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Order pronounced/ 19/10/2024.
issued on -



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

Grievance Petition No. 14/2020

Applicant : Dr. Purushottam D. Shobhane,
Grievance 178, Anand Clinic, Trimurti Nagar,
Petitioner Ring Road, NAGPUR-440022.

- VERSUS -

Non-Applicants: 1. Rajiv Gandhi College of Engineering
and Research, Wanadongri,
Hingna Road, Nagpur.
Through its Principal

ORDER

(Delivered on 19/10/2024)

1. The Applicant approached this Grievances Committee under Section 79 of the Maharashtra Public Universities Act 2016 with a prayer to claim relief of the grievances. The facts giving rise to the grievances and to claim relief are as under:

- (i) The Applicant had joined as a Lecturer (Senior Scale) in the Department of Applied Mathematics in the Non-Applicant College (formerly Nagar Yuwak Shikshan Sanstha's College of Engineering & Research, Nagpur) on 03.09.2009 in the pay scale of Rs. 10,000-15,200 /- at the basic pay of Rs. 12,925. It is submitted by the Applicant that at the time of joining the service in the Non-Applicant College, he was eligible for the placement in higher scale i.e. Lecturer (Selection Grade) in the pay scale of Rs. 12,000-18300/- from September-2007 as

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he had completed 5 years service as Lecturer (Senior Scale) and when he had requested the principal of the institution for his due placement in higher scale but he was replied that the proposal will be sent to the University under Career Advancement Scheme but no proposal was sent to the University. The Applicant has given the details in the chart shown in his application regarding the details as to where he has served as Lecturer and as per the chart given in his application, the Applicant was in service from 09.09.1991 to 30.04.1995 in Dr. Babasaheb Ambedkar College, Bramhapuri, Chandrapur as Lecturer(regular) and according to him, his appointment was approved by the Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur. He had served as Lecturer (Ad-hoc) for the session 1995-96 in Priyadarshini College of Engineering Nagpur and in the same college he had served as a Lecturer (regular) from 12.09.1996 to 31.08.2002 and thereafter he again served in the same college from 01.09.2002 to 02.09.2009 and from 03.09.2009 to 31.01.2012, he has served in the Non-Applicant College as Senior Lecturer (regular) and he has been re-designated as Assistant Professor from 01.02.2012 in the Non-Applicant College and he is in service in the same college.

- (ii) It is submitted by the Applicant that as per the 6th Pay Commission, a teacher becomes eligible for the post of Associate Professor after completion of 3 years service as a Lecturer (Selection Grade) but while fixing his scale as per the 6th Pay Commission in the year 2012, the Non-Applicant had placed him in the pay scale of Assistant Professor without considering his due placement as Lecturer (Selection Grade) and his 9 years

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of approved service was treated equivalent to 9 non-compoundable increments and for this reason he has been put to heavy financial loss and he has filed the copy of pay fixation at Annexure 16(a). The Applicant has further submitted that the Govt. of Maharashtra through its Higher & Technical Education Department passed the resolution dated 17.10.2015 where it is mentioned that qualification and experience for direct recruitment be considered and his placement for degree/diploma teacher from 01.01.2006 to 10.09.2012 shall be the same as per recruitment rules under 5th Pay Commission as per the Notification dated 5th September, 2000 and according to him he became eligible for placement as a Lecturer (Selection Grade) on 01.09.2007 and after 3 years he became eligible for the post of Associate Professor on 01.09.2010 and according to him he had requested the Principal/Management for sending necessary proposal to the Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur from time to time as mentioned in the Application. But no initiative was taken by the college and he has also completed his Ph.D. Degree from Gondwana University.

- (iii) It is submitted by the Applicant that as per the Govt. Resolution dated 11.02.1994, no distinction is to be made with reference to the nature of management of the institution where the previous service were rendered and it is required to be counted for placement in higher scale and the Govt. of Maharashtra had also issued resolution dated 20th August, 2010 in which clarifications regarding fixation of pay in the revised pay scale, service conditions and Career Advancement Scheme for Teachers/Assistant Professor/Associate

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Professor/Professor in technical institution have been given and the Higher & Technical Education Department had issued a circular to Principals of all aided degree colleges on 1st September and 10th September, 2015 in which it was directed to pay salary and allowances as per the rules and regulations but his salary was not fixed properly as per the directions issued by the Govt. The Applicant has claimed for placing him first on the post of Lecturer (Selection Grade) as per 5th Pay Commission and subsequent to place him on the post of Associate Professor in the pay scale as per the 6th Pay Commission.

