

Meena

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.369 OF 2010

- 1 SHRI JAYESH R. NAIK, resident of C-5,
Zantye Mansaion, Margao- Goa.
- 2 SHRI RAGUNATH L. KALRO resident of
A-14, Sanchayani Anant Vishwas, Opposite
Borkar Superstores, Aquem, Margao-Goa.
- 3 SHRI ANIL V. KAMAT, resident of House
No. 417A, near Monte Silva Facotry,
Comba, Margao- Goa.
- 4 SHRI LAXMAN D. RIVONKAR, resident of
House No.460, Pinnit, Nagoa, Salcete –
Goa.
- 5 SHRI RASHIKANT GAUNS, resident of F-
2, Tuko Apartments, Aquem-Baixio,
Navelim, Salcete – Goa.
- 6 SHRI BASIL PIRES, resident of House
No.268, Bebquegal, Curchorem- Goa. Petitioners

V/s.

- 1 THE DIRECTOR OF EDUCATION,
Government of Goa, having Office at
Directorate of Education, 18th June Road,
Panaji- Goa.
- 2 STATE OF GOA, through the Chief
Secretary, having Office at Secretariat,
Porvorim- Goa. Respondents.

Mr. P. Sawant, Advocate for the Petitioners.

Mr. V. Sardesai, Additional Government Advocate for the
Respondents.

**CORAM:- G. S. KULKARNI &
BHARAT P. DESHPANDE, JJ.**

DATED :- 8th December, 2022

ORAL JUDGMENT: (Per G. S. KULKARNI,J.)

This petition brings to the forefront an issue in regard to discrimination meted out to the petitioners, who are teachers. In the land of great teachers like Savitribai Phule, Ravindranath Tagore, Swami Vivekananda, Dr. Sarvepalli Radhakrishnan and Dr. A. P. J. Abdul Kalam to name a few, can the Government, when it comes to extending the benefits of revision of pay scales, deprive them of such benefit and in doing so forget the role of teachers. There can be no two opinions that teachers are ones who create and mould lives of students by inculcating a quest for learning, knowledge, values, ethics and compassion. They shape the lives of students who would later on contribute in forming a robust society and in building a strong nation. It is said that behind every successful person, there is a teacher. When such is the role of teachers, can we countenance a situation that they are being forgotten and are discriminated in payment of their salaries ? The crowing of these thoughts was quite inevitable. Be it so.

2. Petitioners No.1 to 4 and 6 are teachers employed in schools which receive aid from the State of Goa. Petitioner No.5 is an

employee of a Government School. These schools are recognised by the respondents who are the Director of Education and the State of Goa. It is averred by the petitioners that the salaries of the petitioners and the other employees of the aided schools are received from the respondents and are accordingly paid. The service conditions of the petitioners are governed by the Goa School Education Act, 1984 and the Rules framed thereunder, which are similar to those employed in the Government Schools. The pay scales are also identical.

3. The case of the petitioners is that on 27/10/1997 the State of Goa implemented the recommendations of the Fifth Pay Commission, pay scales with effect from 01/01/1996. Initially, the Part-B pay scales in which the teachers like the petitioners fall were not implemented. The teachers accordingly made representations to the State Government. Ultimately on 12/06/2001 the State Government took a decision and according Part-B scale to the teachers. However, no arrears were granted.

4. Thereafter, the recommendations of the Sixth Pay Commission came to be made in the year 2008 and the same were accepted and adopted by the Central Government. Pursuant thereto the State Government issued an order dated 10/10/2008, and in terms of what was done by the Government of India, the State Government also decided to grant to its employees the benefit of revised pay scale as per

the Vth Pay Commission recommendations. However, again it was ordered that the revised pay scales would be implemented in respect of all the Government employees w.e.f. 01/01/2006 except to the Part B teachers in aided institutions, and that the actual payment through monthly salary shall commence from November 2008. It was thus decided that the revision/upgradation of pay scales would be only for the Secretariat and non-Secretariat staff (excluding Part-B scales given to the teachers), hence, the category of employees like the petitioners falling within the 'Part-B' pay scale were denied the benefit. The relevant part of the order is required to be noted which reads thus:

