



ORDER DATED 07/04/2025

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

WRIT PETITION NO.7238 OF 2024

(State of Maharashtra and others vs. Dr.Uday Narlawar and others)

Mr. A.M.Kadukar, AGP for petitioners.
Mr. S.V.Manohar, Senior Advocate assisted by Mr. Madhur Deo,
Advocate for respondent Nos.1 to 33.
Mr. S.S.Ghate, Advocate for respondent No.34

CORAM : AVINASH G. GHAROTE AND
ABHAY J. MANTRI, JJ.

DATE : APRIL 07, 2025

1) Heard Mr.Kadukar, learned Assistant Government Pleader for petitioner, Mr. Manohar, learned Senior Counsel for respondent Nos.1 to 33 and Mr. Ghate, learned counsel for respondent No.34.

2) The only ground raised before us to challenge the judgment dated 12/12/2023 (page 48) of the learned Maharashtra Administrative Tribunal which allows the claim of the respondents/applicants in O.A.No.1023/22 and other connected matters by which the challenge to the recovery orders has been accepted, is that the petitioners are governed by clause 8(xix) (page 87) of the GR dated 10/11/2009 (page 77), to claim that the petitioners all of whom were engaged as 'Lecturers' and were having MD/MS qualification on the date of their recruitment in terms of the GR dated 27/03/1989 (page 60), appendix-I Sr.No.1(II) (page 67), were put on higher pay scale, on the date of their recruitment on account of they possessing qualification of MS/MD and therefore, were not entitled to grant of three non-

compounded increments in terms of clause 8(iii) of the GR dated 10/11/2009.

3) A perusal of the GR dated 27/03/1989 would indicate that the higher start on account of the persons recruited thereunder, was granted to such persons, on account of they possessing different qualifications at the time of recruitment. In case of 'Lecturers' as indicated at Sr.No.1(1)(II) they were having MD/MS qualification and were put at the higher start at Rs.2500 in the pay scale of Rs.2200-4000; in the case of Lecturers having MCH/MS qualification they were put at a higher start at Rs.2550 in the pay scale of Rs.2200-4000 and in the case of Lecturer having Ph.D. qualification they were put at higher start at Rs.2775 in the pay scale of Rs.2200-4000 (page 67). It would, therefore, be apparent that a clear-cut distinction has been made in the GR dated 27/03/1989 regarding putting of the persons recruited thereunder, in a particular higher pay scale on account of qualifications which they possess.

4) The GR dated 10/11/2009, while granting incentive of three non-compounded advance increments, at entry level of recruitment as 'Assistant Professor' is also based on qualification which such person possess of MD/MS/DNB/DM/Ph.D. awarded in the relevant discipline. The said GR by virtue of clause 8(iii), specifically considers the position of teachers who were already in service and possessing MD/MS/DNB/Ph.D. degrees and also holds them to be entitled to three non-compounded increments. It would therefore be apparent that while issuing the GR dated 10/11/2009, the petitioners, were clearly aware of the earlier GR dated 27/03/1989 and the entitlement which was granted to respondents in terms thereof, on account of which the exception which has been created by clause 8(xix) (page 87) is restricted

only in respect of persons employed who were possessing Ph.D./M.Phil at the entry level in the earlier scheme who have been held not to be entitled to the benefit of the advance increment under the scheme as framed under GR dated 10/11/2009. The exception created by virtue of clause 8(xix) is a conscious decision of the State, learned Assistant Government Pleader makes a conscious statement that GR dated 10/11/2009, does not make any reference to the earlier GR dated 27/03/1989, however, in his submission, that was the only earlier scheme of incentives.

5) Since clause 8(xix) of the GR dated 10/11/2009, creates an exception only in respect of persons recruited under the earlier scheme who were possessing Ph.D/M.Phil at the entry level and clause 8(iii) of the said GR specifically grants three non-compounded increments, to the teachers who were already in service and were possessing MD/MS qualifications, we do not see any reason why the impugned decision by the learned Tribunal which considers this distinction as indicated in the GR dated 10/11/2009, should be interfered with. We therefore, do not see any merit, as such, the petition stands dismissed. No costs.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)