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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1293 OF 2024

Meena Bhimanand Sonavane }
Aged 62 years, Professor at Institute }
of Nursing Education, J. J. Hospital Campus, }
Byculla, Mumbai-400 008 and }
Residing at A-401, Garden CHS Ltd., }
Greet Complex, Ghatkopar-Mankhurd Link Road, }
Govandi, Mumbai 400043 }
Email:sonavane_meena@yahoo.in }
Mobile 9869624870 } .. Petitioner

Versus

- 1. The Government of Maharashtra }
Through Secretary, Medical Education & }
Drug Department, G. T. Hospital Campus, }
9th Floor, Mantralaya, Mumbai 400 001 }
- 2. The Director of Medical Education }
and Research }
St. George Hospital Campus, Dental College }
Building, 4th Floor, Mumbai 400 001 }
- 3. The Government of Maharashtra }
Through Chief Secretary, }
General Administrator Department, }
Mantralaya, Mumbai 400 032 }
- 4. The Principal of Institute of Nursing }
Education, J. J. Hospital Campus, }
Byculla, Mumbai 400 008 } .. Respondents

WITH
WRIT PETITION NO.11703 OF 2024

- 1. The Government of Maharashtra }
Through Principal Secretary, }
Medical Education & Drug Department, }
G. T. Hospital Campus, }
9th Floor, Mantralaya, Mumbai 400 032 }

2. The Director of Medical Education }
and Research }
St. George Hospital Campus, Dental College }
Building, 4th Floor, Mumbai 400 001 }
3. The Government of Maharashtra }
Through Chief Secretary, }
General Administrator Department, }
Mantralaya, Mumbai 400 032 }
4. The Principal of Institute of Nursing }
Education, J. J. Hospital Campus, }
Byculla, Mumbai 400 008 } .. Petitioners

Versus

Meena Bhimanand Sonavane }
Aged 62 years, Occupation: Retired, }
Address: A-401, Garden CHS Ltd., }
Greet Complex, Ghatkopar-Mankhurd }
Link Road, Govandi, Mumbai 400043 }
Email: sonavane_meena@yahoo.in }.. Respondent
(Org. Petitioner)

...

Mr. Sanjay Kulkarni, Advocate for the petitioner in WP No.1293 of 2024 and for the respondent in WP No.11703 of 2024.

Mr. B. V. Samant, Additional Government Pleader with Mrs. Tanu N. Bhatia, Assistant Government Pleader for the petitioners in WP No.11703 of 2024 and for the respondents in WP No.1293 of 2024.

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**CORAM : A.S. CHANDURKAR &
M. M. SATHAYE, JJ**

**Date on which the arguments were heard : 14th JANUARY 2025 and
4th APRIL 2025**

Date on which the judgment is pronounced : 16th APRIL 2025.

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

1. Rule. Rule made returnable forthwith and heard learned counsel for the parties.

2. Since a challenge has been raised in these writ petitions to the judgment dated 06/12/2023 passed by the learned Members, Maharashtra Administrative Tribunal, Mumbai (for short, 'the Tribunal') in Original Application No.682 of 2024, they are being decided together by this common judgment.

3. The petitioner in Writ Petition No.1293 of 2024 approached the Tribunal with a prayer that she was entitled to enhancement in the age of her superannuation from 58 to 65 in accordance with the directions issued by the University Grants Commission (for short, 'the UGC'). She was holding that post of Professor at the Government Nursing College and was aggrieved by the decision to superannuate her at the age of 58 years. The petitioner also prayed for a declaration that she was entitled to the UGC pay-scale from 01/01/2006 and thus sought revision of her pay-scale with all necessary allowances. The Tribunal by the impugned judgment did not grant any relief with regard to enhancement in

the age of superannuation from 58 to 65. Consequently, the petitioner stood retired on 31/08/2019. The Tribunal however held the petitioner entitled to receive pay as per guidelines of the UGC from the date she was appointed on the post of Professor.

The petitioner being aggrieved by the rejection of the prayer for extending the age of superannuation from 58 to 65 has challenged that part of the decision of the Tribunal in Writ Petition No.1293 of 2024. The State of Maharashtra through its Medical Education and Drugs Department as well as the Institute of Nursing Education through its Principal are aggrieved by the direction issued by the Tribunal holding the petitioner entitled to pay and allowances as per the UGC guidelines and hence they have challenged that direction by preferring Writ Petition No.11703 of 2024.