3(b) All revisions/ upgradations of pay scales done for Secretariat and non-Secretariat staff (excluding Part B scales given to the teachers) subsequent to the implementation of Fifth Pay Commission recommendations effective from 1-1-1996 shall be ignored, without protecting the basic pay in the upgraded scales, for the purpose of fixation or replacement pay scales under Sixth Pay Commission pay-bands and grade pay. The cases of such fixations/upgradations of pay scales including those effected pursuant to Court orders shall be reviewed by the Finance Department on case to case basis for appropriate decisions by the Government. Therefore, all the Heads of Departments/Offices are advised to submit the details of such cases along with the relevant file on which decision was taken and orders were issued earlier to the Joint Secretary (Budget) within one week of issue of this order

3(f) Only the existing category of allowances presently in vogue in the Government of Goa which have been continued in the Sixth Pay Commission recommendations and accepted by the Government of India shall be implemented as per the Commission's recommendations. No new category of allowance recommended by the Sixth Pay Commission will be implemented even though it is accepted by the Government

of India. This will however not be applicable in respect of All India Services Officials, who would be eligible for all such allowances accepted by Government of India.

6. Higher/revised pay scales for certain common categories of staff mentioned in Part-B of the First Schedule of the Central Civil Services (Revised Pay) Rules 2008 notified by the Department of Expenditure, Ministry of Finance, Government of India vide Notification dated 29th August 2008 published in the Gazette of India: Extraordinary (Part II-Sec. 3(i)) have not been accepted by the Government of Goa for implementation. Therefore, no fixation should be done on higher pay scale to any such categories of staff and normal replacement scales prescribed in the Sixth Pay Commission recommendations may be made applicable.

5. The petitioners being aggrieved by the exclusion of the benefit of the Sixth Pay Commission pay scales made representations. The representations are annexed at Annexure 'C'(colly) namely representations dated 20/02/2009, 24/03/2009, 23/07/2009 and 23/11/2009, *inter alia*, recording that the corresponding pay scale under the Sixth Pay Commission to Rs.6500-10500 of the Fifth Pay Commission scales, fixed by the school and approved by the Audit Section of the Directorate, was not in consonance with the pay scales prescribed for teachers under Part-B schedule of the Sixth Pay Commission, adopted by the State Government. The Director of Education was requested to rectify the anomaly and direct the relevant authorities for legitimate placement under the rightful Part-B scale. However, the representations were not immediately replied.

6. The Assistant Accounts Officer Audit-Cell, Directorate of Education Panaji- Goa addressed a letter dated 09/09/2009 to the Headmaster, of “Late Shri Vinayak Gopal Shenvi Vidyalaya, Rawanfond - Navelim”, wherein the petitioner No.3 was working, recording that the representation was rejected for the reason that “the Part-B scale under VIth Pay Commission has not been made applicable to the teaching staff in the State”.

7. It appears that subsequent thereto the Directorate of Education issued an order dated 18/10/2011, stating that the question of grant of Part-B scales to the teachers in schools in Goa as recommended by the Sixth Central Pay Commission, was under consideration of the Government and on careful consideration of the matter, Government had decided to sanction Part-B pay bands/scales in the First Schedule to the teachers w.e.f. 01/07/2011. It was also stated that the Government was pleased to sanction Part-B pay band and Grade pay as indicated in Annexure-I attached to the said order w.e.f. 01/07/2011 to school teachers in Goa who are in service on or after 01/01/2006. The said order is required to be noted which reads thus:

ORDER

Whereas, the question of grant of Part ‘B’ scales to the teachers in schools in Goa as recommended by the VIth Central Pay Commission was under consideration of the Government;

And whereas, on careful consideration of the matter Government has decided to sanction Part 'B' bands / scales in the First Schedule to teachers w.e.f. 01/07/2011.

Now, therefore, the Government is hereby pleased to sanction Part 'B' pay band and Grade. pay as indicated in Annexure-I attached hereto w.e.f, 01/07/2011 to school teachers in Goa who are in service on or after 01.01.2006.

The pay shall be fixed notionally from 01.01.2006 with reference to the pay and pay scales of the Fifth Central Pay Commission. However, the actual monetary benefits shall be paid w.e£ 01.07.2011. Arrears for the month of July, August and September-2011 shall be credited in General Provident Fund Accounts of the respective teachers. The pay fixation shall be done as per Annexure-II attached hereto as prescribed by the Finance Department.

In case of teachers who have retired after 01.01.2006 their pension should be fixed accordingly and pensionary benefits be granted w.e.f. 01.07.2011.