2. The Non-Applicant College has resisted the claim of the Applicant by filing reply/written submission, firstly, the Non-Applicant has raised the objection by submitting that the petition itself is not maintainable under Section 79 of the Maharashtra Public Universities Act 2016 as the Applicant has failed to make a legal point and petition of the Applicant is based on total hypothesis case relating to his entitlement to various promotions and pay scales and he has not approached with the clean hands before the Grievances Committee as he has not disclosed true and factual position and even as the claim of the Applicant is barred by limitation, it cannot be entertained.

3. It is submitted by the Non-Applicant that the claim of the Applicant is based on the Govt. Resolution dated 17.10.2015 and Notification dated 05.09.2000 and he has claimed that he is entitled to the benefits as he has become eligible for placement as Lecturer

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(Selection Grade) on 01.09.2007 and then after 3 years he became eligible for post of Associate Professor from 01.09.2010 but Applicant does not qualify for the benefits as per the Govt. Resolution and Notification and Applicant has no legal right to claim relief therefore, the petition needs to be dismissed.

4. It is further submitted by the Non-Applicant that it is a self-financed institution and does not receive any grant from the State Exchequer and it is dependent on the fees received from the students for making payment to the teaching and non-teaching staff and also for the purpose of maintaining and developing the infrastructure for providing quality education to the students of the college and Non-Applicant college is not entitled to charge/recover any fees, over and above fixed, by the Fee Regulation Authority. It is further submitted by the Non-Applicant that the designation mentioned as Senior Lecturer was never given to the placement. He had never submitted the Application to the University in prescribed format for the approval of Selection Grade. Therefore, there is no question of giving status of Associate Professor to the Applicant as he was never designated as Lecturer (Selection Grade) by the University as he did not apply in the prescribed format and for this reason, the petition needs to be dismissed.

5. It is submitted by the Non-Applicant that there was decrease in the admissions of the students in the college and even there were no admissions in three under-graduate courses viz. Civil, Electrical and Mechanical Engineering and in one post-graduate

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course of Computer Science & Engineering and, therefore, the amount of fees received from the students was also reduced substantially, and the Non-Applicant has to receive an huge amount of approximately 1.6 crores from the Social Welfare Department, Tribal Department of Govt. of Maharashtra towards fees of the students of reserved category, who were admitted through Centralised Admission Process. And, therefore, for this reason, the management of the Non-Applicant college was constrained to apply for merger of Non-Applicant college with Yeshwantrao Chavhan College of Engineering and the Non-Applicant college was facing severe financial hardship since last 3 financial years and the Non-Applicant has suffered loss of about 2 crores rupees per financial year. It is further submitted that considering position, efforts were made for merger of few branches of the Non-Applicant college with Yeshwantrao Chavhan College of Engineering and the Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur had issued communication/permission dated 14.09.2020 thereby permitting the merger but the Applicant has filed the Writ Petition No. 1959/2020 before the Hon'ble High Court and as he failed to secure any interim order in the said Writ Petition therefore, he has filed the present proceeding to pressurise the Non-Applicant as the Non-Applicant terminated the service of the Applicant.

6. The Non-Applicant has further submitted that the Applicant was appointed in the Non-Applicant institution in the year

2009 as a Lecturer and therefore, even if the Applicant is considered to have been eligible for the post of Lecturer (Selection Grade) in the year 2007, the question of him being appointed as Associate Professor does not arise as he joined the present college in the year 2009 as a Lecturer and, therefore, the Non-Applicant institution has not committed injustice by placing the Applicant on the post of Assistant Professor on 01.02.2012 in accordance with the provisions of 6th Pay Commission. According to Non-Applicant institution, the placement of the Applicant as Assistant Professor under the provisions of 6th Pay Commission was accepted by the Applicant without any protest and therefore, the question of according the post of Associate Professor is unfounded as he did never apply to the Non-Applicant institution in the prescribed format for being considered to the post of Lecturer (Selection Grade) and now the Applicant is estopped for making such claim and for this reason also, the petition needs to be dismissed.

