

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

WRIT PETITION NO. 9848 OF 2017

Prof. Dr. Prakash S/o. Namdeo Patil
Age : 57 years, Occu. Associate Professor,
R/o. C/o. Arts & Commerce College,
Bodwad, Tq. & Dist. Jalgaon. ... Petitioner

VERSUS

1. The State of Maharashtra,
Through it's Principal Secretary,
Higher & Technical Education Department,
Mantralaya, Annexe, Mumbai.
2. The Director of Higher Education,
Maharashtra State, Central Building,
Pune, Dist. Pune.
3. The Joint Director of Higher Education,
1st Floor, Maharashtra Jeevan Pradhikaran Bldg.,
Jalgaon, Dist. Jalgaon.
4. The North Maharashtra University,
P.B. No.80, Umavi Nagar, Jalgaon.
5. The Bodwad Sarvajanic Co-operative Education Society Ltd.,
Bodwad, Tq. Bodwad, Dist. Jalgaon.
Through its Secretary.
6. Arts, Commerce & Science College,
Bodwad, Tq. Bodwad, Dist. Jalgaon,
Through its Principal.

(Respondents No. 4 to 6 are deleted
as per court's order) ... Respondents

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Mr P. R. Patil, Advocate for the petitioner
Mrs M. A. Deshpande, AGP for respondent/State
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**CORAM : S. V. GANGAPURWALA &
A. M. DHAVALÉ, JJ.**

DATE : 30TH JANUARY, 2018.

ORAL JUDGMENT (PER S. V. GANGAPURWALA, J.) :-

1. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties and taken up for final disposal at admission stage.

2. The contention of the petitioner is that, junior to the petitioner is being paid more salary only on the count that the junior has completed his Ph.D. after enforcement of 6th Pay Commission. According to the petitioner, the petitioner has completed his Ph.D. on 01.02.2005. According to the learned counsel for the petitioner, a senior cannot be paid less than the junior. The learned counsel relies on the Government Resolution dt.12.08.2009.

3. Note 6 to Appendix I of Government Resolution dated 12.08.2009 reads as under : -

“Appendix I

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Note 6 – In case where a senior teacher promoted to a higher post before the 1st 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 1st 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. The stepping up should be done with effect from the date of promotion of the junior teacher subject to the fulfillment of the following conditions.

- (i) both the junior and the senior teacher should belong to the same cadre and the posts in which they have been promoted should be identical in the same cadre.
- (ii) the pre-revised scale of pay and revised Pay Band and Academic Grade Pay of the lower and higher posts in which they are entitled to draw pay should be identical.
- (iii) the senior teacher at the time of promotion should have been drawing equal or more pay than the junior.
- (iv) the anomaly should be directly as a result of the application of the provision of these rules or any other rules or order regulating pay fixation on such promotion in the revised pay structure.

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4. This Court in its order dated 18.10.2016 in Writ Petition No. 1027 of 2016 has also held that the discrimination cannot be made only on the ground that the junior teacher has acquired Ph.D. degree after implementation of 6th Pay Commission.

5. Considering the above, Rule is made absolute in terms of prayer clause 'A'. The arrears be paid to the petitioner expeditiously preferably within three months. No costs.

[A. M. DHAVAL]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

Punde