4. Facts relevant for considering the challenges as raised are that the petitioner entered service on the post of Staff Nurse on 21/03/1985. During the course of service, she improved her educational qualifications and ultimately came to be appointed on the post of Professor at the Institute of Nursing Education from 21/01/2013. It is her case that she is a “Teacher” as defined under Section 2(35) of the Maharashtra University of Health

Sciences Act, 1998 (for short, 'the Act of 1998') and is thus entitled to all such benefits on that basis. The Department of Medical Education and Research by its decision dated 13/04/2010 enhanced the age of retirement of "Teachers" to 62 years. Subsequently by Government Resolution dated 05/03/2015 the age of retirement was further enhanced to 64 years. According to the petitioner by virtue of Government Resolution dated 27/03/1989, a policy decision was taken thereby making the UGC pay-scale applicable to teachers which included a "Teacher" under the Medical Education and Research Department. On that basis, the petitioner claims entitlement to the benefit of Government Resolution dated 05/03/2015. Since the age of retirement of teachers under the Higher Education Department insofar as the Principal was concerned was 65 years and the post of Professor was 64 years, the petitioner was entitled to such benefits. It was thus clear that the teachers at various faculties such as Biology, Physics, Chemistry, Mathematics, etc were getting salary as per UGC scale but Nursing teachers had been denied the same. Such discrimination was hit by Article 14 of the Constitution of India. On that basis, such benefit of pay-scale as well as enhanced age of superannuation was sought by the petitioner.

5. According to the Department of Medical Education and Research, the pay-scales as per the guidelines of the UGC had been made applicable to teachers at the Medical, Dental and Ayurved colleges. Such pay-scale was not made applicable to teachers in Nursing colleges. Government Resolutions dated 10/11/2009 and 13/09/2019 had been issued in that regard. It is the further stand of the State Authorities that by virtue of communication dated 02/11/2017 issued by the Ministry of Human Resource Development, the issue with regard to revision of pay-scale of teachers was left to the discretion of the State Government. Subject to the same being accepted, the Scheme of revision of pay-scale would be undertaken. Since the State Government had not adopted and implemented the Scheme with regard to revision of pay-scales of teachers in Nursing colleges, the petitioner was not entitled to such benefit. Since this was in the nature of a policy decision, it could not be said that the petitioner had been discriminated against by not granting her salary as per the UGC guidelines. Various considerations including financial aspects were required to be borne in mind before applying the recommendations made by the UGC. After undertaking such exercise, the Government Resolution dated 13/09/2019 had been

issued. The Tribunal therefore could not have issued such direction to the State Authorities to implement UGC pay-scales to the petitioner.

6. In the aforesaid backdrop, we have heard Mr. Sanjay Kulkarni, learned counsel appearing for the petitioner and Mr. B. V. Samant, learned Additional Government Pleader appearing for the State of Maharashtra and others. The parties have placed on record their written submissions and we have perused the same. On 04/04/2025, a copy of the Government Resolution dated 13/09/2019 was placed on record. We have accordingly given thoughtful consideration to the respective submissions and the documentary material on record.

7. The petitioner in the Original Application filed by her had sought two fold reliefs namely, a declaration that she was entitled to continue in service till she attained the age of 65 years and secondly, the benefit of higher pay-scales as per the guidelines of the UGC. Insofar as the declaration sought by her as regards the age of superannuation, the said relief was denied by the Tribunal. In this regard, it is urged on behalf of the petitioner that as she is covered under the definition of the expression "Teacher" under the

Act of 1998 and as the age of superannuation of teachers imparting education in “health sciences” had been increased to 65 years, the petitioner was entitled to such benefit. Moreover, Nursing faculty was included in the expression “health sciences” as defined by Section 2(17) of the Act of 1998. In this regard it is to be noted that by Government Resolution dated 30/04/2010, the Medical Education and Drugs Department enhanced the age of superannuation of Lecturers and Professors teaching in various Government Medical, Dental and Ayurved colleges from 58 years to 62 years. The reason given therein was that in the various Government Medical, Dental and Ayurved colleges the process of recruitment was being conducted by the Maharashtra Public Service Commission and the same was likely to take a longer time. In the meanwhile, the incumbents continued to retire on attaining the age of 58 years which would have resulted in numerous vacancies thus affecting the education field. For that reason, the Medical Education and Drugs Department took a policy decision to increase the age of superannuation of Lecturers and Professors from 58 years to 62 years. Subsequently by another Government Resolution dated 05/06/2015, the age of superannuation of Lecturers and Professors of Government Medical, Dental and Ayurved colleges was again increased from 62 years to 64 years.

Similar reason as assigned in the Government Resolution dated 30/04/2010 was reiterated and the events that transpired thereafter were taken into consideration.

8. It is thus clear on a reading of the aforesaid Government Resolutions that with a view to safeguard the interest of students undertaking education in Government Medical, Dental and Ayurved colleges such policy decision was taken. No need was felt for enhancing the age of superannuation in Nursing colleges as such factual situation did not exist in those colleges. In our view, there is a rationale behind enhancing the age of superannuation of Lecturers and Professors from 58 years to 62 years and thereafter from 62 years to 64 years at the Government Medical, Dental and Ayurved colleges. Since such factual aspects were not present insofar as Government Nursing colleges are concerned, it cannot be said that the petitioner who is serving as Professor at the Institute of Nursing Education had been discriminated. Merely on the ground that the petitioner is a "Teacher" as defined by Section 2(35) of the Act of 1998 or that the field of Nursing is also included in the definition of "health sciences" under Section 2(17) of the Act of 1998, the same cannot be the basis to hold that the petitioner is entitled to a declaration that her age of

superannuation ought to be 65 years. The Tribunal therefore was justified in refusing to grant such relief to the petitioner. That finding recorded by the Tribunal is thus upheld.