7. The Non-Applicant has further submitted that the Applicant has also preferred the Writ Petition No. 2443/2021 before the Hon'ble High Court, praying for relief concerning the pay scale and therefore, he cannot raise the claim for the same grievance before this committee and the Applicant cannot approach two forums simultaneously and for this reason also, the petition needs to be dismissed. It is further submitted that the claim of the Applicant is barred by limitation and even if it relates to fixation of

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pay etc. it cannot be entertained and the petition needs to be dismissed.

8. The Applicant has filed the rejoinder, it is submitted that the Applicant had already requested the Non-Applicant for placement in higher pay scale but at the time of joining, the Non-Applicant replied that the placement will be granted after the proposal is sent to the Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur under the Career Advancement Scheme in due course but no proposal was sent and it is submitted that the Applicant was working as a Lecturer from 09.09.1991 and therefore, as per Govt. Resolution dated 11.02.1994 and 15.10.2015, the Applicant is entitled for relief as claimed.

9. It is further submitted by the Applicant that the grievance and prayer in the present petition was not made before the Hon'ble High Court in Writ Petition and both the litigations are of different cause of action and on different grievances and this petition is maintainable as the Grievance Committee is having jurisdiction and it is further submitted that the prayer in Writ Petition before the Hon'ble High Court were in respect of (i) challenging the closure of branches, merger and absorption policy. (ii) payment of arrears of 6th Pay and 7th Pay scale as applicable to the Applicant with implementation of 7th Pay Commission and according to the Applicant, the present grievance is within the limitation as the Non-Applicant failed to grant the basic pay as per the seniority of the Applicant and the wrong is continued. The Applicant has further

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submitted that he had already supplied the documents to the Non-Applicant college for submitting the proposal to the University for claiming the designation as Lecturer (Selection Grade) but the Non-Applicant had never given the response to the application of Applicant.

10. The Non-Applicant has filed the additional submissions, it is submitted that the Applicant is trying to mislead the Committee by submitting that he is entitled to the benefits of Govt. Resolution dated 17.10.2015, Notification dated 05.09.2000 and according to the Non-Applicant, the claim of the Applicant is barred by limitation as the Applicant has made the application after lapses of more than 10 years from the date from which it became due and payable to him.

11. It is submitted by the Non-Applicant that the Applicant had made application to the Non-Applicant college for the post of Lecturer in Applied Mathematics and appointment order dated 29.05.2009 was issued as per the recommendations of the Selection Committee of the college. The Non-Applicant has filed the copy of the said appointment order and thereafter, the Applicant had submitted a joining letter dated 03.09.2009. The Non-Applicant has also filed the copy of the joining letter dated 03.09.2009 and according to the Non-Applicant, the Applicant had accepted the terms and conditions of the appointment order. And as per the appointment order, it was specifically mentioned that the Applicant

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was appointed on the post of Senior Lecturer in Applied Mathematics and, therefore, the Applicant is estopped from making any claim contrary to the appointment order. It is further submitted by the Non-Applicant that the claim of the Applicant is based on Govt. Resolution dated 17.10.2015, therefore, it was obligatory on the part of the Applicant to fulfill the pre-requisite conditions of the Govt. Resolution dated 17.10.2015 and as per clause (A) of the Govt. Resolution dated 17.10.2015, there is mandatory procedure to be followed for being entitled to the benefits of Career Advancement Scheme as per sub-clause (i) of the clause(A) of the Govt. Resolution dated 17.10.2015, it is mandatory that a teacher who wishes to be considered for promotion under Career Advancement Scheme(CAS), should submit in writing to the University/College/Institute within 3 months in advance of the due date that he fulfills all the qualifications under the Career Advancement Scheme (CAS) and submit to the University/College, the Performance Based Appraisal System (PBAS) in the proforma as prescribed by the concerned University/ Statutory Authority and duly supported by all credentials as per the Academic Performance Indicator (API) guidelines specified under reference 4 & 5 but the Applicant had not made such compliance of the requirement and he has not filed any document to show that he has duly complied with the said requirement and therefore, for this reason of failure on the part of the Applicant to comply with pre-requisite condition of the Govt.

