

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

**REVIEW APPLICATION (CIVIL) NO.238 OF 2017
IN
WRIT PETITION NO.8565 OF 2016**

**THE STATE OF MAHARASHTRA AND OTHERS
VERSUS
VIJAY RATANLAL NAGORI AND ANOTHER**

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AGP for the Applicants : Shri S.B. Yawalkar
Advocate for Respondent 1 : Shri S.S. Thombre
Advocate for Respondent 2 : Shri M.S. Karad

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**CORAM : RAVINDRA V. GHUGE
&
S.G. MEHARE, JJ.**

DATE :- 16th September, 2021

Per Court :-

1. By this Review Petition, the State is before us contending that the judgment delivered by this Court (Coram : R.M.Borde and Sangitrao S. Patil, JJ.) dated 18.11.2016 in Writ Petition No.8565/2016, was primarily based on the contention that the petitioner in the petition (Prof. Vijay Ratanlal Nagori) was senior to Dr.Mrs.A.S.Nathrekar. It was further contended that because she was junior to Dr.Nagori and was earning higher pay scale, Note-6 under Appendix I, which is an accompaniment to the Government Resolution dated 12.08.2009 pertaining to

revision of pay scale of teachers and equivalent cadres in higher education as per the UGC Scheme (6th pay commission) in the Universities, affiliated colleges, Government colleges, Institutes of Science, etc. providing stepping up of salary scale of seniors so as to match the higher salary scale of juniors, would become applicable.

2. While hearing this Review Petition, we had an occasion to peruse the extract of the service book of Dr.Nagori. He was appointed as a lecturer in the Commerce Faculty on 01.07.1991. Per contra, Dr.Mrs.Nathrekar was appointed as a lecturer on 01.09.1983. She had, therefore, been in service for almost 08 years ahead of Dr.Nagori and was naturally senior to him by 08 years and pay scale.

3. The issue is as to whether, Dr.Nathrekar acquired rise in pay on the basis of two increments additionally awarded to her since she acquired her Ph.D. on 11.04.2007 or on account of being promoted to the post of the Reader. If her scale is increased on account of acquiring Ph.D. qualification, which fetches a reward of two additional increments, her rise in pay would not be covered by Note-6, which provides for stepping up of salary scale of Dr.Nagori, who claimed to be senior to her

after becoming a Reader in 2006. If Dr.Nathrekar has been benefited with rise in pay scale on account of her promotion as a Reader on 04.04.2007, which increased her salary scale above Dr.Nagori, Note-6 could be applicable. Two additional increments on account of acquiring Ph.D. would not be the ground for stepping up of salary of Dr.Nagori since Note-6 specifically speaks about a junior person being promoted to the higher post thereby, increasing salary of such person beyond the salary of a senior teacher.

4. The above aspects were apparently not considered by this Court when the judgment dated 18.11.2016 was delivered as the said judgment was purely based on a conclusion drawn by the coordinate Bench in Writ Petition No.10283/2012 primarily on the contention of Dr.Nagori that he has been senior to Dr.Nathrekar.

5. In view of the above, this Review Petition is allowed. We recall the judgment dated 18.11.2016 and restore Writ Petition No.8565/2016 on the file of this Court.

6. Considering the issue involved, we are listing Writ Petition No.8565/2016 on 14.10.2019, to be heard finally at admission stage. This petition would be called out after the

urgent admission board is over. Needless to state, in the event we come to the conclusion that Dr.Nagori was entitled for stepping up under Note-6, such conclusion would be applicable with retrospective effect.

kps

(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)