IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5236 OF 2014

1. Sudhakar Namdeo Gaikwad
Age: 52 years, Occu: Service

2. Sudhir Bapu Kulkarni
Age : 58 years, Occu: Service

3. Nana Janardhan Pandhare
Age : 59 years, Occu: Retired

4. Shivaji Shankarrao Kamble,
Age : 59 years, Occu: Retired

5. Kashinath Sakharam Arke
Age : 58 years, Occu: Service

6. Gajanan Girdhari Bedre
Age : 54 years, Occu: Service

7. Prabhakar Sakharampant Ratnaparkhi
Age : 55 years, Occu: Service

8. Kailas Sonaji Pujari
Age : 56 years, Occu: Service

9. Nandlal Shantilal Jain
Age : 54 years, Occu: Service

10 Ramakant Gangadharrao Patil
Age : 54 years, Occu: Service

11. Sudhir Dattatraya Kulkarni
Age : 53 years, Occu: Service

12. Pravin Sudhakarrao Kulkarni
Age : 47 years, Occu: Service

13. Raosaheb Sheshrao Walunje
Age : 62 years, Occu: Retired

14. Santu Pandurang Gadekar
Age : 50 years, Occu: Service

15. Bhagwan Shankarrao Dawange
Age : 59 years, Occu: Retired

16. Shankar Rukhamnrao Kathole
Age : 55 years, Occu: Service

17. Dilip Balkrishna Saraf
Age : 52 years, Occu: Service

18. Suhas Uttamrao Lungare
Age : 51 years, Occu: Service

19. Vishnu Tukaram Bhalerao
Age : 52 years, Occu: Service

20. Mohd. Ismail Moinuddin
Age : 52 years, Occu: Service

21. Satish Dattatraya Deshmukh
Age : 54 years, Occu: Service

22. Mohd. Gaziuddin Mohd. Zamiruddin
Age : 55 years, Occu: Service

23. Vivekanand Chidambar Deshpande
Age : 52 years, Occu: Service

24. Arvind Gopinath Pawar
Age : 51 years, Occu: Service

25. Machindra Kashinath Pawar
Age : 51 years, Occu: Service

26. Prakash Hanumantrao Kulkarni
Age : 55 years, Occu: Service

27. Dhanraj Tanbaji Garmade
Age : 59 years, Occu: Retired

28. Vaijnath Madhavrao Suryakar
Age : 54 years, Occu: Service

29. Sakharam Hiroji Adivarekar
Age : 57 years, Occu: Service

30. Projveer Singh
Age : 56 years, Occu: Service

31. Sunil Malharrao Deshpande
Age : 51 years, Occu: Service

32. Gopal Ambadas Murlidhar
Age : 57 years, Occu: Service

33. Ramchandra Shenphad Pise
Age : 55 years, Occu: Service

34. Shrirang Damodhar Ralegaonkar
Age : 50 years, Occu: Service

35. Subhash Suryabhan Shahane
Age : 48 years, Occu: Service

36. Mukund Ramchandra Lale
Age : 54 years, Occu: Service

37. Vikas Ramakant Hadolikar
Age : 54 years, Occu: Service

38. Keshavrao Sampat Rakade
Age : 44 years, Occu: Service

39. Ramchandra Balabhau Salunke
Age : 46 years, Occu: Service

40. Balvan Soranlal Dulguch
Age : 55 years, Occu: Service

41. Sudam Namdeo Perherkar
Age : 56 years, Occu: Service

42. Tekchand Sandu Dube
Age : 55 years, Occu: Service

43. Asaram Tulsiram Mote
Age : 51 years, Occu: Service

44. Chandmiya Bholusha Shah
Age : 58 years, Occu: Service

45. Bhimrao Vishwanath Kondke
Age : 52 years, Occu: Service

46. Ramhari Kaduba Phalke
Age : 56 years, Occu: Service

47. Shamrao Yadav Gaikwad
Age : 57 years, Occu: Service

48. Sahebrao Namdeo Manohar
Age : 56 years, Occu: Service

49. Namdeo Genu Wale
