

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.4194 OF 2017

(Dr. (Smt.) Pushpa Subhash Tayde and others Vs. State of Maharashtra thr. its
Secretary, Higher and Technical Education Department, Mumbai and others)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri B.G. Kulkarni, Advocate for Petitioners.
Shri B.M. Lonare, AGP for Respondent Nos.1 to 3.
Shri Arun Agrawal, Advocate for Respondent No.4.

CORAM: RAVINDRA V. GHUGE AND
S.M. MODAK, JJ.

DATE: 4th FEBRUARY, 2020.

1] On 08.10.2018, when this Court considered the submissions of the petitioner and the learned AGP, the following order was passed:-

Issue notice to the respondents for final disposal of the matter returnable on 03.12.2018.

The learned Assistant Government Pleader waives service of notice for respondent Nos. 1 to 3.

The pay-scale as per 6th Pay Commission were challenged with effect from 01.01.2016. Clause 5.1, Page No. 89 of the petition states that the posts of Principal in Under Graduate Colleges shall be in Pay Band of Rs. 37,400 – Rs. 67,000/- with AGP of Rs. 10,000/- plus a Special Allowances of Rs. 2,000/- per month and shall also be fixed at a stage not below Rs. 43,000/- as in the directly recruited Professors. It is urged that the petitioners are directly appointed and therefore, their salary

cannot be fixed below Rs. 43,000/-. However, this is not being implemented.

In view of above, the respondents are to file their affidavit stating therein that as to why Clause 5.1 is not implemented in respect of the petitioners.

2] We are informed by the learned Advocate for the petitioner and the learned Advocate appearing on behalf of the University Grants Commission, respondent no.4 that in a similar case in Writ Petition No.4641/2015, wherein this Court had passed an order on 10.06.2016 raising a ground as to, “*whether U.G.C. regulation dated 30.06.2010 and clarification dated 15.02.2011 are binding on the State Government?*”, this Court had directed the Joint Director, Education, to file an additional affidavit.

3] It is pointed out from the reply filed by the State Government in that Writ Petition No.4641/2015 stating therein that the Government has sought opinion of the U.G.C. by its communication dated 04.05.2016 and the State would then take a decision as regards the implementation of the pay band with minimum Rs.43,000/- payable to the post of a Principal.

4] Copy of the reply of the State Government dated 25.08.2016 in Writ Petition No.4641/2015 is taken on record and marked as “X-1” for identification. The copy of the letter dated 20.10.2017 issued by the Under Secretary, U.G.C. is marked as “X-2” for identification.

5] The learned Advocate for the U.G.C. submits that in the said petition, they had assured this Court that they

will decide the reference made by the State Government within three months. Thereafter, the U.G.C. issued a communication dated 20.10.2017 addressed to the Principal Secretary, Government of Maharashtra, Department of Higher and Technical Education and held that, “*so far as the pay of Principal in the pay of Rs.43000 + 10000 AGP is concerned, a copy of the MHRD letter dated 26.08.2010 is enclosed, which itself is clear and self-explanatory?*”

6] It is pointed out from page 92 Annexure-E that it is a communication from the Director, Department of Higher Education, Ministry of Human Resource Development, dated 26.08.2010 addressed to the Secretary, U.G.C. concluding in paragraph (i) as under:-

i) Allow Rs.43,000 as entry level pay in the Pay Band Rs.37400-67000 (PB-4) plus an academic grade pay of Rs.10,000 to directly recruited Principals of other Graduate and Post Graduate Colleges appointed on or after 1.1.2006. Principals of Under-Graduate Colleges will continue to draw Rs.2000 per month as Special Allowance and Principals of Post-Graduate Colleges will continue to draw Rs.3000 per month as Special Allowance attached to the posts of Principals, in terms of this Ministry's Letter No.1-32/2008-U.II/U.I.(i) dated 31.12.2008.

7] The learned Advocate appearing on behalf of the U.G.C. therefore, submits that this petition can be allowed in view of the above.

8] The learned AGP submits that he cannot argue against the record and this Court may grant three months

time to take a decision so as to implement the decision of the U.G.C. and extend the benefits to these petitioners.

9] Considering the above, this petition is allowed in terms of prayer clause (i) and (ii) which read as under:-

- i) *by a writ of mandamus or by a suitable writ, order or direction respondent Nos.1 to 3 the State of Maharashtra and others be directed to grant the benefit of minimum basic pay of Rs.43,000/- to the petitioners at the entry level from the date of appointment of petitioners as the Principals or as on 01.01.2006 as mentioned in the chart at Annexure-A in the Pay Band of Rs.37400-67000/- plus Grade Pay of Rs.10000/- as per the provisions of U.G.C. Notification dated 30.06.2010 (Annexure-D).*
- ii) *by a writ of mandamus or by a suitable writ, order or direction respondent Nos.1 to 3 the State of Maharashtra and others be directed to revise the pay fixation of the petitioner from the date of their appointment as Principal as mentioned in the Chart at Annexure-A or as on 01.01.2006 by granting benefit of minimum basic of Rs.43000/- at the entry level in the Pay Band of Rs.37400-67000/- plus Grade Pay of Rs.10000/- and to release and pay arrears thereof within a period of 3 months from the date of order.*

10] The State Government shall accordingly initiate steps to comply with the said decision within three months, and preferably on or before 15.04.2020.

(S.M. Modak, J.)

(Ravindra V. Ghuge, J.)