

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

**WRIT PETITION NO. 14701 OF 2017**

Manjula Ashok Suralkar,  
Age: 62 Years, Occu.: Retired,  
R/o.: N-4, B-21, CIDCO,  
Aurangabad

.. **Petitioner**

**Versus**

1. The State of Maharashtra,  
Through it Secretary,  
Higher and Technical Department,  
Mantralaya, Mumbai – 400032
2. The Director,  
Directorate of Technical Education,  
3, Mahapalika Marg,  
Mumbai-400001
3. The Joint Director,  
Directorate of Technical Education,  
Regional Office, Osmanpura,  
Aurangabad-431001

.. **Respondents**

Mr. Kalyan V. Patil a/w. D. K. Ruparel, Advocates  
for the Petitioner.

Mr. V. S. Badakh, A.G.P. for Respondent Nos. 1 to  
3.

Mr. N. L. Jadhav, Advocate for Respondent No. 5.

**CORAM: S. V. GANGAPURWALA &**  
**S. M. GAVHANE, JJ.**

**DATE: 4<sup>th</sup> September, 2018**

**ORAL JUDGMENT** (*Per: S. V. Gangapurwala, J.*):

1. Rule. Rule returnable forthwith. With the consent of learned counsel for respective parties matter is taken up for final hearing.

2. The petitioner assails the order passed by the Tribunal rejecting his Original Application, so also, the letter dated 8<sup>th</sup> January, 2016 issued by the respondent no. 2 for recovery of the amount.

3. Mr. Patil, the learned counsel for the petitioner submits that the petitioner possesses M. Pharm. qualification. The petitioner at the time of retirement was working as a Lecturer. The petitioner was rightly given the increment as per the Government Resolution dated 20<sup>th</sup> August, 2010. At the time when the pension proposal was forwarded the objection was raised that one additional increment was erroneously granted. The learned counsel submits that the Tribunal only on the ground that the petitioner is challenging the recovery has passed the order, however, has not

considered that the increment was rightly granted and the recovery could not have been claimed by the respondent. The learned counsel also referred to the Corrigendum dated 13<sup>th</sup> October, 2016 and submits that even B. Pharm. qualification is stipulated for higher pay scale and AGP of Rs. 9,000/-

4. The learned A.G.P. submits that in the Government Resolution dated 20<sup>th</sup> August, 2010 M. Pharm. qualification is not stipulated. As M. Pharm. qualification is not stipulated, the petitioner is not entitled for the one additional increment. The same was wrongly given to the petitioner. In view of that recovery is rightly claimed.

5. We have considered the submission canvassed by the learned counsel for respective parties.

6. Under our order dated 22.02.2018, we had asked for the information from the respondent as to whether reference to the degrees of Ph.D./ M.

Tech. in the Government Resolution dated 20<sup>th</sup> August, 2010 are illustrative or otherwise. The affidavit is filed by the Administrative Officer serving in the office of the Joint Director of Technical Education, Regional Office, Aurangabad that reference to the degrees are illustrative. If the degrees are illustrative, then M.Pharm. is also a post-graduate degree and would be entitled for the same treatment as the post-graduate degrees of other streams.

7. It is not disputed that the petitioner has acquired the post-graduate qualification. The Government Resolution dated 20<sup>th</sup> August, 2010 is applicable for revision of pay scale of teachers and equivalent cadre in degree / diploma level technical education as per AICTE scheme in accordance with the recommendations of the Sixth Pay Commission. The Pharmacy course is governed under the AICTE. In view of that discrimination could not have been made.

8. The Corrigendum dated 13<sup>th</sup> October, 2016

dealing with the scheme of career advancement and the guidelines thereto has prescribed the pay scale. The Lecturer (Selection Grade) is entitled to the pay band of Rs. 37,400 - 67,000/- and AGP of Rs. 9,000/- on completion of three years. The petitioner was paid pay scale of Rs.37,400 - 67,000/- with AGP of Rs. 9,000/-. The same was in consonance with Corrigendum dated 13<sup>th</sup> October, 2016. In the light of that, the recovery could not have been claimed against the petitioner.

9. In the view of above, impugned communication dated 8<sup>th</sup> January, 2016 and the order of the Tribunal dated 25<sup>th</sup> September, 2017 are quashed and set aside. The amount deposited in this Court is allowed to be withdrawn by the petitioner.

10. Rule is made absolute in terms of prayer clauses 'A' and 'B'. Writ Petition is accordingly allowed. No costs.

**[S. M. GAVHANE, J.]**

**[S. V. GANGAPURWALA, J.]**

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