Age : 59 years, Occu: Retired

50. Ganpat Waman Bankar
Age : 50 years, Occu: Service

51. Vishvas Pandit Mhaske
Age : 59 years, Occu: Retired

52. Ashok Baburao Borde
Age : 57 years, Occu: Service

53 Subhashchandra Bhalchandra Dashrath
Age : 56 years, Occu: Service

54. Prakash Rambhau Kharabe
Age : 46 years, Occu: Service

55. Shrikant Shrinivasrao Mudhalwadkar
Age : 52 years, Occu: Service

56. Arun Natthuji Ingle
Age : 59 years, Occu: Retired

57. Rajendra Ambadasrao Baviskar
Age : 54 years, Occu: Service

58. Suresh Laxman Pale
Age : 54 years, Occu: Service

59. Japrakash Jairam Pagare
Age : 53 years, Occu: Service

60. Laxman Haribhau Ingale
Age : 58 years, Occu: Service

61. Devidas Ukandrao Manware
Age : 64 years, Occu: Retired

All Walmi, Paithan Road,
Kanchanwadi, Aurangabad,
Dist. Aurangabad. .... Petitioners.

Versus

1. The State of Maharashtra
Through its Chief Secretary,
Mantralaya, Mumbai -32.

2. The Principal Secretary,
Water Resources Department,
Government of Maharashtra
Manatralaya, Mumbai.

3. The Principal Secretary,
Finance Department,
Government of Maharashtra,
Mantralaya Mumbai.

4. Water and Land Management Institute
Kanchanwadi, Aurangabad,
Through its Director General. ....Respondents.

WITH

WRIT PETITION NO.8149 OF 2013

1. Uttam S/o Bhujangrao Kakade
Age: 51 years, Occu: Service
R/o. C-3 Vision City Opp: Walmi Gate
Kanchanwadi, Paithan Road,
Aurangabad.

2. Bhagwan S/o. Dhondiram Gaikwad
Age: 51 years, Occ: Services,
R/o Vitkheda, Paithan Road, Aurangabad.

3. Bhaskar Bhujangrao Khedkar,
Age: 55 years, Occ: Service,
R/o. Prograssive Housing Society
N-9, M-2 Sector, Aurangabad.

4. Ganesh S/o. Limbaji Wagh,
Age : 54 years, Occ: Service,
R/o. Tridal Apartment, B-2,
Narlibag, Aurangabad.

5. Appa Bajirao Khadke,
Age : 50 years, Occ: Service,
R/o Vithkheda, Paithan Road,
Aurangabad. .... Petitioners.

Versus

1. The State of Maharashtra
Through the Secretary,
Irrigation Department,
Mantralaya, Mumbai.

2. The Secretary,
Finance Department,
Manatralaya, Mumbai.

3. The Director General,
Water and Land Management Institute
Post Box No.504, Kanchanwadi,
Aurangabad. ....Respondents.

WITH

WRIT PETITION NO.748 OF 2014

1. Bhagwan S/o Trimbak Kale
Age: 58 years, Occu: Service (now retired)
R/o. House No..4-1117 C-11 Puspha Prasad,
Behind Big Bazar, Bhanudas Nagar,
Aurangabad.

2. Kiran S/o. Dattopant Halde
Age : 58 years, Occu: Service (now retired)
R/o. Plot No.24, Dwarka, Garage Line,
Behind Big Bazar, Bhanudas Nagar,
Aurangabad.

3. Rama S/o. Giridhari Chavan
Age : 58 years, Occ; Service (now retired)
R/o. House No.30, Gevrai,
Taluka: Aurangabad, District: Aurangabad.

4. Smt. Mandakini W/o Shivram Dusane
Age : 59 years, Occ: Service (now retired)
R/o. Yogiraj Sankul, Flat No.5,
Plot No.18, Ashook Nagar Arched Parisar,
Aurangabad.

5. Prakash S/o. Gangaram Wankhede
Age : 58 years, Occ: Service (now retired)
R/o. Samtanagar, near Walmi, Kanchanwadi,
Paithan Road, Taluka and Dist: Aurangabad.

