

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

WRIT PETITION NO. 2230 OF 2021

Dr. Anis Ahmed Khan,
Aged about 43 years, Occ. Service,
Mahatma Gandhi College of Science,
Gadchandur, Dist. Chandrapur.

PETITIONER

.....VERSUS.....

1. The State of Maharashtra,
through its Secretary, Higher and Technical Education Department,
Mantralaya, Mumbai – 32.
2. Director of Higher Education,
Maharashtra State, Pune.
3. The Joint Director of Higher Education,
State of Maharashtra, Nagpur Division,
Civil Lines, Nagpur.
4. Gondwana University,
through its Registrar, Gadchiroli.
5. Mahatma Gandhi College of Science,
Gadchandur, through its Principal,
Gadchandur, Tal. Korpana, Dist. Chandrapur.

RESPONDENTS

Shri R.L. Khapre, Senior Advocate with Shri Pushkar Deshpande, Advocate for
the petitioner.

Ms. T.H. Khan, Assistant Government Pleader for respondent Nos. 1 to 3/ State.

CORAM : A. S. CHANDURKAR AND M.W. CHANDWANI, JJ.

DATE : 18/11/2022

ORAL JUDGMENT (PER : A.S. CHANDURKAR, J.)

Rule. Rule made returnable forthwith and heard the learned
Counsel for the parties.

2. The petitioner who is duly qualified to hold the post of

Lecturer/ Assistant Professor has challenged the order dated 11/8/2017 passed by the Joint Director of Higher Education thereby refusing to grant the petitioner the benefits of Senior Scale as well as Selection Grade under CAS. The reason for passing the impugned order was that the petitioner had not submitted the requisite documents in support of such prayer. After hearing the learned Counsel for the parties, the following order was passed on 15/9/2022 :

“Heard.

The challenge raised in this writ petition is to the order dated 11.08.2017 passed by the Joint Director, Higher Education, Nagpur Division, Nagpur thereby refusing to favourably consider the petitioner’s request for pay-fixation as directed by this Court in Writ Petition No.5189 of 2016. One of the grounds of challenge raised by the petitioner is that pursuant to the communication dated 25.05.2017 issued by the Office of the Joint Director the petitioner had submitted all relevant documents that were demanded by the said communication. Such documents were submitted alongwith a covering letter dated 30.05.2017. It is urged that despite submitting all relevant documents, the Joint Director has observed that the same have not been tendered including the service book of the petitioner.

To consider this aspect we had on 13.09.2022 directed the learned Assistant Government Pleader to produce the record of the said proceedings for perusal.

Today the said record has been produced by the learned Assistant Government Pleader and it is seen that in accordance with the same the petitioner did submit the documents as demanded. We therefore find that the observation in the impugned order that the copy of the service book was not

supplied is unwarranted. Similarly other documents in support of the petitioner's claim are also shown to have been supplied.

In these facts we are inclined to direct the respondent no.3 to reconsider the petitioner's application for grant of Senior Scale and Selection Grade as per his entitlement. To facilitate consideration of the matter, the petitioner shall remain present before the Joint Director of Higher Education, Nagpur on 22.09.2022 and on that day submit all relevant additional documents on which he seeks to rely upon. The respondent no.3 shall grant an opportunity of hearing to the petitioner and take a decision within a period of three weeks from 22.09.2022.

Stand over four weeks."

Accordingly, the Joint Director of Higher Education examined the case of the petitioner and by the report dated 12/10/2022 found that the earlier service rendered by the petitioner at Dr. Babasaheb Nandurkar Physical Education Institution, Yavatmal could be considered for grant of CAS benefits as per the norms of the University Grants Commission. The said report was then placed before the Selection Committee for placement of Teachers in higher grade. In the meeting of the said Committee that was held on 7/11/2022, the case of the petitioner was recommended for placement in Senior Scale from 11/7/2005 and thereafter from 11/7/2010. The petitioner thereafter through the Institution submitted all relevant documents in the office of the Joint Director of Higher Education for consequential entries to be taken in the petitioner's service book. It was requested that an order of pay fixation be also passed in the matter. However, according to the Joint Director of Higher Education, since this

Court had directed examination of relevant documents and the same having been done, he was not inclined to take further steps in the matter. In the said backdrop, the petitioner has filed Civil Application No. 2508/2022 praying that the said office be directed to pass an order with regard to fixation of his salary.

3. Having considered the documents on record and in the light of the recommendations of the Selection Committee for placement of Teachers in higher grade, it is clear that the petitioner has been found entitled to Senior Scale as per the report of the Joint Director dated 12/10/2022. Hence, it would be necessary to direct respondent No.3 to pass consequential orders in the matter of fixing the petitioner's pay scale in the light of his own recommendations. Accordingly, respondent No.3 is directed to pass necessary orders fixing pay scale of the petitioner after grant of Senior Scale and Selection Grade in terms of his order dated 12/10/2022. Necessary steps in that regard be taken within a period of three weeks from receipt of copy of this order.

4. The Writ Petition is disposed of in the aforesaid terms. In the result, Civil Application No. 2508/2022 also stands disposed of. Rule accordingly. No costs.

(M.W. CHANDWANI, J.)

(A.S. CHANDURKAR, J.)