

Filed on - 30/12/2013
Order reserved on 17/06/2023
Order pronounced/ 15/07/2023
issued on -



**Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur
BEFORE THE GRIEVANCES COMMITTEE.**

(Presided over by Shri Ajay C. Chaphale, former District Judge.)

Grievance Petition No. 23/2013

Applicant : Dr. Anand Y. Bhaik,
Grievance Assistant Professor,
Petitioner Krishna Vihar-14,
Navnit Society, Narendranagar,
NAGPUR-440015.

- VERSUS -

Non-Applicants: 1. President/Secretary,
Shri Sachhidanand Shikshan Sanstha
Koradi, Distt-Nagpur.
2. Principal,
Arts, Commerce & Science College,
Koradi, Distt-Nagpur.

ORDER

(Delivered on 15/07/2023)

1. The Applicant had approached this Grievances Committee under Section 79 (1) of Maharashtra Public Universities Act 2016 by filing this Grievance Petition and the Applicant had challenged the punishment imposed by the Non-Applicants regarding withholding of increments and this Grievances Committee had given relief to the Applicant as claimed, by Order dated 28.11.2019. The Non-Applicants had challenged the order dated 28.11.2019 by filing

15/07/2023
S. K. K. S.

Writ Petition (W.P.) No. 2588 of 2020 and the Writ Petition as mentioned above filed by the Non-Applicants, is partly allowed by the Hon'ble High Court and Hon'ble High Court has quashed and set aside the order dated 28.11.2019 passed in the Grievance Petition No. 23 of 2013 and Hon'ble High Court remanded back the matter to this Grievances Committee to decide the same afresh, after taking into consideration, the observations made in the order and as per the observations made in the order passed by the Hon'ble High Court, it is observed that from impugned order, it cannot be said that the members of the Committee participated in decision making process and they agreed to the view expressed in the impugned order as per the observations made in the Paragraph No. 15 of the judgment and it is also mentioned by the Hon'ble High court in Paragraph No. 14 of the judgment dated 03.04.2023 that to show that Committee as a whole has taken the decision, it is necessary that the members shall sign the decision alongwith the Chairman.

2. As per the direction of the Hon'ble High Court in the judgment dated 3rd April, 2023 in the Writ Petition No. 2588 of 2020, the Applicant appeared on 18.04.2023.
3. Brief facts giving rise to the grievances and the claim of relief are as under:

15/07/2023
2002/60/51

The Applicant is working as an Assistant Professor in English in the Non-Applicant's College at Koradi since 01.01.2000. The Applicant has come forward before this Committee to claim relief as his Three Increments were stopped without any proper and un-tenable reason by the Non-Applicant. The Three Increments of the Applicant were stopped as per details given as under:

(i) First increment which was due in July-2010 was stopped on the ground that he had not submitted the synopsis of Minor Research Project but as per actual facts the Applicant was busy in finalizing his Thesis for Ph.D. for submission of the same, the Applicant has given assurance to the Principal of the Non-Applicant's College that he will submit the proposal for Minor Research Project within Six Months but inspite of Applicant's request his increment was stopped.

(ii) Second increment which was due in July-2011 was stopped for the reason that the Applicant was doing examination duties of University Examination Work and Principal of Non-Applicant's College had relieved the Applicant for University Valuation Work on 16.10.2010 and the Applicant was busy for the same till 30.10.2010 and the Applicant was not assigned any duty of invigilation by Officer-in-Charge of the University Examination in the college but inspite of

15/10/2013
[Signature]

that Applicant's increment due in July-2011 was stopped by the Principal of the Non-Applicant's College for the untenable reason that he was given invigilation work and he had not attended the same and neglected the duties and misled the college administration.

- (iii) Third increment which was due in July-2013 was stopped by making allegations that the Applicant had made wrong entries in his daily diary regarding the unit test which he had conducted in his classes on 12.01.2013, inspite of the fact that the Applicant had conducted the unit test in the classes and noted the same in his daily diary, therefore, the Applicant had not misguided the college administration and the increment was stopped on untenable ground.

