dated 21/11/2017 passed in Writ Petition No.10283 of 2012 alongwith companion Writ Petition, has observed in para 16 as under:-

“16. For the above reasons both the Petitions need to be allowed with directions that Respondents shall take necessary action to step up the pay of the Petitioners in both the Petitions so as to be at par with juniors where all the things given are same and shall not

discriminate only because the junior teacher has acquired Ph.D. Degree in the course of 6th Pay Commission. The salaries of the Petitioners in both the Petitions may be re-fixed and arrears be paid within a period of THREE MONTHS. For Petitioners who have already retired, the pension shall be re-fixed accordingly.”

4] The judgment of Division Bench was carried to the Hon'ble Supreme Court by way of SLP Nos 15053-15056/2015. Vide order dated 17/11/2015 SLPs have been dismissed.

5] We therefore find that in view of the judgment of Division Bench of this Court (Bench at Aurangabad) and dismissal of SLPs of the State, Petitioners are also entitled to the same benefit as per the judgment of Aurangabad Bench of this Court.

6] In that view of the matter, Rule is made absolute in the following terms:-

(i) Petitioners, through their respective colleges, shall submit a proposal for pay-scale in accordance with the Judgment of Division Bench of this Court (Bench at Aurangabad) dated 21/11/2013 passed in Writ Petition No.10283 of 2012 alongwith companion Writ Petition and for arrears, within a period of two months from today.

(ii) On receipt of such proposal, the competent authority i.e. Respondent No.3 shall make payment to the Petitioners of arrears within a period of three months from the date of receipt of the proposal.

(iii) In so far as the teachers who are retired are concerned, their pension would be re-determined on the basis of calculation of salary as directed hereinabove within a period of one month from today.

(SANDEEP K. SHINDE, J)

(B.R.GAVAI, J)