

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

Writ Petition No.8490 of 2018

Dr. Santosh Bhairao Prasad Mishra
and others

... Petitioners

Versus

The State of Maharashtra,
through its Secretary, Higher and Technical
Education Department, Mantralaya,
Mumbai-32 and another

... Respondents

Shri Anand Parchure, Advocate for Petitioners.

Shri N.R. Rode, Assistant Government Pleader for Respondents.

**CORAM : NITIN JAMDAR AND
ANIL L. PANSARE, JJ.**

DATE : 16 FEBRUARY 2022

P.C.:

Heard the learned Counsel for the parties. Taken up for disposal.

2. In the Petition itself, the Petitioners have referred to the decision of this Court in Writ Petition No.3300 of 2010 rendered on 15 March 2018 and have relied upon the same contending that their case is covered by the law laid down.

3. In response, the reply filed by the Respondent No.2 has dealt with the contentions of the Petitioners as regards the decision of this Court in the following terms :

“10. It is submitted that, the petitioner placed reliance on the order passed by the Hon’ble High Court dated 15.3.2018 in W.P No.3300/2010 wherein this Hon’ble High Court directed respondents to release the consequential benefit of four advance increments to the petitioners. The answering respondent specifically submits that, the order passed by this Hon’ble Court dated 15.03.2018 in Writ Petition No.3300/2010 is not applicable to the Lecturers who have joined their duties after 01.01.2016 as the Government Resolution dated 08.03.2019 (7th Pay Commission) came in the force from 01.01.2016 and there is specifically mentioned in clause-12.0 that there shall be no incentives in forms of advance increments for obtaining the Ph.D/M.Phil/PG Degree in professional courses. Therefore the Petitioner No.2 Dr.Baburao Bakaramji Kalpande is not entitled for the advance increments as he has joined his service in the senior college on 13.04.2016.”

4. The only distinguishing factor which the Respondents have sought to bring is about the date of appointment of the Petitioner No.2 that he joined the services on 13 April 2016 after the cut-off date. On this aspect, the learned Counsel for the Petitioners has drawn our attention to the rejoinder filed, wherein it is asserted that the Petitioner No.2 has joined the services with effect from 11 October 2006. This affidavit-in-rejoinder was filed on 15 July 2019 to which there is no further counter by the

Respondents. Therefore, the case of the Petitioner No.2 falls within the ambit of law laid down in Writ Petition No.3300 of 2010.

5. This being the only ground on which the Respondents are seeking to distinguish the decision in Writ Petition No.3300 of 2010, which also factually is not correct, there is no impediment for the Respondents to release the payments as sought for in favour of the Petitioners.

6. Further, the learned Counsel for the Petitioners has placed before us another decision of this Court in Writ Petition No.3030 of 2019 dated 6 January 2022 wherein following the decision in Writ Petition No.3300 of 2010, the Division Bench has passed the order in favour of the Petitioners therein.

7. In spite of the decision rendered as far back as in 2018 and there being no distinguishing features, the Respondent No.2- Joint Director of Higher Education, Nagpur has till date not released the benefits payable to the petitioners. We deprecate such conduct on the part of the Respondents-Authorities, which has led to unnecessary litigation and expenses for the employees to prosecute the Petition just to get the benefit of the law laid down by the Court. It is out of indulgence that we have not imposed costs on the Respondents.

8. The Writ Petition is accordingly allowed in terms of prayer clause (i). The necessary benefits payable to the Petitioners be released to them within a period of four weeks. In these facts and circumstances, we fix the responsibility of ensuring the release of benefits, on the Respondent No.2- Joint Director of Higher Education, Nagpur Division, Nagpur.

(ANIL L. PANSARE, J.)

(NITIN JAMDAR, J.)