

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9373 OF 2019

01. Satish S/O. Damodar Mahajan
Age 58 YEARS, Occ. Service,
R/o. Sane Guruji Nagar, Yawal
Road, Faizpur, Tq. Yawal,
Dist. Jalgaon.
02. Rajiv s/o. Mahonar Choubey
Age 59 years, Occ. Service,
R/o. Ardessar Building, Garud Plot,
Bhusawal, Tq. Bhusawal,
Dist. Jalgaon.
03. Prabhakar s/o. Vishwanath Chaudhari,
Age 59 years, Occ. Service,
R/o. At and post Vitave,
Tq. Raver, Dist. Jalgaon.
04. Sudhir s/o. Nathu Chaudhari,
Age 57 years, Occ. Service,
R/o. Plot No.3, Someshwar Nagar,
Shanti Nagar, Sopan Colony,
Bhusawal, Tq. Bhusawal,
Dist. Jalgaon.
05. Vijay Ghanashyam Patil
Age 58 years, Occ. Service,
R/o. 12, Prasad, Om Park,
Near Gajanan Maharaj Mandir,
Yawal Road, Bhusawal,
Tq. Bhusawal,
Dist. Jalgaon.
06. Vivek s/o. Prakash Kolhe,
Age 32 years, Occ. Service,
R/o. At and Post Sakri,
Tq. Bhusawal, Dist. Jalgaon.
07. Tilak s/o. Popat Chaudhari,
Age 29 years, Occ. Service,
R/o. Bhaje Galli, at and Post,
Bhalod, Tq. Yawal, Dist. Jalgaon.

.. Petitioners

Versus

01. The State of Maharashtra,
Through its Secretary,
Technical Education Department,
Mantralaya, Mumbai-32.
02. All India Council for Technical
Education, New Delhi.
03. The Maharashtra State
Board of Technical Education,
Bandra at Mumbai
Through its Director.
04. The Director of Technical Education,
Mumbai at Mumbai.
05. The Joint Director of Technical
Education, Nashik at Nashik.
06. Technical and Medical Education
Society, Nhavi Marg, Faizpur,
Tq. Yawal, Dist. Jalgaon,
Through its President / Secretary,
07. J.T. Mahajan Polytechnic,
Nhavi Marg Faizpur, Tq.
Yawal, Dist. Jalgaon,
through its Principal.

.. Respondents

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Mr. A.G. Talhar, Advocate for Petitioners
Mr. S.V. Adwant, Advocate for respondent No.2
Mr. S.S. Jadhavar, Advocate for respondent No.3
Mr. Kalyan Patil, Advocate h/f. Mr. S.R. Barlinge, Advocate for
respondent Nos. 6 and 7.

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**CORAM : SUNIL P. DESHMUKH AND
ABHAY AHUJA, JJ.**

DATE : 2nd FEBRUARY, 2021

ORAL JUDGMENT [PER SUNIL P. DESHMUKH, J] :-

Rule. Rule made returnable forthwith. With the consent of learned counsel appearing for the parties, petition is taken up for final hearing.

2] At the outset, learned counsel for petitioners restricts claim in writ petition for salary keeping it open for them resort to other alternate remedial measures for redressal of other reliefs and grievances. This is yet another petition against the same institution for release of salary of the petitioners.

3] Learned counsel for petitioners Mr. Talhar submits, petitioners in the present set have been appointed on their receptive posts from 1983 to 2012 and are working as Lecturers and are also due for Selection Grade Pay Scale. They were appointed by following the due procedure as prescribed under law and had acquired regularization in due course of time.

4] While salary according to prescribed pay scale is due to them, same was not being paid for years together. Till date, they are being paid a consolidated amount which is far too short of the pay scale which is legitimately due to them, as is being paid to other lecturers working in other Polytechnics.

5] The present petition has been moved seeking direction to respondents No. 6 and 7 – employer to pay to them prescribed pay scale as would be applicable to their posts and all the

incidental, ancillary and consequential benefits viz. Increments, Providend Fund, Gratuity etc. and as in the recognized Polytechnic Institute, and to pay to them the difference of salary from the respective dates of appointment.

6] He further contends, their approaches for proper pay scale to the concerned respondents have not bore fruits beyond assurances. So is the case of their approaches to other authorities and as such, the present petition has been filed.

7] Mr. Talhar submits that even consolidated salary is not being paid to the petitioners from 10 months prior to the filing of writ petition in this court. Even, no dues of LIC and PF have been paid.

8] The learned counsel states that earlier, other employees of the same Institution had been before this court in Writ Petition No. 9666 of 2014 and therein, a division bench has passed an order on 10-02-2017, directing respondents No.5 and 6 to pay arrears of salary to the petitioners within six months and further to keep on paying salary. Mr. Talhar also refers to an order dated December 9th, 2020 and W.P. No. 12119 of 2019.

9] Learned counsel Mr. Kalyan Patil holding for Advocate Barlinge submits that the respondent-institution is not getting sufficient strength of students and consequent shortage of funds has affected payment of salary. *Albeit*, according to learned

counsel, it is not the case that no salary has been paid as claimed by the petitioners. He further submits that affiliation to the institution's polytechnic has been withdrawn by the concerned authorities. He submits that as and when fund position would improve, salary can be paid to the petitioners. He refers to that, matter with regard to disposal of the immovable property of the institution is pending with the Joint Charity Commission, Nasik, proceeds of which could be made available to meet with the demands of the petitioners.

10] Perusal of order dated 10.02.2017 in Writ Petition No. 9666 of 2014 shows that the division bench then had taken stock of the situation and had observed that if statutory obligation to pay salary to teachers is not complied with, this court would intervene and had further referred to that payment of salary is imperative.

11] In the circumstances it appears to be expedient to follow the course adopted in decision dated 10.2.2017 in W.P. No. 9666 of 2014 as well as orders in W.P. No. 4916 of 2020 and 4949 of 2020, wherein the court has restricted the payment as per the applicable pay scale to the employees for a period of 3 years prior to the filing of the petition.

12] In view of aforesaid, the petitioners shall be paid according to applicable pay scales prescribed to the posts wherein the petitioners are working for period of 3 years prior to the filing of present petition, within a period of six months and from the date of

filing this writ petition shall pay and shall continue to pay to petitioners salary accordingly. The payment shall be subject to deductions of the amounts which are paid to the petitioners.

13] The learned counsel for petitioners states that since the institution claims to have been closed down, this order shall not impede the claims in respect of absorption of the petitioners elsewhere.

14] The subject matter in the petition at the beginning being restricted to payment of salary, disposal of this writ petition, shall not undermine resorts available to the petitioners for other reliefs and redressal of grievances.

15] Writ petition is accordingly disposed of.

16] Having regard to the subject matter and the orders hitherto passed, the request on behalf of the respondents No. 6 and 7 to stall the operation of this order, is difficult to be acceded to.

17] Rule is made absolute accordingly.

(ABHAY AHUJA)
JUDGE

(SUNIL P. DESHMUKH)
JUDGE

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