6. Arunkumar S/o Kishanrao Bhanag
Age: 58 years, Occ: Service (now retired)
R/o. Sadkrupa Housing Society,
Plot No.37, Cidco, N-8,(b),
Aurangabad. .... Petitioners.

Versus

1. The State of Maharashtra
Through the Secretary,
Irrigation Department,
Mantralaya, Mumbai.

2. The Secretary,
Finance Department,
Manatralaya, Mumbai.

3. The Director General,
Water and Land Management Institute
Post Box No.504, Kanchanwadi,
Aurangabad. ....Respondents.

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Mr. Pradeep Deshmukh, Advocate h/f Mr. Y.P. Deshmukh & Mr. S.S. Kulthe, Advocates for the Petitioners in WP/5236/2017.
Mr. A.D. Sugdare, Advocate for the Petitioners in WP/8149/2013 & WP/748/2014.

Mr. S.B. Joshi, AGP for Respondent Nos.1 to 3 in //2014 & for Respondent Nos.1 & 2 in WP/8149/2013 & WP/748/2014.
Mr. R.L. Chintalwar, Advocate for Respondent No.4 in WP/5236/2014 and for Respondent No.3 in WP/8149/2013 & WP/748/2014.

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CORAM : R.M.BORDE &
SMT. VIBHA KANKANWADI, JJ.

Reserved on : 12.12.2017.
Pronounced on : 20.07.2018.

JUDGMENT (Per: R.M Borde, J)

1. Heard.

2. Rule. With the consent of the parties, petition is taken up for final disposal at admission stage.

3. The petitioners are either the employees or retired employees of Water and Land Management Instituted (for short, "WALMI") Aurangabad. The petitioners are aggrieved by the decision of the respondent-State Government of refusing to extend pensionary benefits to the retired employees of the WALMI communicated on 05.03.2013. The petitioners are thus seeking directions to respondent nos. 1 to 4 to grant monthly pension as provided under Maharashtra Civil Services (Pension) Rules, 1982. The petitioners are also claiming disbursement of

arrears of pensions along with 12% interest thereon. The WALMI is a society wholly controlled by the State Government registered under the Societies Registration Act, 1860. It is not a matter of controversy that all the first members of the Governing Council of WALMI were government employees. As per the regulations, the members of the Governing Council shall be Secretary to the Government of Maharashtra, Irrigation Department and Secretary to the Government of Maharashtra, Planning Department. The funds and properties of the society and the entire management vest in the Governing Council. The finances required for WALMI are provided by the Government. The main objects for which the Society has been formed are :

(a) With a view to promoting advancement of science and acquisition of scientific knowledge to provide instructions and training in all branches of science both theoretical and applied and in particular in Water Management and Land Development for Irrigation and agriculture.

(b) To establish an institution for imparting instructions and training and conducting research in Water Management and Land Development for irrigation and agriculture.

(c) To prescribe courses for instruction and training in Water Management and Land Development for irrigation and agriculture and hold examinations and grant certificates, diplomas etc.

(d) To seek affiliation of the said institute with Universities and other appropriate academic bodies both in India and abroad and to obtain recognition of the said courses conducted at the said institute and for the said examinations conducted by the Institute and diplomas, certificates, etc., granted by the Institute .

(e) To provide consultancy service to the Government Local Bodies and other organisations in water management and land development for irrigation and agriculture.

(f) To undertake research and conduct experiments in various aspects of water management and land development and to collaborate with other similar organisations for research and development.

(g) To send within the country and abroad for specialised training in Water Management and Land Development for irrigation and agriculture person including members of staff of the said Institute and bear and pay the costs of such training.

(h) To start, conduct, print, publish and exhibit any magazines, periodicals, newspapers, books, pamphlets or posters that may be considered desirable for the promotion of the objects of the Society.

(i) To invest and deal with the funds of the Society.

(j) To make rules and bye-laws for the conduct of the affairs of the society and Institute and from time to time add, to amend, vary or rescind them.

(k) Make donations to such persons or institutions whether of cash or any other assets, as may be, that are directly or indirectly conducive to any of the Socieity's objects, or otherwise expedient and in particular, to remunerate any person or corporations introducing, or assisting the Society.