4. It is further submitted by the Applicant that he was terminated from the college and termination was declared illegal by the Tribunal and also by the Hon'ble High Court and after reinstatement order by the Hon'ble High Court the Applicant is made target for harassment.

5. The Non-Applicants have resisted the Applicant's claim by filing reply dated 29.09.2014 and denied all the claim and all the allegations made by the Applicant. The Non-applicants have denied that action has been taken against the Applicant by way of revenge

2004/10/15/151

as he had contested against the termination before the Hon'ble College Tribunal and thereafter before the Hon'ble High Court.

6. The Non-Applicants have made the detailed submissions in the reply in respect of the order passed by the Non-Applicants on dated 30.06.2010 by which the First increment of the Applicant due in July-2010 was stopped, in respect the order dated 06.01.2011 by which Second increment of Applicant due in July-2011 was stopped and in respect of the order dated 11.05.2013 by which the Third increment of Applicant due in July-2013 was stopped.

7. So far as the stopping of the First increment due in July-2010 is concerned, it is submitted by the Non-Applicants that for the reason of irresponsible behavior of the Applicant for not submitting Minor Research Project, punishment of stopping of one increment was imposed because continuously for a period of five years, repeated instructions were issued to the Applicant for submitting Minor Research Project but he willfully and deliberately avoided to comply with the directions and obtaining of Ph.D. was the concern of Applicant himself and it is submitted that imposing of minor punishment cannot be held to be illegal.

8. As regards stopping of Applicant's increment due in July-2011, it is submitted by the Non-Applicants that the Applicant was relieved for examination work of the University of Spot Valuation Centre from 16.10.2010 to 30.10.2010 but the Applicant deliberately

suppressed the fact that he was not present and he had not attended the Valuation Work in University on Four Days i.e. 22.10.2010, 24.10.2010, 27.10.2010 & 28.10.2010 and he had enjoyed Four Days holidays on the ground of University Work. And therefore, Show Cause Notice was issued to the Applicant and after considering the reply dated 20.11.2010 and 06.12.2010, minor punishment of stopping of increment was imposed.

9. So far as the stopping of Third increment due in July-2013 is concerned, the Non-Applicants have come forward with the submissions that in his daily diary dated 12.01.2013, the Applicant had made entry about holding of unit test but the entry was false and misleading in his daily diary dated 12.01.2013, because "Krida Jyot" of University was to be received by the students and all the staff members at entry point of Koradi Naka and it was to be escorted by all the students and staff members of the college and no curricular activities had taken place and even no students attended any class but the Applicant had mentioned in his daily diary that he had conducted the unit test on 12.01.2013, and therefore, minor punishment was imposed.

10. In view of the facts and circumstances of the case and in view of the submissions of the Applicant and Non-Applicants and considering the claim of the Applicant, following points arises for

2202/69/57
15/07/2013

consideration and the Committee has recorded its findings thereon with the reasons given here in after.

<u>Points</u>	<u>Findings</u>
(i) Whether the action taken by the Non-Applicants against the Applicant by imposing punishment of withholding the increment of the Applicant due in July-2010 is proper and legally sustainable?	No
(ii) Whether the action taken by the Non-Applicants against the Applicant by imposing punishment of withholding the increment of the Applicant due in July-2011 is proper and legally sustainable?	No
(iii) Whether the action taken by the Non-Applicants against the Applicant by imposing punishment of withholding the increment of the Applicant due in July-2013 is proper and legally sustainable?	No
(iv) What order?	As per order given below

Signature

REASONS

As to Point No. (i), (ii) & (iii):

11. It is the case of the Applicant that Non-Applicant No. 2 had stopped his Three increments which were due in July-2010, July-2011 & July-2013 on untenable grounds. The First increment due

in July-2010 was stopped for the reason that synopsis of Minor Research Project was not submitted, Second increment due in July-2011 was stopped for the reason that the Applicant did not remain present as invigilator in the examination centre of Non-Applicant's college and Third increment due in July-2013 was stopped on the allegations of wrong entries made in daily diary regarding conducting of unit test. The Applicant has come forward with the contention that there was illegal action on the part of the Non-applicants for imposing punishment of withholding of increments.