The pay fixation statement of each of the teachers in the Government Educational Institutions shall be checked by the Directorate of Accounts whereas of those in the aided educational institutions shall be checked by the Directorate of Education. For this purpose, the concerned school shall forward two copies of the pay fixation statement to the Directorate of Accounts/ Directorate of Education, as the case may be. The Directorate of Accounts/Directorate of Education shall scrutinize the pay fixation statements and return one copy thereof to the Head of the school, duly approved.

All the educational institutions shall prepare the pay fixation statements within a period of four months from the date of issue of this Order. The pay in the revised Band pay and Grade pay shall be drawn only after the Directorate of Accounts/Directorate of Education approves the pay fixation statement and returns one copy duly approved thereof to the respective school.

The option shall be exercised within three months from the date of issue of this Order.

This issue with the concurrence of the Finance Department vide their U.O No.1443034 dated 19/8/2011.

*By order and in the name
of the Governor of Goa*

Sd/-

(Dr. Cesa Pinto)

*Director of Education and Ex-Officio
Joint Secretary (School Education)
Government of Goa*

8. This petition came to be filed on 19/04/2010. By an amendment made to the petition the above order dated 18/10/2011 implementing the Part-B pay scale in respect of teachers with effect from 01/07/2011, was brought on record. By the said amendment the petitioners have also mounted a challenge to the said order in so far as it denies to the petitioners the benefits of the Sixth Pay Commission pay scales between the period 01/01/2006 to 30/06/2011.

9. On the above backdrop, the petition as initially filed prayed for a relief in terms of prayer clause 'A' which is to the effect that a writ of mandamus be issued commanding the respondents to award the benefits of Part-B Scales as per the Sixth Central Pay Commission recommendations with all arrears w.e.f. 01/01/2006 with interest. By amendment prayer clause 'B1' came to be incorporated by which the petitioners prayed that the respondent be directed to grant the benefit of order dated 18/10/2011 to the petitioners retrospectively w.e.f. 01/01/2006. For convenience prayer clause (A) and (B1) are required to be noted which reads as under:

“(A) The Hon'ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction, commanding the Respondents to award the benefits of Part-B Scales as per the Sixth Central Pay Commission recommendations with all arrears with effect from 1/1/2006 with interest.

(B1) This Hon'ble Court may be pleased to grant benefits of Order dated 18/10/2011 (ANNEXURE “F”) to the Petitioners retrospectively with effect from 1/1/2006.”

10. The petitioners contend that they being the employees either of the Government schools or Government fully aided schools, are required to be treated with parity, with the State Government employees in the matter of award of the Sixth Pay Commission benefits and the pay scales so fixed. It is contended that they would thus become entitled for the pay scales of the Sixth Pay Commission w.e.f. 01/01/2006 as granted to the other employees of the State Government. It is their contention that the order dated 10/10/2008 implementing the recommendations of the Sixth Pay Commission to all employees of the State Government and excluding its implementation qua the teachers falling in Part-B scales, was ex-facie discriminatory, arbitrary and illegal being violative of the petitioners' rights under Articles 14, 16, 21 and 300A of the Constitution of India. It is also their contention that although decision is taken by the State Government on 18/10/2011 that the benefit of the Sixth Pay Commission be extended to the teachers falling in Part-B pay scales, however the same being granted w.e.f. 01/07/2011 was also an arbitrary and discriminatory act

on the part of the respondents. The petitioners' contention is also that there is no logic whatsoever in such decision of the State Government in not granting the benefit of the Sixth Pay Commission pay scale with effect from 01/01/2006, according the petitioners such decision of the respondents necessarily would be required to be held as arbitrary and discriminatory.

11. The learned Counsel for the petitioners in making the above submissions has also drawn the Court's attention that except excluded category of teachers, all the other employees of the State Government are granted benefit w.e.f. 01/01/2006. His contention is that the petitioners were diligent in pursuing this cause right from the inception when the decision was taken by the State Government in not awarding the said benefit to the teachers as also immediately being denied the benefit filed the present petition on 19/04/2010. It is submitted that financial difficulty of the State cannot to be an impediment for granting the reliefs as prayed by the petitioners. According to him, the present petition was filed well in time. It is hence submitted that the reliefs as prayed in this petition are legitimately entitled and be granted to the petitioners.