(i) establish and support or aid the establishment of, and support associations, institutions, societies, funds, trusts and conveniences for the benefit of the employees of ex-employees or persons having connections of such person and in particular friendly or other benefit of societies and to grant pension, allowances, gratuities, either by way of annual payments, or by way of lump sum and to make payments towards insurance to form and contribute to provident and benefit funds to or for such persons.

(m) Generally to do and execute all such other acts, matters and things as are incidental or conductive to or necessary for attainment of the above objects or any of them.

4. There are Rules framed namely; WALMI Establishment Rules, 1980 providing for the benefits of travelling allowance, daily allowance, medical reimbursement, house rent allowance, etc. Rules, however, do not provide for the pension, provident fund and gratuity. The State Government has issued a Resolution on 16.06.1993 laying down norms for proper utilisation of grant in aid extended to WALMI by the State Government. It is recorded in

the preamble of the Resolution that, "the institute right from its inception being paid funds by the Irrigation Department to meet training needs of the Department". The Resolution prescribes certain conditions in respect of grant in aid. The Governing Council of WALMI, in its meeting dated 13.08.1997, adopted a Resolution extending benefits of pension under Maharashtra Civil Services (Pension) Rules, 1982 with effect from 01.10.1995. The Resolution have been forwarded with favourable recommendations to the State Government for further action. The association of the employees persuaded the matter with the Government. The Director General of WALMI addressed a letter on 12.10.2000 to the Principal Secretary of the Irrigation Department who was also the President of WALMI at the relevant time emphasizing the need to extend the pensionary benefits to the employees of WALMI. While concurring with the decision of the Governing Council to extend pensionary benefits to the employees of WALMI, the Director General in his communication has recorded following positive factors:

(i) The society have been established under the Government Resolution.

(ii) The management of the society is governed by the members of the Governing Council who are the employees of the State Government.

(iii) The society receives 100% grant in aid from the State Government and the employees are paid salary out of the consolidated fund of the State Government.

(iv) The audit of the society is conducted under Section 14 of The Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971.

(v) The regulations framed by the State Government in respect of recruitment, leave and gratuity as framed by the State Government have been adopted by WALMI.

(vi) The employees are extended benefits in respect of revision of pay scale in the year 1986 and 1996 adopted by the State have been extended to the employees of WALMI.

(vii) The employees of WALMI have also been extended the benefit of 5th pay Commission recommendations.

(viii) The employees of WALMI are being paid travelling allowance, city compensatory allowance, house rent in accordance with the rates prescribed by the State Government.

(ix) The age of retirement of the lecturers and employees is 58 years as in case of the government employees.

(x) The employees are governed by the Leave Rules, 1982 prescribed for the State Employees so also the policy in respect of pay fixation, time bound promotion scale, reservation policy for the backward class category is being followed as in case of the Government Department.

(xi) The primary function and the activities conducted in WALMI are educational in character.

(xii) The State Government has extended the benefits of pension to the employees in educational field including Universities and Agricultural Universities.

(xiii) The pension scheme is also made applicable to non government aided institutions.

Considering these aspects, WALMI, which primarily performs educational functions, the employees of WALMI also need to be extended the benefits. The Director General has recommended implementation of extension of pension scheme to the employees of WALMI uniformly. Since no decision was taken by the State Government, some of the employees of WALMI approached this Court by presenting Writ Petition No.1507/2012, which was disposed of by this Court on 12.09.2012 by issuing directions to the State to take decision on the proposal tendered by WALMI, as expeditiously as possible and preferably within a period of six months from the date of order. The State Government, however, did not approve the proposal tendered by WALMI and communicated its decision of rejection by letter dated 05.03.2013. According to State Government, the policy decision has already been taken by the Government, not to make pension scheme applicable to the Corporations and aided institutions under the State in 1998 itself and as such the request of WALMI to make pension scheme applicable to its employees cannot be accepted.