12.

In the facts and circumstances as the dispute is based on Show Cause Notice issued by the Non-Applicants and the explanation given by the Applicant to the Show Cause Notice. Therefore, the important aspect which needs to be considered as to whether the explanation given by the Applicant to the Show Cause Notices issued by the Non-Applicants, is proper and found to be satisfactory as to allegations made against the Applicant by the Non-Applicant and therefore, record in this regard is of much significance and it is necessary to examine the relevant correspondence and documents in order to ascertain as to whether the action on the part of the Non-Applicants thereby imposing punishment withholding of increment is proper and legally sustainable.

13.

The Applicant has filed a copy of Show Cause Notice dated 09.07.2010 issued by the Principal of Non-Applicant's college

thereby calling the explanation from the Applicant that the Applicant had not submitted the synopsis of Minor Research Project and therefore, the Applicant was asked to give the explanation as to why his one increment should not be stopped. The Show Cause Notice dated 09.07.2010 is replied by the Applicant as per copy of reply dated 19.07.2010 and he had given the explanation that as his work for Ph.D. was continued therefore, he was not in a position to work for another project and he had assured that he will submit the proposal for Minor Research Project after finishing his research work. Thereafter, on 30.07.2010 Principal of Non-Applicant's college had intimated the Applicant that his one increment was stopped. Thereafter, again the Applicant wrote a letter dated 05.08.2010 to the Non-Applicant and thereby intimated the Principal that he had submitted his project for Ph.D. to the University on 25.03.2010 and he had given assurance to the Non-Applicants that he will complete his task assigned to him within next six months, Principal of the Non-Applicants college replied the Applicant's letter thereby stating that the Applicant's explanation was not satisfactory and college has taken proper action.

14. Thereafter, the Applicant made a representation to the Non-Applicants regarding stoppage of his annual increment by sending a letter dated 30.07.2012, copy of letter is filed on record. As per this letter, he had requested the Non-Applicants to provide the details as to under what provision of the Act, Ordinance and

Statute, the submission of Minor Research Project has been made compulsory. The letter of the Applicant was replied by the letter dated 24.08.2012 and Non-Applicants stated that his explanation was not satisfactory and therefore, his one increment is stopped permanently.

15. As regards the withholding of Second increment of the Applicant, the Applicant has filed the copy of Show Cause Notice dated 20.11.2010 issued by the Non-Applicants and thereby the Applicant was directed to explain that without giving any information, the Applicant remained absent during the Winter University Examination as Invigilator. The Applicant had given the explanation to the Show Cause Notice by letter dated 26.11.2010 and Applicant stated in his reply that he had joined the University Valuation Work from 16.10.2010 for which he was relieved by the Non-Applicants on condition to attend the college till 25.10.2010 and as per direction he had attended the college till 25.10.2010 and thereafter he was busy in University Valuation Work and therefore, he was unable to attend the Invigilation Work as per his reply. The Non-Applicants again issued a Show Cause Notice dated 03.12.2010 and also informed that the Applicant's explanation was not satisfactory and Applicant was also informed that he had not submitted the Certificate that he had done the Valuation Work. The Applicant has filed the copy of Relieving Certificate dated 30.10.2010 issued by Chief of the Spot Valuation Centre,