12. Mr. V. Sardesai, learned Additional Government Advocate, for the respondents who has referred to the reply affidavit as filed on

behalf of the State Government of, Dr Celsa Pinto, Director in the Directorate of Education. The reply affidavit does not dispute that insofar as the Fifth Pay Commission benefits are concerned, the same were awarded to the teachers. However, the reply affidavit goes to justify the decision made dated 10/10/2008 to exclude Part- B pay scale, as recommended by Sixth Central Pay Commission on the ground that the decision of Government not to grant Part-B pay scale as recommended by the Sixth Central Pay Commission, is a policy decision taken after considering the resources of the State and the financial burden the Government would incur, in the event Part-B pay Scale were to be implemented for the teachers in the State of Goa. Apart from this limited contention, no further affidavit has been placed on record to meet the case of the petitioners in regard to the challenge to the order dated 10/10/2008, which in fact is a clear deviation from what he has contended in the reply affidavit. The decision not to grant the benefit of the Sixth Pay Commission to the teachers falling in Part B pay scale. On the above conspectus, we have heard the learned Counsel for the parties.

13. Mr Sawant, learned Counsel for the petitioner, in support of his contentions that the impugned decision on the part of the State Government in not granting the benefit of the Sixth Pay Commission pay scale to the petitioners is ex-facie discriminatory, arbitrary and

violative of Articles 14, 16, 21 and 300A of the Constitution of India has relied on the decisions of the Supreme Court in the case of ***Purshottam Lal and others v/s. Union of India and Another***¹ and **Secretary, Mahatma Gandhi Mission and Another v/s. Bhartiya Kamgar Sena and others**².

14. Mr Sardesai, learned Additional Government Advocate has placed reliance on the decision of the Supreme Court in the case of ***State of Bihar and others v/s. Bihar Veterinary Association***³ to submit that it is permissible for the pay commission to have different pay scales for different categories of employees. He refers to paragraph No.9 of the said decision which in fact concerns the methods, the pay commission would follow in considering the different pay scales, in respect of different categories/cadres of employees. In such decision the Supreme Court has observed that the pay scales in the States are revised from time to time on the recommendations of the pay commissions. A parity in a particular class of service depends on various factors. It was observed that the pay commission has to consider the pay scales of various services of the State and then to make a hierarchy of the pay scale in the State. It was observed that it was not possible to have the same pay scales for the employees of the Central Government and the State Government or even for that matter

1 [(1973)1 SCC 651]

2 [(2017) 4 SCC 449]

3 [(2008)11 SCC 60]

between two States. It was observed that the pay scales essentially depend upon the resources of the Government and it is not always possible, that the resources of the Central Government and the State Government are the same or even for that matter between two States and therefore to decide and recommend pay scales the Fitment Committee has to take all factors into consideration. Thus, these are observations which are necessarily made in relation to pay scales being decided by the pay commission in consultation with the Fitment Committee. It needs to be observed that the principles in this context are well settled and would not be applicable in the facts of this present case, as the State Government has already taken a decision not only with regard to the acceptance of the Sixth Pay Commission pay scales, but also decision to grant the benefit of the Sixth Pay Commission to the teachers, however, with prospective effect from 01/07/2011 and not from 01/06/2006 by the impugned order dated 18/10/2011.

15. Considering the above conspectus, we find ourselves to be in agreement with the submissions as advanced by Mr. Sawant on behalf of the petitioners that depriving the petitioners a parity in their entitlement to receive the benefit of the Sixth Pay Commission pay scale with effect from 01/06/2007, which is granted to all the other employees of the State Government, is certainly arbitrary, discriminatory and violative of the petitioners' rights guaranteed under

Articles 14, 16 and 300A of the Constitution. In ***Purshottam Lal and others v/s. Union of India and Another*** (supra), the Supreme Court has categorically held that once the Government decides to accept the recommendations of the pay commission, it is bound to implement the same in respect of all Government employees, and if it does not implement the report regarding some employees only, it commits a breach of Articles 14 and 16 of the Constitution. The observations of the Supreme Court in paragraph No.15 are required to be noted which reads thus:

*“15. Mr. Dhebar contends that it was for the Government to accept the recommendations of the Pay Commission and while doing so to determine which categories of employees should be taken to have been included in the terms of reference. We are unable to appreciate this point. Either the Government has made reference in respect of all Government employees or it has not. **But if it has made a reference in respect of all Government employees and it accepts the recommendation it is bound to implement the recommendation in respect of all Government employees. If it does not implement the report regarding some employees only it commits a breach of Arts. 14 and 16 of the Constitution. This is what the Government has done as far as these petitioners are concerned.**”*