5. The petitioners contended that considering the G.R. dated 17.03.2006, it would be clear that WALMI is treated as a Government autonomous institution. The State Government made available 294 posts on regular establishment and 168 posts on converted temporary establishment. Keeping in view of the fact that, as a result of retirement, resignation or for other reason, if the posts become vacant, those are automatically abolished and in order to avoid the same, a staffing pattern of 175 posts of temporary establishment has been finalised and those posts are to be included in the total 45297 posts available and sanctioned for the Irrigation Department. Thus, the posts meant for WALMI are in fact the posts on the establishment of the Water Resources Department of Government of Maharashtra. It is contended that the WALMI is a part of establishment of Water Resources Department for all purposes and as such the

employees functioning with WALMI cannot be extended a differential treatment in the matter of payment of pensionary benefits, which would be clearly discriminatory and violative of the Article 14 of the Constitution of India. It is further contended by the petitioner that the State Government has taken a decision to extend the pensionary benefits to the employees functioning in non-agricultural as well as agricultural universities. Since the posts created on the establishment of WALMI are computed amongst the total posts prescribed for the Water Recourses Department and since WALMI is wholly controlled society formed by the State Government for education and training purposes, the employees of WALMI shall have to be extended uniform treatment as in case of government employees. The petitioners contend that the decision taken by the State Government to make applicable defined contributory pension scheme to the employees appointed after 08.11.2005 shall have no bearing in the case of petitioners since they have been appointed much prior to the decision and some of the petitioners have even retired on attaining age of superannuation.

6. An affidavit in reply has been presented by Smt. Yogita Joshi, Assistant Professor, Training Planning Monitory Cell,

WALMI on behalf of respondent nos. 1 to 3, controverting the contentions raised in the petitions. It is admitted that WALMI is fully aided by the Government of Maharashtra, it's main objectives is to impart training to Engineers and the Farmers of the Maharashtra State and to provide expert advice to the Water Resources Department, Government of Maharashtra regarding irrigation management. The WALMI though is an autonomous body, it receives 100% grand from Water Resources Department, Government of Maharashtra since 1993. Its functions are governed by the Governing Council. The President of the said Governing Council is Secretary (Water Resources Department) and the Member Secretary of the Governing Council is the Director General of the institute, who is also at the rank of Secretary to the Government of Maharashtra. Since the institute receives 100% grant, for implementing the financial decisions of the Governing Council approval of the Government of Maharashtra is necessary. It is also the contention of the petitioner that the institute has adopted the Maharashtra Civil Services Rules in respect of pension and medical reimbursement, is admitted by the respondent. Further the policy decision dated 08.11.2005 adopted by the Government does not become applicable to the instant case. According to respondent, the defined contributory pension scheme have been adopted by the State Government vide G.R. dated 31.10.2005 in case of Sate employees. However, the employees of the institute or the Corporations are not entitled to get benefits of Maharashtra Civil Services Rules (Pension), 1982. It is further admitted in paragraph 5 that, in case of employees of WALMI, the Employees Provident Fund Scheme is applicable. The contributory share of WALMI as well as its employee's is deposited every month under E.P.F. Scheme and after retirement, the employees of WALMI are entitled to get total amount with interest. It is further stated that the employees of WALMI are not employees of the State Government and as such the benefit of pension is not extendable. It is admitted that in the year 2007, the Committee of Maharashtra Legislative Assembly recommended to send fresh proposal for extending pensionary benefits in favour of WALMI employees as provided under Maharashtra Civil Services (Pension) Rules, 1982. However, the State Government has taken a policy decision not to extend the benefits, as such the recommendation of the Committee of Maharashtra Legislative Assembly has not been given effect. According to respondents, the State has already communicated its decision on 05.03.2013 that as per the policy decision of the year 1998 adopted by the

State, the Corporations and other government aided institutes are not covered by the Maharashtra Civil Services (Pension) Rules, 1982. The respondents thus, pray for dismissal of the petition.