27/10/2013

Rashtrasant Tukadoji Maharaj Nagpur University. As per the Certificate, the Applicant had worked at the Spot Valuation Center of R.T.M. Nagpur University from 16.10.2010 to 30.10.2010 and he was relieved on 30.10.2010. Thereafter, again the Non-Applicants had issued a notice dated 28.12.2010 to the Applicant and the Applicant was directed to submit the Certificate from the R.T.M. Nagpur University regarding the Valuation Work. The Applicant had replied the notice by letter dated 01.01.2011 and in the reply he has stated that he had already submitted the Certificate of Valuation Work done by him on 06.12.2010. It is pertinent to note that the copy of relieving certificate shows that it was duly received by the Non-Applicants on 06.12.2010. Therefore, the Applicant had complied the direction of the Non-Applicants regarding submission of Certificate for work of Spot Valuation by the Applicant. Thereafter, again the Non-Applicants had issued a notice to the Applicant on 06.01.2011 stating that on 28.10.2010 and on 15.11.2010, the Applicant was not present at the Spot Valuation Centre and there is a copy of letter dated 03.01.2011 issued by the Chief of Spot Valuation Centre. The said letter was addressed to the Non-Applicant and it was informed that the Applicant was absent on 22.10.2010, 24.10.2010 and again from 27.10.2010 to 28.10.2010 for Valuation Work. The Applicant had made a representation to the Non-Applicants regarding action of stoppage of his one increment by letter dated 11.01.2011 and in the said letter, he had stated that he had joined Spot Valuation Centre on 16.10.2010 and

15/01/2011
22/01/2011
23/01/2011

as per relieving letter issued by the Non-Applicants, he was allowed to attend the college till 25.10.2010. It was not mentioned that he was required to attend the invigilation work at the same time and as per order he remained present on 28.10.2010 for filling the forms to include his name in the voter list for Election of Senate of R.T.M. Nagpur University and till 28.10.2010 he was not assigned any invigilation work and only on 29.10.2010, Shri Sharad Izate Attendant of the College contacted him to come for invigilation on 29.10.2010 but as he was engaged in Valuation Work, therefore, the Applicant told him that he was unable to come and thereafter he did not receive any information regarding invigilation from the Officer-in-Charge of Examination of the College. The Applicant has specifically stated in his reply that he had never denied that he remained absent in Valuation Work as mentioned by the Chief of Valuation Center by letter dated 03.01.2011 and therefore, according to the Applicant he had never neglected any college work and duties in the college assigned to him. The Non-Applicants informed the Applicant by letter dated 29.01.2011 that the explanation given by the Applicant was un-satisfactory and action taken by the Non-Applicants is proper.

16. As regards the withholding of Third annual increment due in July-2013, the Applicant has filed the copy of notice dated 28.03.2013 issued by the Non-Applicants by which he was asked as to why the Applicant misled the Non-applicant by making wrong

entries in his daily diary dated 12.01.2013 regarding conducting of the unit test by the Applicant, and the Applicant has to give the explanation. The Applicant has filed copy of his reply dated 01.04.2013 wherein he stated that he had engaged his classes on 12.01.2013 and the same has been noted in his daily diary. The Non-Applicants had issued notice dated 05.04.2013 to the Applicant by referring his reply dated 01.04.2013 and the Applicant was asked to explain as to when he had conducted the unit test though his attendance was noted at 1.00 p.m. on 12.01.2013. The Applicant by letter dated 12.04.2013 had given the explanation and as per explanation given by the Applicant he attended the college at 8.00 a.m. and conducted the unit test of B.Com. Part-II and at 9.30 a.m. he conducted unit test of B.A. Part-I and left the college at 1.00 p.m. The Non-Applicants again issued a notice dated 24.04.2013 thereby asked the Applicant to explain as to why his one increment should not be stopped. The Applicant replied the notice by letter dated 29.04.2013 and thereby stated that he does not agree with the action regarding stoppage of his one increment and he reserved his rights to approach the higher authority. Thereafter by letter dated 11.05.2013, the Non-Applicants informed the Applicant that his one increment was stopped as his explanation was not found satisfactory.

17.

