

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

WRIT PETITION NO.7519 OF 2018

Anudanit Ayurved or Unani Mahavidyalay
Shikshaketar Karmachari Sanstha,
C/o Tilak Ayurved Mahavidyalaya,
583/2, Rastapeth, Pune, through its
General Secretary Wajahat Hafijulla Baig

... Petitioner

-vs-

1. State of Maharashtra,
through Dept. of Medical Education
and Drugs, G.T. Hospital Compound,
Lokmanya Tilak Marg, Mumbai 32

2. State of Maharashtra,
through Secretary, Department of
Finance, Mantralaya, Mumbai 32

3. Directorate of Ayush,
4th Floor, Dental College Premises,
D'Mello Road, Mumbai

... Respondents

Shri P. D. Meghe, Advocate for petitioner.

Shri A. M. Kadukar, Assistant Government Pleader for respondent Nos.1 and 2.

CORAM : A. S. CHANDURKAR AND G. A. SANAP, JJ.

DATE : December 18, 2021

Oral Judgment : (Per : A. S. Chandurkar, J.)

1. This petition is filed by the Association of non-teaching employees working in aided Ayurveda and Unani Colleges in the State of Maharashtra claiming relief of declaration that the Government Resolution dated 24/07/2010 is illegal to the extent it denies arrears of pay revision pursuant to the recommendations of the Sixth Pay Commission to non-teaching employees in aided Ayurveda and Unani Colleges for the period from

01/01/2006 to 31/03/2010. A further direction is sought to be issued to the respondents to release the arrears arising out of aforesaid revision as per recommendations of the Sixth Pay Commission for the period from 01/01/2006 to 31/03/2010.

2. The pay scales of teachers and non-teaching employees working in the aided Ayurveda Colleges affiliated to Non-Agricultural Universities were revised as per the recommendations of the Sixth Pay Commission with effect from 01/01/2006. Accordingly, a notification was issued by the Higher and Technical Education Department of the State Government on 07/10/2009 by which the Maharashtra Non-Agricultural Universities Standard Code (Revision of Pay of Non-Teaching Employees) Rules, 2009 was brought into force with effect from 01/01/2006. Rule 16 under the said Rules deals with the entitlement of the non-teaching employees in aided non-Government Colleges affiliated to Non-Agricultural Universities to arrears of the difference in their pay from 01/01/2006 to 31/03/2010 arising out of revision in the scale of pay with effect from 01/01/2006. The non-teaching employees working in aided non-Government Colleges of Ayurveda and Unani in the State of Maharashtra also expected that they would be getting arrears arising out of the revision of pay scales with effect from 01/01/2006 till 31/03/2010.

3. The Department of Medical Education and Research in the Government of Maharashtra issued a resolution dated 24/07/2010 making the revision in the scale of pay as recommended by the Sixth Pay Commission applicable to non-teaching employees working in the non-Government aided Colleges of Social Work in the State of Maharashtra subject to two conditions-(i) that their pay in the revised scale shall be fixed notionally with effect from 01/01/2006 which is the date from which the pay scales recommended by the Sixth Pay Commission were implemented, and (ii) that they would not be entitled to arrears of difference arising out of the revised pay scales for the period from 01/01/2006 to 31/03/2010. It was stated in the said Government Resolution that the revised pay would be actually payable to the non-teaching employees with effect from 01/04/2010.

4. Shri P. D. Meghe, learned counsel for the petitioner submits that the challenge raised in this writ petition is identical to the challenge that was raised and decided on 05/12/2017 in Writ Petition No.4048/2013 (*Maharashtra Association of Social Work Educators vs. The State of Maharashtra, Thr. Secretary, Dept. of Social Justice and Special Assistance and ors.*). Except for a distinct Government Resolution, the members of the petitioner-Association were similarly situated as members of the Association that had filed Writ Petition No.4048/2013. He therefore submits that similar relief be granted to the petitioner.

Shri A. M. Kadukar, learned Assistant Government Pleader for the respondents referred to the affidavit in reply filed on behalf of respondent Nos.1 to 3 and sought to support Government Resolution dated 24/07/2010 which is the subject matter of the present challenge. He further submitted that considering the financial difficulties faced by the State, it would not be possible to extend such benefits as claimed by the petitioner. He placed reliance on the decision in *State of Maharashtra and ors. vs. Dr. Shri Hari Shankar Vaidhya and ors. 1997(9) SCC 521*.

5. On hearing the learned counsel for the parties and on perusal of the judgment in *Maharashtra Association of Social Work Educators*, referred above, we find that by raising an identical challenge based on discrimination the petitioners in the aforesaid case were granted relief by holding them entitled to arrears of pay based on the implementation of recommendations of the Sixth Pay Commission from 01/01/2006 to 31/03/2010.

6. In that view of the matter we are satisfied that an identical challenge as raised has been considered and decided, the petitioner is entitled for similar relief. Hence for the reasons mentioned in Writ Petition No.4048/2013, the following order is passed :

- (i) The writ petition is allowed. It is held that the Government Resolution dated 24/07/2010 to the extent it denies to the non-teaching employees working in the aided colleges affiliated to the

Non-Agricultural Universities the arrears of pay arising out of difference upon implementation of the Sixth Pay Commission recommendations for the period from 01/01/2006 to 31/03/2010 is held to be illegal and invalid.

- (ii) The respondents are directed to pay the arrears of pay arising out of revision of pay scale as per the notification dated 07/10/2009 to the non-teaching employees working in aided Aurveda and Unani Colleges affiliated to Non-Agricultural Universities including those incorporated under Section 3 of the Maharashtra Universities Act, 1994.
- (iii) The directions as stated aforesaid be complied in the following manner :
- 50% of the amount of arrears which are due and payable shall be paid within two months from today. The remaining 50% of arrears shall be paid within further two months thereafter. Failure to comply with these directions would entitle the employees to interest at the rate of 6% per annum on the amount of arrears from 31/03/2010 till the date of payment.
- (iv) Rule is made absolute in aforesaid terms with no order as to cost.

(G. A. Sanap, J.)

(A. S. Chandurkar, J.)

(Judgment corrected as per order dated 15/02/2022)
Asmita
PS to Hon'ble Judge)