

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7273 OF 2018

Eknath S/o Sayaji Dhone
Age: 63 years, occu: retired
R/o At Post Galnimb, Tq. Shrirampur,
Dist. Ahmednagar

Petitioner

Versus

- 1 The State of Maharashtra,
through It's Principal Secretary,
Higher & Technical Education Department,
Mantralaya, Annex, Mumbai 431 032
- 2 The Director of Higher Education,
Maharashtra State,
Central Building, Pune, Dist. Pune
- 3 The Joint Director of Higher Education,
Department of Higher Education,
17, Dr. Ambedkar Road, Pune
Dist. Pune
- 4 R.B. N.B. College, Shrirampur,
Dist. Ahmednagar
through it's Principal

Respondents

WITH

WRIT PETITION NO.7275 OF 2018

Baburao S/o Dattatray Upadhye,
Age: 61 years, occupation: retired,
R/o Nirmik, 191, Indiranagar,
Shrirampur, Tq. Shrirampur,
Dist. Ahmednagar

Petitioner

Versus

- 1 The State of Maharashtra,
Through it's Principal Secretary,
Higher & Technical Education Department,
Mantralaya annex, Mumbai 431 032
- 2 The Director of Higher Education,
Maharashtra State,
Central Building, Pune, Dist. Pune
- 3 The Joint Director of Higher Education,

Department of Higher Education,
17, Dr. Ambedkar Road, Pune
Dist. Pune

4 R.B. N.B. College, Shrirampur,
Dist. Ahmednagar
through it's Principal

Respondents

...

Mr. P.A. Pisal, advocate for the petitioners
Mr. S.P.Tiwari & Mr. P.K. Lakhotiya, AGPs for the State

...

CORAM : **S. V. GANGAPURWALA**
& ARUN M. DHAVAL, JJ.

...

(Date: March 29, 2019)

ORAL JUDGMENT

(Per: S.V.Gangapurwala, J)

1 Heard.

2 Rule. Rule made returnable forthwith. With the consent of learned counsel for respective parties, matters are taken up for hearing.

3 The petitioner in Writ petition No.7273/2018 claims to have been appointed as Associate Professor on 29.1.1990 and awarded Ph.D. qualification on 7.8.2004. The petitioner in Writ petition No.7275 of 2018 claims to have been appointed as Associate Professor on 28.12.1989 and has acquired Ph.D. on 21.5.2002. According to the petitioners, one Mr. Babasaheb Dadabhau Varpe is junior to these petitioners and is appointed as Associate Professor on 1.7.1990. He had acquired Ph.D. qualification on 28.4.2014.

4 Only because Mr. Varpe acquired Ph.D. qualification after 1.1.2006, he is given better pay scale than the petitioners.

5 The issue involved in the present matters is no longer res-integra in view of the Judgment of this Court in case of ***Sudamrao Keshawrao Aher & others versus The State of Maharashtra & others*** pronounced on 21.11.2013 in Writ Petition No.10283 of 2012 (2014 (1) ALL MR 697) and the subsequent orders passed by this Court in Writ petition No.5857 of 2018 on 18.6.2018.

6 Mr. V.D. Sapkal, learned advocate for the institution, on verification of the facts submits that, Mr. Varpe is junior to the petitioners and is paid higher pay scale only because, he has acquired Ph.D. qualification after 1.1.2006.

7 Considering the above, It is held that the discrimination cannot be made only on the ground that the junior to the petitioners acquired Ph.D. qualification after implementation of 6th pay commission. The respondents shall, after satisfying about the petitioners being granted pay scale less than their Junior Mr. Varpe, step-up the pay scale of the petitioners, as that of their Junior Mr.Varpe. The same shall be done within a period of four months. Pursuant to the stepping-up of the pay scale, the monetary benefits shall follow.

8 Rule made absolute I above terms.

9 No costs.

10 In view of the above, civil application also stands disposed of.

(ARUN M. DHAVAL, J) (S. V. GANGAPURWALA, J)