The Non-Applicants have filed the written notes of arguments and submitted that there is in-ordinate delay of Three

Years Five Months and for that reason, the Grievance Petition is liable to be rejected on the ground of delay. It is necessary to mention that this Grievance Petition came to be filed by the Applicant in the year 2013 and reply was also filed by the Non-Applicants on 29.09.2014 but in the reply, Non-Applicants had not taken any objection and Grievance Petition proceeded further and also the claim was decided by order dated 28.11.2019. Therefore, now at this stage such objection cannot be raised, and as regards the grievance of withholding of first increment, it has been submitted that as per Section 109(6(a) of Maharashtra Public Universities Act, 2016, the Applicant has to comply the condition of submission of project and it has become condition of contract of the appointment. In this regard the Applicant has submitted that the Maharashtra Public Universities Act, 2016 has come into force from 2017 and the provisions of the same not applicable as his increment was stopped in 2010 and therefore, provisions of the Maharashtra Public Universities Act, 2016 should not be considered. The Committee has considered these aspects and inclined to accept the submissions made by the Applicant as the action regarding withholding of one increment of the Applicant was taken by the Non-Applicants in the year 2010 and the reason given by the Applicant for non-submission of synopsis of Minor Research Project within time, found to be proper.

15/09/2013

18. As regards, Second grievance of withholding of one increment of the Applicant due in July-2011, the Non-Applicants have submitted that the Applicant had not attended the invigilation work assigned to him by the college and as per certificate issued by the Chief of Spot Valuation Centre, the Applicant was absent for University Valuation Work for a period of four days. In this regard, it is necessary to mention that the Applicant was already relieved by the Non-Applicants for University Valuation work on 16.10.2010 and as per letter issued by the Chief of the Spot Valuation Centre he was relieved from valuation work on 30.10.2010 and as per the letter, the Applicant was remained absent for valuation work on four days i.e. on 22.10.2010 and 24.10.2010 and from 27.10.2010 to 28.10.2010 and as per the allegations made by the Non-Applicants, he had not reported to the duty for those four days and in this regard as per the explanation given by the Applicant till 28.10.2010 he was not assigned any invigilation work and only on 29.10.2010 he was asked to come for invigilation but he was engaged in valuation work and as per his explanation he attended the college on 28.10.2010 for filling the forms to include his name in voters list for election of Senate of R.T.M. Nagpur University and he was relieved from the valuation work on 30.10.2010. Therefore, the explanation given by the Applicant in this regard appears to be proper.

19. So far as the Third grievance regarding withholding/stoppage of one increment of the Applicant due in July-2013 is concerned, the Non-Applicants have come forward with the submissions that on 12.01.2013 "Krida Jyot" of the University was

to be received by the students and all the staff members at entry point of Koradi Naka and there were two other functions i.e. "Swami Vivekanand Jayanti and Rashtramata Maa Jijau Jayanti" and the Applicant had reported to the college at 1.00 p.m. and he had not conducted any unit test but noted false entries in his daily diary. In this regard the copy of daily diary of the Applicant dated 12.01.2013, shows that as per entry, the Applicant had conducted the unit test of B.Com. Part-II at 8.05 to 8.50 a.m. and unit test of B.A. Part-I from 9.35 to 10.00 a.m. and it was also signed by the Head of the Department which shows that the entries were duly verified by the Head of the Department and it is clear from the record that the Applicant attended the college and conducted the unit test as mentioned in daily diary and thereafter attended the functions. Further it is pertinent to note that it was necessary on the part of the Non-Aplicants to make enquiry from the students who attended the unit test conducted by the Applicant in order to ascertain as to whether in fact the Applicant had conducted the unit test as mentioned in the daily diary but there is nothing on record in this regard. Therefore, in view of the above discussion and on perusal of all Show Cause Notices and explanation given by the Applicant to the Non-Aplicants from time to time and also for the reasons as discussed above, the Committee has come to the conclusion that in spite of the proper and satisfactory explanation given by the Applicant, the Non-Aplicants took the action thereby imposing punishment to withhold/stop increments of the Applicant due in July-2010, July-2011 & July-2013, affecting his future

15/10/2013

salary and also affecting his pension in future and other consequential benefits in service and such action on the part of Non-Applicants amounts to violation of principle of natural justice.