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Resolution dated 17.10.2015, the Applicant is not entitled to any relief.

12. It is further submitted by the Non-Applicant that the Applicant is claiming the relief on the basis of the chart mentioned below clause (A) of the Govt. Resolution dated 15.10.2015 and it reveals on perusal of the said clause (A) that it is applicable to Govt. aided colleges/institutes and Non-Applicant college is a Self-Financed Institute and does not receive any kind of grant from the State Exchequer, therefore, the claim made by the Applicant is not maintainable.

13. The Applicant has filed the Writ Petition No. 2443/2021 before the Hon'ble Bombay High Court, Bench at Nagpur (Dr. P. D. Shobhane & Sixteen Others V/s State of Maharashtra through the Secretary Higher & Technical Education & Employment Department Mantralaya, Mumbai and Six Others and the Applicant and other petitioners have claimed the pay scale as per the recommendations of 6th Pay Commission and 7th Pay Commission as per the prayer clause (c), therefore, as the matter relating to claim the revised pay scale as per the recommendations of 6th Pay & 7th Pay Commission is sub-judiced before Hon'ble High Court. Therefore, this Committee cannot entertain the Applicant's claim for revised pay scale as per the 6th & 7th Pay Commission and therefore, only aspect which can be considered before the Committee as to whether the

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Applicant was entitled for pay scale which was required to be fixed on the basis of his past services and seniority.

14. In the facts and circumstances of the case and in view of submissions of the Applicant and Non-Applicants, and considering the claim of the Applicant, following points arises for 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 Applicant is entitled for pay scale which was required to be fixed on the basis of his past services, experience and seniority before joining service in the Non-Applicant's College?	No
(ii) What order?	As per order given below

REASONS

As to Point No. (i) and (ii):

15. It is the case of the Applicant that at the time of his appointment and joining in the Non-Applicant college on 03.09.2009, his past experience and services has not been considered and though he was entitled for fixation of salary in the scale of higher grade but Non-Applicant had not fixed his salary in the scale of higher grade on the basis of his past services. On the contrary the Non-Applicant has come forward with the case that the Applicant had joined the college in the year 2009 as a Lecturer and Applicant did never apply to the Non-Applicant Institution in the

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prescribed format to the post of Lecturer (selection grade) and the Applicant did not comply the requisite requirement as per Govt. Resolution dated 17.10.2015 as per the guidelines mentioned in the Govt. Resolution and therefore, the Applicant is not entitled for the claim as prayed in the petition. Considering the facts and circumstances of the case the important aspects which needs to be considered as the whether the compliance of the requisite conditions as per the Govt. Resolution, Notifications and circulars is necessary to get higher grade of scale in the salary on the basis of past experience and services and the further question arises for consideration as to whether in the present case, the Applicant has complied all the requirements as per the Govt. Resolution, which are mandatory for the purposes of claiming higher pay scale on the basis of past services.

16. Further question arises as to whether the responsibility can be fixed on the Non-Applicant for fixation of pay scale of the Applicant considering his past services, prior to joining the service in the Non-Applicant College as the Applicant had joined the services as a Lecturer in the Non-Applicant College as per appointment order dated 29.05.2009 on probation for two years and his appointment was approved as per approval letter dated 01.02.2010. But the Applicant's claim is for fixation of pay scale on the basis of his past services in the other college/institute.

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17. Considering the dispute involved as to fixation of pay scale the letter of appointment of Applicant and terms and conditions agreed by the Applicant are also of much significance because it is also necessary to consider these important factors including the factor as to whether the responsibility on the Non-Applciant can be fixed beyond the terms and conditions as agreed by the Applicant as per letter of appointment.
18. Applicant's claim for placement and fixation of pay scale is mainly based on the Govt. Resolution issued by the Govt. of Maharashtra on 11.02.1994 and also on the Govt. Resolution issued by the Govt. of Maharashtra on 20th August, 2010 and further as per Govt. Resolution issued by the Govt. of Maharashtra dated 15.10.2015.
19. In the present case as per admitted facts, prior to joining the post of Lecturer in the Non-Applciant college and as per approval letter dated 20.01.1997 issued by the Nagpur University, the Applicant was working in the Priyadarshini College of Engineering, Nagpur as a Lecturer in Mathematics and when the Non-Applciant college had published the advertisement in the year 2009 for the post of Lecturer and the Applicant had applied for the post of Lecturer to the Non-Applciant and as per appointment letter dated 29.05.2009, the Applicant was appointed as a Lecturer in Mathematics in the Non-Applciant College and his appointment was also approved to the post of Lecturer by the Rashtrasant Tukadoji

