



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

WRIT PETITION NO.32 OF 2023

PETITIONER :- Maharashtra Animal and Fishery Sciences University – through its Registrar, Futala lake road, Telangkhedi, Nagpur 440 001.

..VERSUS..

RESPONDENTS :- 1) State of Maharashtra
Department of Agricultural Animal Husbandry, Dairy Development and Fishery – through its Principal Secretary, Mantralaya, Mumbai -32
2) Dr. Chandraprakash Dattarao Khedkar, Aged about 58 years, Occupation: Associate Professor, C/o. College of Dairy Technology, Tq. Pusad (Warud), District Yavatmal.
3) The Appellate Authority appointed under Maharashtra Animal and Fishery Sciences University, Futala lake road, Telangkhedi, Nagpur 440 001.

Mr.A. R. Patil, Advocate for Appellant.

Mr A. B. Patil, Advocate for the Respondent No.2.

CORAM : **ROHIT W. JOSHI, J.**

DATE : **08.10.2025**

JUDGMENT :

1) **Rule.** Rule is made returnable forthwith. Heard finally with consent of learned counsel for the respective

parties.

2) Present petition is filed challenging the judgment and order dated 21.07.2022 passed by the learned Appellate Authority constituted under the Maharashtra Animal and Fishery Sciences University (MAFSU) Act, 1998 (“the MAFSU Act”) in Appeal No.7 of 2021, whereby the learned Appellate Authority has quashed and set aside the order dated 13.07.2011 passed by the petitioner-university cancelling six advance additional increments granted to respondent No.2 while appointing him on the post of Associate Professor in the subject of Dairy Micro Biology.

3) The petitioner had issued an advertisement dated 05.02.2007 inviting applications for appointment to the post of Associate Professor (Dairy Microbiology). Respondent No.2 participated in the selection process. Respondent No.2 is a highly qualified person who holds the two doctoral degrees and has received various national and international awards and recognitions. Respondent No.2 negotiated for ten advance additional increments for working on the said post. It is his contention that the Selection Committee agreed to

grant him six advance additional increments for working on the said post. It is his contention that the Selection Committee agreed to grant him six advance additional increments in view of his additional qualifications and exceptional achievements. This recommendation was made by the Selection Committee as per Clause-61 of the MAFSU Statute, 2002 of the petitioner-university which read as under:-

“Selection of candidates by Selection Committee shall be finalized as soon as interview of candidates for their post was over. After interview of candidates, the decision of the Selection Committee, shall be recorded and signed by the members present as well as by the Chairman. The Selection Committee, may also recommend additional increments in case of exceptional candidates by so resolving in the meeting. The recommendation of the Selection Committee shall be binding on the University. In case Selection Committee found no candidates suitable to the Selection, shall make no recommendation.”

4) The above recommendation of the Selection Committee was approved by the Executive Committee of the petitioner-University. Accordingly, respondent No.2 was appointed on the aforesaid post by granting six advance additional increments. It will be pertinent to mention that the

recommendation of the Selection Committee was subject to fulfillment of statutory provisions as prescribed under MAFSU Act and MAFSU Statute, 2002.

5) The recommendation of the Selection Committee was approved by the Executive Committee in its meeting held on 23.10.2008. Accordingly, respondent No.2 started discharging his duties on the post of Associate Professor and he was receiving salary with six advance additional increments.

6) It will be pertinent to state that Section 46 of the MAFSU Act provides that the University shall not, without prior approval of the State Government, grant any special pay, allowance or other extra remuneration under any description whatsoever to any employee, which may have financial implications.

7) The respondent No.1 raised an objection to the act of petitioner-University in granting six advance additional increments to the respondent No.2. The petitioner justified its decision of granting six advance additional increments to respondent No.2 on the ground that his academic

qualifications and work warranted such additional payment and also on the ground that the decision was taken in accordance with the MAFSU Statute, 2002.

8) However, since the Government did not agree with the petitioner, the petitioner passed order dated 13.07.2011 revoking the six advance additional increments granted to respondent No.2 and directed recovery of additional amount paid to him.

9) Respondent No.2 challenged the said order dated 13.07.2011 by filing an appeal under Clause 19(6) of the MAFSU Statute, 2002 before respondent No.3. Respondent No.3 has allowed the appeal vide judgment and order dated 21.07.2022, which is impugned in the present petition.

10) Perusal of the order passed by respondent No.3 will demonstrate that respondent No.3 has recorded that the decision to grant six advance additional increments was taken by the Executive Committee on recommendation of the Selection Committee and that the action taken was in exercise of powers vested under Statute 62 of the MAFSU Statute, 2002, which were approved by the Hon'ble Governor

acting as Chancellor of the University. It is held that the Secretary of the Government had no authority to interfere with the decision taken by the Executive Committee of the University. The learned Appellate Authority also recorded that the action of granting six advance additional increments was in accordance with U.G.C guidelines and University Statute. The Appellate Authority has also found fault with the University for not taking steps for revision of budget in view of the decision to grant six advance additional increments to respondent No.2.

