

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

WRIT PETITION NO. 13374 OF 2021

**VISHWANATH BHIMRAO GOND DIED THROUGH HIS
WIFE RABIBA VISHWANATH GOND
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Advocate for Petitioner : Mr. U.L. Momale
AGP for Respondent Nos. 1 to 3 : Mr. P.S. Patil

**CORAM : C.V. BHADANG &
SANDIPKUMAR C. MORE, JJ.**

DATE : 22 JUNE, 2022.

ORAL JUDGMENT [PER : C.V. BHADANG, J.] :-

Rule. Rule made returnable forthwith. The learned counsel for the respective respondents waive service of notice. Heard finally by the consent of the parties.

2. The petitioners in all these petitions are members of the non-teaching staff, working in various Colleges affiliated to Non-Agricultural Universities. They are challenging the Government Resolutions dated 07-12-2018 and 16-02-2019, by which the benefits granted to these petitioners under the Sudharit Seva Antargat Ashwasit Pragati Yojana (Assured Career Progress Scheme, for short 'ACPS') extended to them under the Government Resolution dated

15-02-2011, have been withdrawn.

3. Under Government Resolution dated 01-04-2010, the ACPS was made applicable to the Government employees and by a subsequent Government Resolution dated 05-07-2010 such benefits were also extended to isolated posts. By Government Resolution dated 28-12-2010, the benefits accorded under the Government Resolution dated 05-07-2010 were extended to the non-teaching employees of the Non-Agricultural Universities and the affiliated Colleges to such Universities. By a Government Resolution dated 15-02-2011, Department of Higher and Technical Education made applicable all the provisions of the Government Resolution dated 01-04-2010 to such employees.

4. The petitioners are aggrieved by the Government Resolutions/decision dated 07-12-2018 and 16-02-2019 by which the benefits conferred by the Government Resolution dated 15-02-2011 have been withdrawn with retrospective effect.

5. We have heard the learned counsel for the parties.

6. Learned counsel for petitioners has placed reliance on the judgment and order dated 20-01-2022 passed by this Court in a batch of writ petitions bearing Writ Petition No.5363/2021 and others. It is submitted that this Court has *inter alia* held that the impugned Government Resolutions (dated 07-12-2018 and 16-02-

2019) would apply prospectively i.e. from the date of their issuance. It is submitted that this Court has held that these Government Resolutions would not apply to those who have already been accorded benefits as per the Government Resolutions dated 28-12-2010 and 15-02-2011.

7. These petitions were adjourned on 13-06-2022, in order to enable the learned AGP to go through the said judgment and then make appropriate statement. The learned AGP in all fairness did not dispute that the petitioners herein are similarly situated and therefore, has submitted that this Court may pass appropriate orders.

8. We have carefully considered the circumstances and the submissions made. It appears that the benefits are sought to be withdrawn, retrospectively mainly on two grounds. First is that, the ACPS was initially made applicable only to the Government employees and the employees of the Zilla Parishad and extension of the benefits to the non-teaching employees of the affiliated Colleges to the Non-Agricultural Universities as well as the non-teaching employees of the Non-Agricultural Universities would cast financial burden on the Government. Secondly, it is contended that the prior approval/concurrence of the finance department was not obtained before issuance of the Government Resolutions extending such benefit and thus, the same was in breach of Rule 11 of the Maharashtra Government Rules of Business (Rules of Business).

9. This Court by judgment and order dated 20-01-2022 in Writ Petition No.5363/2021 and others has *inter alia* held that although the challenge to the impugned Government Resolutions cannot be sustained, the same can be read down to hold that they would apply from the date of their issuance and would not apply to those who have already been accorded benefits as per the Government Resolutions dated 28-12-2010 and 15-02-2011.

10. The observations of the Division Bench of this Court in paragraph No.22 of the said judgment can be reproduced as under :

“22. In the light of that, though we uphold the impugned Government Resolutions revoking the earlier Government Resolutions dated 28-12-2010 and 15-02-2011, we hold that the said impugned Government Resolutions would apply from the date of issuance of the Government Resolutions and not prior to it. We would read down the impugned Government Resolutions in a manner that they would apply from the date they are issued viz. from 07-12-2018 and 16-02-2019 respectively and would not apply to those who have already been accorded the benefits as per the Government Resolutions dated 28-12-2010 and 15-02-2011.”

11. We find that the petitioners being similarly situated would be entitled to a similar relief. In that view of the matter, we

hold that the Government Resolutions dated 07-12-0218 and 16-02-2019 would apply from the date they are issued and would not apply to those who have already been accorded benefits of Government Resolution dated 28-12-2010 and 15-02-2011.

Rule is accordingly made absolute in the aforesaid terms, with no order as to costs.

SANDIPKUMAR C. MORE, J.

C.V. BHADANG, J.