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Maharaj Nagpur University by approval letter dated 01.02.2010, therefore, it is clear that prior to joining in the Non-Applicant college, the Applicant was working as a Lecturer and the advertisement was published by the Non-Applicant for the post of Lecturer and on the basis of advertisement, the Applicant had applied and he was appointed as a Lecturer in the Non-Applicant college and he worked till 01.02.2012 in the Non-Applicant college as a Lecturer.

20. The Non-Applicant has come forward with the contention that the Applicant was required to comply the necessary conditions as per Govt. Resolution dated 11.02.1994, dated 17.10.2015 and also the conditions as per Notification dated 8th November, 2012 issued by AICTE with regard to Career Advancement Scheme (CAS) and Applicant also did not comply as per Clause 10 of Direction No. 27 of 2002 issued by the Rashtrasant Tukadoji Maharaj Nagpur University. It is the case of the Applicant that when he joined in the Non-Applicant college in the year 2009, he was entitled for fixation of higher pay scale but no committee was called and his past services were not considered by the Non-Applicant.

21. Per-contra the Non-Applicant has come forward with the contention that the advertisement was given for the post of Lecturer and benefits of Senior Lecturer were given to the Applicant at the time of joining and nothing was agreed at the time of appointment of the Applicant. And even the Applicant's last salary was protected

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and the previous institution in which the Applicant was working, was liable for fixation of higher pay scale if any claimed by the Applicant.

22. The Committee has considered the factual and legal aspects and also considered the legal position as to requirement for fixing the responsibility for fixation of higher pay scale as claimed by the Applicant. And the Committee has considered the reasons that as the Non-Applicant had published the advertisement for the post of Lecturer in the Mathematics in Non-Applicant college and on the basis of advertisement, the Applicant had applied for the post of Lecturer and he was also appointed as per appointment order dated 29.05.2009 for a period of two years on probation in the Non-Applicant college and the Applicant had joined the services in the Non-Applicant college after knowing all the facts and accepted the post and pay scale at the relevant time of his appointment. Though it is case of the Applicant that he is entitled for pay scale for higher pay scale since the time when he was working in the Priyadarshini College of Engineering, Nagpur, where he worked since 1995 to 02.09.2009 as per details mentioned by the Applicant himself in his Grievance Petition and even as per the copy of service book he worked as Lecturer. Therefore, the Applicant was required to take initiative and steps for fixation of higher pay scale when he was working in the Priyadarshini College of Engineering, Nagpur but he did not claim any higher pay scale as per his seniority and he joined

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the post of Lecturer in the college of Non-Applicant on 03.09.2009.

23.

Therefore, for the reasons and legal position as mentioned above, the Committee has come to the conclusion that the responsibility and liability cannot be fastened on the Non-Applicant regarding the claim of fixation of higher pay scale as claimed by the Applicant and therefore, the Applicant has not established his claim against the Non-Applicant and the Applicant is not entitled for his claim against the Non-Applicant therefore, finding to point No. 1 is recorded accordingly and the Grievance Petition is disposed of accordingly.

Nagpur.

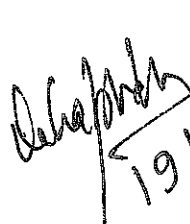
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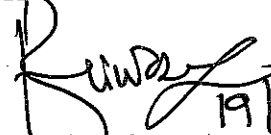
(Dr. Sanjay Kavishwar)
Member, Grievances Committee,
RTM Nagpur University, Nagpur


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(Shri Manoj Malkapure)
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(Adv. Rajat Kumar Maheshwari)
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