

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

WRIT PETITION NO.3974 OF 2021

Shahaji Vithoba Gaikwad,
Age: 57 years, Occ: Service,
R/o: Varsa Bhagyoday Nagar,
Ambad Road, Jalna.

...PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Principal Secretary,
Higher and Technical Education Department,
Mantralaya, Mumbai-32.
2. The Director Higher Education, M.S.,
Central Building, Pune – 01.
3. The Joint Director of Higher Education,
Aurangabad Region, Aurangabad.
4. Dr. Babasaheb Ambedkar Marathwada
University, Aurangabad,
Through its Registrar.
5. Matsyodari Shikshan Sanstha, Jalna,
Near Motibagh, Jalna,
Through its Principal.

...RESPONDENTS.

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Advocate for Petitioner : Mr.Deshpande Abhishek C.
AGP for Respondent Nos. 1 to 3-State : Mr.S.B.Yawalkar.
Advocate for Respondent No. 4 : Mr. K.M.Suryawanshi.
Advocate for Respondent Nos. 5 & 6 : Mr. Rushikesh Shinde h/f Mr.
Tope Sambhaji S.

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**CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**

DATE : 12.08.2022.

ORAL JUDGMENT : [PER : MANGESH S. PATIL, J.]

1. Rule.
2. Rule made returnable forthwith. Heard finally with the consent of the learned Advocates for the respective parties, at the stage of admission.
3. The petitioner is aggrieved by the fixation of his pay at a lower scale than the junior to him in the seniority list.
4. The learned Advocate for the respondent Management conceded the fact that the petitioner is senior to Dr. Dadasaheb Ambadas Jogdand.
5. There is no dispute about the fact that the pay of the petitioner has been fixed in the lower scale than that of Dr. Jogdand.
6. The submission of the learned Advocate for the petitioner is that while fixing the pay while implementing 6th Pay Commission,

since Dr. Jogdand has acquired Ph.D. qualification after 2006 he was given five advance increments, whereas the petitioner has acquired Ph.D. qualification before 2006 and therefore, he merely getting three increments.

7. In similar set of facts this Court in the matter of Ramdas Sitaram Wanare and Ors. Vs. State of Maharashtra and Ors., in Writ Petition No. 11640 of 2016 dated. 24.11.2016, has granted two increments to the petitioners therein. It is trite in service jurisprudence that a person senior cannot be fixed at lower scales and if such disparity arises, it has to be brought at par by granting a step up.

8. In view of the above, we allow the Writ Petition and directed the respondents to revise the pay fixation of the petitioner and arrears shall be paid the petitioner within six months.

9. Rule is made absolute in above terms.

(SANDEEP V. MARNE)
JUDGE

(MANGESH S. PATIL)
JUDGE