16. Also in the case of ***Secretary, Mahatma Gandhi Mission and Another v/s. Bhartiya Kamgar Sena and others*** (supra), the Supreme Court was considering an issue in regard to the extension of the benefit of the Fifth Pay Commission pay scales to the non-teaching employees of the unaided colleges. In such context, the

Supreme Court has held that there was no justification to exclude the non-teaching employees of the unaided educational institutions while extending the benefit of the revised pay scales to the non-teaching employees of the aided educational institutions. It was held that such a classification is clearly violative of Article 14 of the Constitution of India. Relevant observations in that regard are required to be noted which reads thus:

“77. At the outset, it must be remembered that the 1999 Rules, which extended the 5th pay commission recommendations to the non-teaching staff of the affiliated colleges, did not make any distinction between the aided and unaided colleges. For the first time, that classification is sought to be made under the 2009 Rules. No doubt aided and unaided colleges ostensibly fall under two separate categories. But for the purpose of Article 14, every classification does not automatically become permissible. The second requirement of the doctrine of reasonable classification is that such classification must bear a nexus to the objects sought to be achieved. Therefore, the object sought to be achieved by the 2009 Rules is required to be identified and that it is required to be examined whether the classification made bears any reasonable nexus to such object.

75. The object sought to be achieved by the periodic revision of the pay- scales is obviously to comply with the constitutional mandate emanating from Article 43 of the Constitution of India. If that is the object, we fail to understand the rationale behind the classification made by the State of Maharashtra between aided and unaided colleges. People employed in educational institutions run by non-State actors are not treated any more kindly by the market forces and the economy than the people employed either by the Government or its instrumentalities or institutions administered by non-State actors receiving the economic support of the State.

76. *The very fact that the Government of India thought it fit to revise the pay scales of its employees and also thought it fit to accept the suggestions of the UGC to revise the pay scales of various Universities and other bodies whose maintenance expenditure is met by the UGC (in other words virtually by the Union of India), shows that the Government of India is completely convinced that there is a definite need to revise the pay scales of not only its employees but also the employees of its instrumentalities. The fact that the Government of India made an offer to the States that the Government of India is willing to shoulder a substantial portion of the financial burden arising out of the adoption of revised pay scales in the event of the States choosing to adopt the revised pay scales, also indicates that the Government is fully convinced that having regard to various factors operating in the economy of the country there is a need to revise the pay scales of the personnel employed even by various States and their instrumentalities. Such a conclusion of the Union of India is endorsed by the State of Maharashtra. The decision of the State in issuing the two GRs revising the pay scales of the teaching staff of all the educational institutions and non-teaching staff of the aided educational institution is proof of such endorsement.*

80. *Therefore, we see no justification for excluding the non-teaching employees of the unaided educational institutions while extending the benefit of the revised pay scales to the non-teaching employees of the aided educational institutions. Such a classification, in our opinion, is clearly violative of Article 14 of the Constitution of India. (emphasis supplied)*

17. A useful reference can also be made to the decision of the Supreme Court in **Yogeshwar Prasad and others v/s. National Institute of Education Planning and Administration and others**⁴. The question before the Supreme Court was as to why the appellants therein should not be given the pay scale of Rs.1640-2900

⁴ [(2010)14 SCC 323]

from the date when their counterparts were given the benefit of such pay scale in the Central Government? The stand of the respondent-Institution was also that the appellants were entitled for such pay scales, as the Union of India in the Fifth and Sixth Pay Commissions had given such pay scales to the appellants. In this context, the Supreme Court observed that the appellants were getting the same pay scale as was given to the employees of other categories in the Central Government up to 01/01/1986. It was observed that the Union of India had accepted the recommendation of the Fifth and the Sixth Pay Commissions and was giving them the same pay scale, then how their duties and obligations were different only for a brief period? It was held that the appellants were entitled to get the benefit of Rs.1640-2900. In the present case, it is not in dispute that the teachers who fall in Part B pay scale have been awarded the benefit not only of the Fifth Commission pay scales but also of Sixth Pay Commission pay scales, if this be the case, there is no reason whatsoever as to why they should be discriminated and denied such benefit right from the inception/time, the pay scale under Sixth Pay Commission were implemented i.e. w.e.f. 01/06/2006 and/or from the time the other State Government employees were granted such benefits.