11) Mr. A. R. Patil, learned Advocate for the petitioner-University, contends that the recommendation of the Selection Committee was clearly subject to approval by State Government. He contends that the members of Selection Committee had made a recommendation for grant of six advance additional increments to respondent No.2 subject to fulfillment of statutory provisions of MAFSU Act and MAFSU Statute, 2002. He further states that the Selection Committee did not take any decision in the matter as it was not competent to do so and merely made a recommendation. He

contends that the recommendation as made by the Selection Committee was approved by the Executive Council which means that the approval of Executive Council was also subject to approval by State Government. Mr. Patil, draws attention to Section 46 of the MAFSU Act to contend that approval of State Government was needed and since the approval was rejected the petitioner was left with no option, but to recall the decision granting advance additional increments. He, therefore, contends that the order passed by respondent No.3 deserves to be quashed and set aside.

12) Per contra, Mr. A.B. Patil, learned Advocate for respondent No.2, justifies the order. He refers to the observations made by the learned Appellate Authority to contend that respondent No.2 was holding exemplary academic qualifications and had various achievements on the professional front which justified the decision to award the advance additional increments to him. He contends that the petitioner-University ought to have challenged the decision of the State Government and should not have accepted the decision taken by the State Government. He further states

that, having taken a positive decision for awarding six advance additional increments, the petitioner was estopped from recalling the said decision to the detriment of respondent No.2. He further elaborates that, in the event these advance additional increments were not granted to him, respondent No.2 would not have accepted the appointment. The learned Advocate contends that, since respondent No.2 has acted to his detriment relying upon representation of the petitioner, it was not open for the petitioner to retract from the offer.

13) Perusal of the recommendation made by the Selection Committee will demonstrate that it was clearly made subject to compliance with the provisions of the Act and Statutes framed thereunder. The Selection Committee merely made a recommendation for grant of six advance additional increments. This recommendation is accepted by the Executive Council. However, since the recommendation itself is subject to compliance with provisions of the Act and Statute framed thereunder, the decision of the Executive Council granting approval to the recommendation will

obviously be subject to statutory compliance with provisions of Act and Statute. It is clear that respondent No.2 was aware that the decision to award advance additional increments was not unconditional but subject to compliance with provisions of the Act. It is undisputed that respondent No.1 has refused to grant approval to the decision taken by the Executive Council of the University for awarding six advance additional increments. In this regard, it will be appropriate to refer to Section 46 of the MAFSU Act, which provides that the University cannot grant any special pay, allowances or extra remuneration or revise pay, allowances and post retirement benefits or other benefits to any employee without prior approval of the State Government.

14) Since the University had clarified from the beginning that the decision was subject to provisions of the Act, it cannot be said that the offer was unconditional and, therefore, the University was estopped from withdrawing the benefits of six advance additional increments.

15) Appeal was entered by respondent No.2 under Clause-19(6) of the MAFSU, Statutes. Clause-19(6) of the

MAFSU, Statutes does not confer jurisdiction on the Appellate Authority to entertain appeal against decision taken by the State Government which is followed by the petitioner-University. Perusal of reasons recorded by the Appellate Authority will demonstrate that it has recorded that the Authority has interfered with the decision taken by the State Government, which is followed by the petitioner-University. It is held that Section 46 of the Act was not attracted in the facts of the case and further that, since the Comptroller of the University did not raise any objection to the act of the University granting six advance additional increments to respondent No.2, it was deemed that approval was impliedly granted to the decision taken by the University. It will be pertinent to mention here that the State Government is also not party to the appeal preferred before respondent No.3.

16) In view of the above, the order dated 21.07.2022 passed by respondent No.3 is unsustainable on the ground that it does not have jurisdiction to decide correctness or otherwise of orders passed or decisions taken by the State Government, and also on the ground that the State

Government was not a party to proceedings before respondent No.3. The decision cannot be sustained also on the ground that respondent No.2 was made aware since the beginning that the decision to give six advance additional increments was subject to statutory compliance.

17) In view of the aforesaid, writ petition is **allowed** by quashing and setting aside judgment and order dated 21.07.2022 passed by respondent No.3/Appellate Authority, MAFSU, Nagpur in Appeal No.7 of 2021.

18) It is however, clarified that it will be open for respondent No.2 to challenge the communications/orders issued by the State Government refusing to grant approval, and to challenge the communication/order dated 14.06.2011 issued by respondent No.1 alongwith consequential order dated 13.07.2011 passed by the petitioner/University in an appropriate legal proceeding.

(ROHIT W. JOSHI, J.)

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