

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

934 WRIT PETITION NO.4563 OF 2022

JEEVANRAJ KUNDANLAL DONGRE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Dr.Godbole R. J.
AGP for Respondents-State : Mr. A. R. Kale
Advocate for Respondent-University : Mr. S. S. Thombre

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WITH
935 WRIT PETITION NO.4605 OF 2022
WITH
936 WRIT PETITION NO.4641 OF 2022
WITH
937 WRIT PETITION NO.4643 OF 2022
WITH
938 WRIT PETITION NO.4686 OF 2022
WITH
939 WRIT PETITION NO.4721 OF 2022
WITH
940 WRIT PETITION NO.4722 OF 2022
WITH
WRIT PETITION NO.4697 OF 2022

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CORAM : RAVINDRA V. GHUGE
AND
ARUN R. PEDNEKER, JJ.

DATE : 20th August, 2022

PER COURT :

1. Writ Petition No.4697 of 2022 is not listed today. By consent of the parties, it is taken on board.

2. All these petitioners are similarly situated who have put forth prayer Clauses 'B' and 'C' as under :-

(B) By an appropriate writ or order, respondents be directed to extend regular pension as per 7th pay scale and pensionary benefits including Gratuity, Leave Encashment and commutation and other benefits and for the same necessary directions be issued by stipulating specific time.

(C) Pending hearing and final disposal of present writ petition respondents be directed to release provisional pension in favour of petitioner and other benefits be extended including benefits of Gratuity, Leave Encashment and commutation and other benefits.

3. The learned Advocate for the petitioners concedes that Writ Petition No.1515 of 2019, is pending before this Court at the Principal Seat. By order dated 17/12/2018, recoveries have been restrained and provisional pension, as per the undisputed pay-scales, have been granted. Similarly, gratuity and retiral benefits as per the admitted pay-scales, are also granted. In the event, the pending petition is decided in favour of these petitioners and similarly situated employees, they would be entitled for higher pay scales as per the 7th Pay Scale Recommendations. Consequentially,

the GR dated 17/12/2018 would lose it's efficacy.

4. The learned AGP representing respondent Nos.1, 2, 3 and 5 submits that an affidavit in reply has been filed by Dr. Satish Madhavrao Deshpande, Joint Director Higher Education, Aurangabad Region, Aurangabad. It is prayed that until the Principal Seat decides the pending petition, on which the fate of the GR dated 17/12/2018 depends, this Court may not grant any benefits to these petitioners.

5. The learned Advocate for the petitioners submits that because of the litigation, these petitioners have neither been paid their pensionary benefits, nor gratuity, leave encashment/commutation, etc.

6. We find that there can be no dispute that these petitioners are entitled for these undisputed benefits. Question is, that these benefits should be calculated on the basis of what pay scale. Even if the GR dated 17/12/2018 is sustained by this Court, yet, the petitioners would be entitled to these benefits as per the undisputed pay scales. They are willing to accept these benefits today without

prejudice to their rights involved in Writ Petition No.1515 of 2019. If they succeed in the said proceeding, they would naturally be entitled for the difference in the pay scales.

7. These petitions are, therefore, disposed off by directing the respondents to release the pensionary benefits, gratuity, leave encashment and commutation benefits (pensionary and retirement benefits), as per the undisputed pay scales, expeditiously and preferably within three months from today, and pay the pensionary benefits as per the said undisputed pay scales. This would be without prejudice to the rights of the parties in Writ Petition No.1515 of 2019.

(ARUN R. PEDNEKER, J.)

(RAVINDRA V. GHUGE, J.)

vjg/-.