18. We find that the State Government appears to be consistent in its approach to accord benefit of the pay commission(s) to the

teachers, that is, when the Fifth Pay Commission recommendations were made in the year 1997, the benefit of the same came to be extended to the teachers falling in Part-B scale, however without the arrears. Insofar as the present case is concerned, initially by an order dated 10/10/2008 the benefit of the Sixth Central Pay Commission as accepted by the Government of India, came to be extended to all the employees of the State Government except the teachers falling in Part-B. This was an apparent discrimination and more particularly considering the fact that earlier the benefits of the Fifth Pay Commission except for the arrears were extended to the teachers. Although the teachers were completely kept out, later on a wiser sense prevailed, as subsequently a decision was taken by the State Government on 18/10/2011 to consider the teachers working in the aided schools at par with the Government employees, so that they become entitled to the benefit of the Sixth Pay Commission. However, what has been done is that the benefit of the same was not accorded from the date the said scales were implemented in respect of other employees namely from 01/01/2006 but the benefit is given from a prospective date, that is from 01/07/2011. There is no reason or any logic for not providing the benefits with effect from 01/01/2006 as granted to the other employees. In our opinion such action of the State Government was ex-facie arbitrary and unfair. There could not have been any discrimination in prescribing a different cut-off date in

granting the said benefit to the teachers. Also in doing so there is not an iota of justification for such benefits not to be given to the teachers, who fall in Part-B pay scale. Once the State Government had taken a decision to extend the benefits to the teachers it ought to have been extended to the teachers from the day it was implemented in respect of the other employees. There cannot be anything otherwise.

19. In the present case the teachers of aided schools and the Government schools are not differently placed. The petitioners immediately on the decision being taken on 10/10/2008 to exclude the Part-B pay scale employees had made a representation. The State Government was put to notice that the action was unconstitutional and violative of their fundamental rights, guaranteed to the teachers under Articles 14, 16 and 300A of the Constitution. Although it took about three years for the State Government to accept such contention as urged on behalf of the petitioners i.e. by issuance of the impugned order dated 18/10/2011, the State Government decided to give prospective effect and denied the benefit of the pay scales to the petitioners between the period 01/01/2006 to 30/06/2011.

20. Thus, in view of the subsequent development, the scope of the petition, hence is confined to the benefits that ought to be granted to the petitioners for the period from 01/01/2006 to 01/07/2011, which has been denied to the petitioners by the impugned order dated

18/10/2011. In our opinion for the above reasons to deny the petitioners the benefits and/or the arrears from 01/01/2006 to 30/06/2011 is required to be held illegal, discriminatory and arbitrary and violative of their rights guaranteed under Articles 14, 16, 21 and 300A of the Constitution of India. It is required to be observed that the petitioners being the only persons who had approached this Court well in time and the petition itself being admitted by an order dated 21/07/2010 passed by this Court, the petitioners need to be granted the reliefs as prayed for.

21. Before parting we may observe that it was not sound and appropriate for the State Government to take a stand that the State Government would grant benefits of the Pay Commission pay scales to all other categories of employees and not to the teachers of Government School and Government aided schools, for want of finance, which was the initial stand of the State Government when the first order dated 10/10/2008, came to be issued recording, not to grant benefit of Sixth Pay Commission revision to Part B pay scale teachers. Once the teachers form an integral part of the Government schools and fully aided schools it cannot be a situation that there is a discrimination in conferring benefit of revision of pay scales between such teachers and the other categories of employees. There can not be a Government policy which would deprive and/or aid in depriving

persons of their fundamental rights. No policy decision which is unconstitutional when tested on the touchstone of principles of arbitrariness, non-discrimination and fairness, can remain valid and be permitted to operate. It is on such premise, we are required to hold that even depriving the petitioners of the benefit of the Sixth Pay Commission pay scale from 01/01/2006 till 30/06/2011 would certainly be discriminatory and violative of their fundamental rights guaranteed in the Constitution under Articles 14, 16, 21 and 300A.

22. For the above reasons, we allow the petition in terms of prayer clause (B1). The respondents are directed to release the monetary benefits of the pay scales of the sixth pay commission to the petitioners w.e.f. 01/01/2006 to 30/06/2011 with interest at the rate of 8% per annum. The necessary payments be made to the petitioners within a period of Six weeks from the date the copy of the order is made available to the parties. Ordered accordingly.

23. Rule is made absolute in the above terms. No costs.

BHARAT P. DESHPANDE, J. G. S. KULKARNI, J.