20.

It is submitted by the Non-Applicants in their written submissions that the order imposing minor penalty of withholding increments is in accordance with the Paragraph No. 48 of Ordinance No. 122 as in case of withholding of one increment, Departmental Enquiry as laid down in Paragraph No. 45 will not be necessary but in Chapter-I in Paragraph No. 3 it is clearly mentioned that Ordinance shall apply to all teachers employed by the R.T.M. Nagpur University in its departments and institutions maintained by it. And in the present case the Applicant was appointed by the management of the Non-Applicant institution. Section 71(20) of Maharashtra Public Universities Act, 2016, shows that Code of Conduct in respect of the teachers, Officers and other employees of the University and affiliated colleges is not to be in contravention of State Govt. policies and Section 71 is applicable to Statutes and in the present case, the action of imposing punishment of withholding of increment of the Applicant due in July-2010, July-2011 & July-2013 is against the principle of natural justice because in spite of proper and satisfactory explanation given by the Applicant, such punishment has been imposed thereby affecting his future salary and other benefits including pension in future. And in view of Section 71(20) of Maharashtra Public Universities Act, 2016, the action taken by the Non-Applicants is in contravention of State Govt. policies in this regard. And even as per Rule 10 of

5/10/2013

Maharashtra Civil Services (Discipline and Appeal) Rule 1979 for such action, enquiry shall be held as imposing of punishment thereby withholding the increments of the Applicant affects the salary of the Applicant in future and also affects the pension and other benefits in service in future and therefore, the action taken on the part of the Non-applicants without holding an enquiry is also in contravention of the above mentioned rule.

21. The Members of the Committee have discussed the matter after hearing both the parties and have considered all the factual and legal aspects as discussed above and the Committee has come to the conclusion that the action taken by the Non-Applicants against the Applicant thereby imposing the punishment of withholding Three increments of the Applicant due in July-2010, July-2011 & July-2013 is not proper and also not legally enforceable and therefore, it is not legally sustainable. Thus the Applicant has established that there was no any misconduct on his part as alleged and therefore, it is a fit case to quash and set aside the imposition of punishment by Non-Applicants to withhold/stop three increments of the Applicant as mentioned above. Hence, the Committee has recorded its findings to Point No. (i), (ii) & (iii) in negative and passed the following order.

- (i) The punishment imposed by the Non-Applicants to withhold/stop Three increments of the Applicant due in July-2010, July-2011 & July-2013 is quashed and set aside.

15/07/2023

- (ii) The Non-Applicants are directed to release the increments of the Applicant due in July-2010, July-2011 & July-2013 which were withheld and stopped, and they are further directed to pay the arrears to the Applicant within Four Months from the date of this order.

Nagpur.

Dated: **15/07/2023**.

(Signature)
15/07/23.

(Dr. Samay Bansod)

Member, Grievances Committee,
RTM Nagpur University, Nagpur

(Signature)
15/07/2023

(Ajay C. Chaphale)

Chairman, Grievances Committee,
RTM Nagpur University, Nagpur.

(Signature)

(Dr. Sanjay Kavishwar)

Member, Grievances Committee,
RTM Nagpur University, Nagpur

(Signature)

(Dr. Pandurang S. Dange)

Member, Grievances Committee,
RTM Nagpur University, Nagpur

(Signature)

(Dr. Raju Hiwase)

Member, Grievances Committee,
RTM Nagpur University, Nagpur

(Signature)

(Shri Manoj Malkapure)

Member, Grievances Committee,
RTM Nagpur University, Nagpur

(Signature)

(Adv. Rajat Kumar Maheshwari)

Member-Secretary
Grievances Committee,
RTM Nagpur University, Nagpur