9. Coming to the aspect of applicability of UGC pay-scales to teachers in Government Nursing colleges, according to the petitioner since such UGC pay-scales have been applied to teachers under the Medical Education and Drugs Department, the petitioner who is also a teacher under the Act of 1998 was also entitled to such benefit. In this regard, it is to be noted that initially on 10/11/2009, the Medical Education and Drugs Department revised the pay-scales of teachers in Government Medical, Dental and Ayurved colleges in accordance with the UGC guidelines. The revision was however not made applicable to teachers in Nursing colleges. On 02/11/2017, the Ministry of Human Resource Development, Department of Higher Education conveyed the Scheme of revision of pay of teachers in Universities and Colleges based on the recommendation of the 7th Central Pay Commission. As per Clause 16 of the said Scheme, insofar as colleges and higher educational Institutes coming under the purview of State Governments were concerned, it was left to the discretion of the respective State Governments to adopt and

implement the said Scheme. On that basis, the Medical Education and Drugs Department of the State Government issued Government Resolution dated 13/09/2019 and revised the pay-scales of teachers only in Government Medical, Dental and Ayurved colleges. This Government Resolution has not been made applicable to teachers in Nursing colleges. The petitioner being a teacher in a Government Nursing college was therefore not entitled to such revised pay-scales.

10. In our view, applicability of higher pay-scales to a particular class of teachers is a policy decision to be taken by the State Government. Various aspects including financial considerations are required to be kept in mind before revising pay-scales. Reference in this regard can be usefully made to the decision of the Supreme Court in Chandrashekar A K Vs. State of Kerala (2009) 1 SCC 73 wherein it has been held that revision of pay scale is a matter of policy for the State and that no legal right exists in a person to seek implementation of revised pay scale. It is for this reason that the Ministry of Human Resource Development in its Scheme for revision of pay of teachers dated 02/11/2017 has left the matter to the discretion of the respective State Governments to consider adopting and implementing the said

Scheme to its various departments. The State Government on due consideration thereafter has revised the pay-scales of teachers in Government Medical, Dental and Ayurved colleges vide Government Resolution dated 13/09/2019.

11. In the Original Application filed by the petitioner, the Government Resolution dated 13/09/2019 was not put to challenge. Instead, the petitioner who was serving in the Nursing faculty sought parity in the matter of applicability of pay-scales similar to that of teachers in Government Medical, Dental and Ayurved colleges. In absence of any challenge to the Government Resolution dated 13/09/2019 before the Tribunal as well as in Writ Petition No.1293 of 2024 filed by her, it is not necessary to go into the aspect as regards alleged discrimination between teachers in Government Medical, Dental and Ayurved colleges on one hand and teachers in Government Nursing colleges on the other as regards pay parity. The Tribunal without considering the effect of Government Resolution dated 13/09/2019 has proceeded to grant the petitioner relief in the form of applicability of pay-scales as per UGC guidelines. Another relevant aspect that cannot be ignored is the fact that the petitioner retired on attaining the age of superannuation on 31/08/2019 while the revision of pay-scales of

teachers in Government Medical, Dental and Ayurved colleges was effected subsequently by Government Resolution dated 13/09/2019. Thus after the superannuation of the petitioner, the said Government Resolution has come into effect. Without considering these aspects, the Tribunal proceeded to grant the petitioner relief that goes beyond the applicability of the Government Resolution. We find the same unsustainable in law. Hence that part of the order passed by the Tribunal is liable to be set aside.

12. For aforesaid reasons, the following order is passed:-

- i) The judgment of the Tribunal dated 06/12/2023 in Original Application No.682 of 2022 to the extent it grants the relief of applicability of UGC pay-scales to the petitioner from the date she held the post of Professor is quashed and set aside.
- ii) The refusal by the Tribunal to grant the relief of extending the age of superannuation from 58 years to 65 years is upheld.
- iii) Consequently, Original Application No.682 of 2022 stands dismissed.
- iv) The petitioner however is at liberty to raise a challenge

to Government Resolution dated 13/09/2019 issued by the Medical Education and Drugs Department revising in the pay-scales of teachers in Government Medical, Dental and Ayurved colleges and not to teachers in Nursing colleges, if so advised. It is clarified that this Court has not examined the validity of the aforesaid Government Resolution and said aspect is kept open.

v) Consequently, Writ Petition No.1293 of 2024 is dismissed. Writ Petition No.11703 of 2024 is allowed. Rule in both the writ petitions is disposed of in aforesaid terms leaving the parties to bear their own costs.

[M. M. SATHAYE , J.]

[A.S. CHANDURKAR, J.]