

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.13892 OF 2018

Dr. Rajendra Damu Patil,
Age-54 years, Occu:Service,
R/o-166, Mangaldas Park, Navapur,
Tq-Navapur, Dist-Nandurbar.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through its Principal Secretary,
Higher & Technical Education
Department, Mantralaya, Mumbai,
- 2) The Director of Higher Education,
Maharashtra State, Central Building,
Pune, Dist-Pune,
- 3) The Joint Director of Higher Education,
Department of Higher Education,
Dr. Ambedkar Road, Pune, Dist-Pune,
- 4) Adiwasi Seva Sahayak Va
Shikshan Prasarak Sanstha Sanchlit
Shri Rangavdhook Commerce &
Shri C C Shah and M G Agrawal
Science College, Navapur,
Through its Principal

...RESPONDENTS

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Mr.D.S. Bagul Advocate for Petitioner.
Mr.S.B. Narwade, A.P.P. for Respondent
Nos.1 to 3.
Mr. L.S. Mahajan Advocate for Respondent No.4

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**CORAM: S.S. SHINDE AND
A.M. DHAVALA, JJ.**

DATE : 21ST DECEMBER, 2018

ORDER :

1. This Petition under Article 226 of the Constitution of India, has been filed with following substantive prayer:

"B) By way of an appropriate writ, order or direction in the like nature, the present respondent Nos.1 to 3 be directed to re-fix the pay of the petitioner at par with juniors by providing step up of pay and present respondents be directed to pay the arrears along with interest @ Rs.9% p.a. With effect from 1st July, 2006."

2. Learned counsel appearing for the Petitioner submits that one Mr. Deepchand P. Jaiswal, who is junior to the Petitioner is being paid more salary than the Petitioner only on the

count that junior to the Petitioner has completed his Ph.D. after enforcement of 6th Pay Commission. Learned counsel submits that the Petitioner has completed his Ph.D. In the year 2000 and another employee by name Deshpande has completed his Ph.D. In the year 2011, and a senior cannot be paid salary less than his junior. Learned counsel has referred to the comparative Statement placed on record at Page No.32 of the compilation of the Petition, which reads as under:

	Rajendra D Patil	Deepchand P. Jaiswal
Date of Birth	26.12.1964	24.02.1967
Date of Appointment	17.09.1990	11.08.1992
Educational Qualification	M.Sc. Ph.D.	M.Sc. Ph.D.
Date of Ph.D. Notification	16.03.2000	28.04.2011
Sr. Scale	17.09.1998	01.03.2001
Sel. Grade	17.09.2001	01.03.2004
Associate Professor	01.01.2006	01.03.2007
Pay as on 01.01.2006	37400 + 9000	23110 + 8000
Pay as on 28.04.2011	44820 + 9000	46310 + 9000

3. Learned counsel appearing for the Petitioner also relies on the Government Resolution dated 12th August, 2009, more particularly Note 6 to Appendix I and also on the Judgment of the Division Bench of this Court (CORAM:R.M. BORDE AND A.I.S. CHEEMA, JJ.) dated 21st November, 2013 in Writ Petition No.10283 of 2016 (Sudamrao Keshawrao Aher and others vs. The State of Maharashtra and others) and other connected Writ Petitions, so also Judgments in similar Writ Petitions.

4. Learned A.G.P. On going through the Judgment in Writ Petition No.10283 of 2012, affirms the fact that the Petitioner would be covered by the said Judgment.

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

" Appendix I

.....

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.

....."

6. In view of the reasons set out in the Judgment of Sudamrao Keshavrao Aher and others (cited supra), the present Petition also deserves to be allowed and the same is accordingly allowed. We direct the Respondents to step up the salary of the Petitioner at par with the similarly placed teacher junior to him, namely, Deepchand P. Jaiswal, and compute the salary and arrears payable to the Petitioner in accordance with the Judgment and order passed by the Division Bench of this Court in the aforesaid matter of Sudamrao Keshavrao Aher and others, (cited supra) and release the said amount to the Petitioner, as expeditiously as possible, and preferably, within

six months from the date of this order.

7. Rule is made absolute in above terms.
The Writ Petition is allowed and stands disposed
of, accordingly.

[A.M. DHAVALA, J.]

asb/DEC18

[S.S. SHINDE, J.]