7. It is not a matter of controversy that the primary functions of WALMI are educational. The purpose of establishing the institute is to impart training to Engineers and Farmers of the Maharashtra State and to provide expert advice to the Water Resources Department, Government of Maharashtra relating irrigation management. It is also not a matter of dispute that the institute receives 100% grant from the Water Resources Department, Government of Maharashtra since 1993. The posts created on the establishment are computed amongst the sanctioned posts of the Water Resources Department. The control in respect of the management and the governance rest with high ranking officers, i.e. Secretaries of the Government Department. The Regulations applicable to the government employees relating to disciplinary matters and as regards drawal of allowances like medical allowance, leave travel allowance, regulations relating to grant of leave so also regulations relating to disciplinary matters are uniform as in case of government

employees. In a nutshell, Maharashtra Civil Services Rules are applicable to the government employees except the matters relating to pension, provident fund and gratuity are applicable to the employees of WALMI. It is also not a matter of controversy that the employees of WALMI have been extended the benefit of time bound promotional scale as in case of government employees. The employees of WALMI have also received the benefit of wage pay scale revision made applicable to the government employees. It is thus clear that for all practicable purposes, the employees of WALMI are treated on par with the government employees. The salary and allowances payable to the employees of WALMI are being paid out of the consolidated fund of the State. In this view of the matter, there does not appear to be logic in extending discriminatory treatment and treating the employees of WALMI to be different for granting pensionary benefits. The decision of the State Government clearly appears to be discriminatory in refusing to extend the pensionary benefits to the employees of WALMI. Even on consideration of aspects of sharing financial burden also there does not appear to be any logic in refusing to extend the benefit.

8. In a affidavit presented on behalf of WALMI by the

Administrative Officer Sau. Nidhi Gajbe, it is informed that the amount deposited by the WALMI with the E.P.F. office till October, 2017 including interest is Rs.12.35 Crores, the revenue receipts of WALMI till October, 2017 was 62 lacks. Thirdly, the fix deposits of WALMI in different Banks and the revenue is Rs.14.21 Crorers. Thus, the total amount goes to 27.18 Crores. The amount available with WALMI and deposited with E.P.F. towards the employee's contribution itself is sufficient to meet the financial liability of the pensionary benefit to employees. There does not appear to be any reasonable basis for the respondent-State to refuse to extend the benefit of pension to the retired employees of WALMI. The contention of the respondent that the benefit of the defined contributory pension scheme to the employees also cannot be made applicable to the petitioners and similarly situated employees appointed prior to 2005.

9. In this context, the decision rendered by the Division Bench of this Court (Nagpur Bench) in the matter *of* ***Vidarbha Ayruved Mahavidyalaya Vs. State of Maharashtra and others*** (Writ Petition No.5771/2011 along with other companion matters decided on 10.06.2013) squarely applies to the instant matters.

10. In the matter of ***Dr. Hari Shankar Vaidhya Vs. State of Maharashtra*** (Writ Petition No.3508/1992along with other companion matters decided on 14.06.1996), the High Court directed extension of pensionary benefits to the teachers working in Ayurvedic, Unani and Homeopathic private aided educational institutions. Though the High Court directed to extend all benefits, the Supreme Court while considering the appeal presented by the State of Maharashtra, considering the huge financial outlay involved in extending the benefits, issued directions to the State to consider extension of benefit of pension and gratuity scheme to the teachers working in Ayurvedic, Unani and Homeopathic aided educational institutions in a phased manner as was done in respect of other aided institutions.

11. In a petition presented by one ***Dr. Suresh Shrikrishna Naik Vs. Karmveer Hire Rural Institute and others (2000(2) All M.R.94)*** a grievance was made by a lecturer in institute of social work functioning in Karamveer Hire Rural Institute of denying him the retiring benefits such as gratuity, pension etc.

claiming it to be a discriminatory treatment, the employee claimed parity in terms of other teachers as per the G.R. dated 21.07.1983. The High Court took cognizance of grievance and granted relief in favour of the aforesaid petitioner. The State Government, however, preferred a Special Leave Petition to the Supreme Court. The judgment of the Apex Court in the Matter of ***State of Maharashtra Vs. Dr. Hari Shankar Vaidhya*** is placed before us. It is observed by the Apex Court while dealing with the issue in paragraph 6, as under:

