

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

907 WRIT PETITION NO. 1546 OF 2013

DEELIP VYANKATRAO PATIL AND ORS
VERSUS
THE STATE OF MAHARASHTRA AND ORS

Shri. U.R. Awatte, Advocate, for petitioners.

Shri. M.M. Nerlikar, Assistant Government Pleader, for
respondent Nos.1 to 3.

**Coram: T.V. NALAWADE &
SUNIL K. KOTWAL, JJ.**

Date: 27 APRIL 2018

ORDER:

1) The petition is filed under Articles 14, 16 and 226 of the Constitution of India for relief of directions to the respondents to see that higher pay scale viz. Rs.15,600-39,100 is given to the Junior Lecturers working in Junior Colleges in Maharashtra with effect from 1-1-1996. Direction is also claimed to see that after giving such scale, arrears are paid on the basis of the pay fixation to the Junior Lecturers. Further relief is also claimed by making amendments to declare clause 3 of Government Resolution dated 26-2-2014 deferring the

revision of pay scale to 1-4-2014 thereby denying the benefits of revised pay scales with effect from 1-1-1996 as null and *void ab initio* and *ultra vires* the Constitution of India. Both the sides are heard.

2) It is the contention of the petitioners, who are working in Junior Colleges of private institutions as Junior Lecturers that they cannot be treated as teachers working in secondary schools who are teaching students studying upto 12 Standard as minimum educational qualification required to work as Junior Lecturer is higher than what is required for working in secondary schools. It is contended that Master's Degree and B.Ed. with Second Class is the necessary qualification for working as Junior Lecturers but Graduate and B.Ed. is the necessary qualification for working on the posts of Assistant Teachers in Secondary Schools. It is contended that due to difference in qualifications mentioned for the two different posts, the posts of Junior Lecturers need to be given higher scale than the scale which is given to the Assistant Teachers who are working in secondary schools. It is contended that in the past there was such difference kept but in 6th

Pay Commission no separate and higher pay scale was given to Junior Lecturers. It is also contended that this policy is not consistent with Kothari Commission report in which advice is given to the Government for keeping such difference in the two scales. It is contended that separate and higher pay scale is given to the Lecturers working in Senior Colleges which is Rs.15,600 - 39,100 and that also indicates that the petitioners are entitled to get higher pay scale than the scale which the Assistant Teachers are getting for teaching the students upto 12th Standard.

3) Respondents have filed their reply affidavit to oppose the proceeding. It is contended by the respondents that already higher pay scale is provided in Government Resolution dated 26-2-2014 and three tier pay scale is made available to the teachers working in Junior Colleges, for 11 and 12 Standards.

4) Copy of Government Resolution dated 26-2-2014 is produced on the record. This Government Resolution shows that Government took decision to have three-tier pay scales for Junior Lecturers, teachers working in Junior Colleges. It also shows that the teachers

who were in service on 1-1-1996 and who had retired prior to 1-4-2014 were also entitled to get benefit of this Government Resolution and the pay was to be fixed as on 1-1-1996. The three tier scale given is as under :

- (1) Entry level - Rs.7225-225-11050.
- (2) Senior Grade - Rs.8000-275-13500.
- (3) Selection Grade - Rs.9125-275-14075.

5) In addition to that, learned Assistant Government Pleader has produced on record a comparative chart showing the difference between the pay scales which the secondary teachers are receiving and which the teachers working in Junior Colleges, higher secondary teachers are receiving. The comparative chart shows that though the secondary teachers were getting scale of Rs.9300 - 34,800 they were getting Grade Pay of Rs.4300 and after considering everything including House Rent Allowance and other allowances the secondary teachers were getting the gross salary of Rs.35,700. Similarly, the Junior College/Higher Secondary Teachers are getting scale of Rs.9300 - 34,800 but they are given Grade Pay of Rs.4600 and as per the fixation

rules the basic pay is fixed at Rs.12,540/- when the basic pay of secondary school is Rs.10,100/- Thus, the Grade Pay is different and the basic pay is also different. After adding all the allowances the gross salary of higher secondary teachers comes to Rs.43,279/-. Thus, there is difference of around Rs.7.5 thousand in the two scales.

6) The respondents have also contended that the petitioners are not entitled to compare their pay scales with the scales of Senior College Lecturers as the eligibility conditions for them are different and they are required to pass the tests conducted by UGC, CISR etc. and their appointments are made by other Department like Higher and Technical Education Department.

7) The aforesaid record and the submissions show that, already care has been taken to see that the teachers like present petitioners get higher scale than the teachers working in secondary schools. It needs to be kept in mind that it is a policy decision of the Government to keep a particular difference between scales of two categories of teachers if there is a difference in eligibility conditions.

What difference needs to be kept is again a policy decision and the Court is expected to go with presumption that after considering expert opinion in that regard the pay scales are fixed by the Government.

8) Learned counsel for the petitioners has placed reliance on the observations made by the Apex Court in the case reported as **1993 Suppl (1) SCC 153 (Secretary, Finance Department v. West Bengal Registration Service Association)**. Relevant observations are in paragraphs 15 and 16. The aforesaid ground is considered by the Apex Court. There cannot be any dispute over that proposition. In the present case such difference is already kept which is mentioned above. So, this Court holds that it is not possible to interfere in the aforesaid policy decision of the Government. The other aspect is covered by the recent Government Resolution, which is mentioned above. In any case this is again a policy decision of the Government and so interference on that point is also not permissible. In the result, the petition stands dismissed.

Sd/-
(SUNIL K. KOTWAL, J.)
rsl

Sd/-
(T.V. NALAWADE, J.)