> "6. The petitioner claims retirement benefits on parity with the teaching and non-teaching staff of non-Government aided Arts, Science, Commerce and Education Colleges and non-Agricultural Universities in the State to whom pension-cum-gratuity scheme and other retirement benefits have been extended by the State Government side Resolution dated 21-7- 1983. His grievance is that when such benefits are granted to teaching and non-teaching staff of the Colleges under the Department of Education and Cultural Affairs, there is no reason or justification to deny such benefits to the teaching and non-teaching staff of the Institutes/Colleges under the Social Welfare Department. The Institutes/Colleges under the Social Welfare Department as well as the Colleges under the Department of Education and Cultural Affairs are affiliated to the same Universities,

viz., Shivaji University and Pune University and all norms of the University Grants Commission are equally applicable to the Colleges under the Department of Education and Cultural Affairs as well as Social Welfare Department. In the facts and circumstances, there is considerable merit in the grievances of the petitioner. The only difference is the Department of the Government under which the Institutes fall in which the petitioner and others are working. In a welfare State, the Government is bound to look after the interest of all the employees similarly situated alike without any discrimination whatsoever."

12. In the matter of ***Vidarbha Ayruved Mahavidyalaya Vs. State of Maharashtra and others*** (supra), the Apex Court noted positive mandate of High Court while modifying directions in respect of extension of benefit of pension and gratuity scheme to the teachers working in Ayurvedic, Unani and Homeopathic aided institutions in a phased manner, as was done in respect of other aided institutions, proceeded to direct the State Government to prescribe the date for extending the pensionary benefits and issued the directions to release pensionary benefits from the date of presentation of the petition.

13. In the matter of ***Government of Andhra Pradesh Vs. Subbarayudu (2008) 14 SCC 702***, the Supreme Court has observed that the cut-off date is fixed by the executive authority keeping in view the economic conditions, financial constraints and many other administrative and other attending circumstances. This Court is also of the view that fixing cut-off dates is within the domain of the executive authority and the court should not normally interfere with the fixation of cut-off date by the executive authority unless such order appears to be on the face of it blatantly discriminatory and arbitrary.

14. A reference can also be made to the decision of the Supreme Court in the matter of ***State of Maharashtra Vs. Manubhai Pragii Vashi*** reported in ***AIR 1996 page 1***, wherein benefit of grant in aid and pension is extended to employees/teachers of private law colleges. As has been recorded above, the State Government has already taken a decision to extend the pensionary benefits to the employees of the non-governmental aided educational institutions. The decision of the High Court and Supreme Court extending pensionary benefits in favour of teachers and employees function

in Ayurvedic, Unani and Homeopathic medical colleges also need to be considered for extending such benefits to employees of WALMI. The Supreme Court in the matter of ***Manubhai Pragii Vashi*** 's case has directed extension of benefit in favour of employees of law colleges. In the instant matters, WALMI institute essentially performs educational and research activities. The society receives 100% grant from the State Government and the service conditions of employees are regulated by Maharashtra Civil Services Rules. The employees have been time to time extended the benefits of wage pay scale revision on par with the government employees. The policy in respect of fixation of time bound pay scale is also being extended to the employees of WALMI. The employees are being paid out of the consolidated fund of the State Government. In view of the reasons as aforesaid, the employees of WALMI cannot be permitted to be extended a differential treatment by the State Government. The denial of pensionary benefits to the employees of WALMI would be discriminatory and violative of the principle of equality guaranteed under Article 14 of the Constitution of India.

15. For the reasons aforesaid, the Writ Petitions deserve to be allowed and the same are accordingly allowed. The impugned

decision of the State Government refusing to extend the benefits to the employees of the WALMI communicated on 05.03.2013, is quashed and the respondents are directed to extend pensionary benefits to the employees of WALMI. The arrears of pension shall be paid to the retired employees as expeditiously as possible, preferably within four months from today. The pensionary benefits to the retired employees shall be extended from the date of presentation of the first petition i.e. 06.05.2013.

16. Rule is made absolute in the above terms. There shall be no order as to costs.

(SMT. VIBHA KANKANWADI, J.) **(R.M.BORDE, J)**

SPR