

MINUTES

**of the General Body Meeting of
NAGPUR UNIVERSITY TEACHERS' ASSOCIATION
held at 12.00 noon on SUNDAY, the
26th November, 2017 at
R.A. Arts, M.K. Commerce &
S.R. Rathi Science College,
Washim**

General Body of Nagpur University Teachers' Association met at 12.00 noon on Sunday, the 26th November, 2017 at R.A. Arts, M.K. Commerce & S.R. Rathi Science College, Washim. Prof. P. B. Raghuvanshi President was in the chair. The membership numbers of the members present at the meeting are as follows :-

0044, 0048, 0807, 0810, 1122, 1161, 1177, 1213, 1217, 1540, 1792, 1859, 1948, 2439, 2500, 2808, 2817, 3087, 3257, 3277, 3299, 3300, 3306, 3341, 3354, 3374, 3432, 3449, 3492, 3548, 3550, 3594, 3621, 3631, 3750, 3797, 3800, 3803, 3805, 3835, 4039, 4088, 4089, 4092, 4156, 4213, 4346, 4411, 4416, 4429, 4498, 4499, 4865, 4953, 4983, 5013, 5482, 5486

Signed sheets of papers recording the attendance are included on pages 70 to 73 of and will form part of, the "BOOK OF ATTENDANCE" of General Body meetings.

Agenda of the General Body meeting was circulated on pages 165 to 167 of 2017 NUTA Bulletin and further on Page 207 of 2017 NUTA Bulletin.

ITEM NO. 708 :**CONFIRMATION OF MINUTES :**

CONFIRMED the minutes of the General Body meeting of Nagpur University Teachers' Association held at 12.00 noon on Sunday, the 16th April, 2017 at J.M. Patel Arts, Commerce & Science College, Bhandara.

Notes :- (1) Copy of the minutes was Circulated on pages 101 to 106 of 2017 NUTA Bulletin.

(2) Corrections, if any, were invited in the copy of the Minutes of the General Body Meeting of Nagpur University Teachers' Association held at 12.00 noon on Sunday, the 16th April, 2017 at J.M. Patel Arts, Commerce & Science College, Bhandara vide No. CIM/ 42 Dated 01.05.2017 published on page 109 of 2017 NUTA Bulletin. No correction was received.

विषय क्रमांक ७०८ (१)

**प्रा. शंकरलाल पातालवंसी यांच्या दुःखद
निधनावहल शोकप्रस्ताव**

प्रा. श्री. शंकरलाल शिववरण पातालवंसी यांच्या दुःखद निधनावहल प्रा.विकास टोणे यांनी मांडलेला पुढील शोकप्रस्ताव संमत करण्यात आला :-

प्रा. श्री. शंकरलाल शिववरण पातालवंसी यांचे दि. ३१ मे २०१७ रोजी दुःखद निधन झाले. ते यवतमाळ येथील अमोलकचंद महाविद्यालयात, शारीरिक शिक्षण विभाग प्रमुख होते. नवी दिल्ली येथील आयोजित आशियाड हॅन्डबॉल स्पर्धेत त्यांनी अधिकारी म्हणून यशस्वी जबाबदारी पार पाडली. ते यवतमाळ जिल्हा हॅन्डबॉल व हॉकी या संघटनेचे अध्यक्ष होते. त्यांना क्रीडा क्षेत्रातील उत्कृष्ट सेवेसाठी महाराष्ट्र शासनाचा शिवछत्रपती पुरस्कार प्राप्त झाला होता. खेळाडू प्रिय आणि कठोर शिस्तप्रिय प्राध्यापक म्हणून त्यांनी लौकीक प्राप्त केला होता. संत गाडगे बाबा अमरावती विद्यापीठाच्या क्रीडा विभागाच्या विकासातही

त्यांचे योगदान होते. ते काही वर्षांपूर्वीच सेवानिवृत्त झाले होते. प्रा.पातालवंसी नुटाचे आजीव सभासद होते. संघटनेद्वारा आयोजित आंदोलनात व संघर्षामध्ये ते सातत्याने सहभागी होत असत. त्यांच्या दुःखद निधनावहल ही सभा तीव्र शोक संवेदना व्यक्त करित आहे.

विषय क्रमांक ७०८ (२)

**प्रा. श्री. प्रमोद बोर्डे यांच्या दुःखद
निधनावहल शोकप्रस्ताव**

प्रा. श्री. प्रमोद बोर्डे यांच्या दुःखद निधनावहल प्रा. विवेक हिवरे यांनी मांडलेला पुढील शोकप्रस्ताव संमत करण्यात आला :-

श्री. शिवाजी महाविद्यालय, अकोला येथील कनिष्ठ महाविद्यालयातील वनस्पतीशास्त्र विभागाचे प्राध्यापक श्री. प्रमोद देवलाल बोर्डे यांचे दि. ३ ऑगस्ट २०१७ रोजी अल्पशा आजाराने निधन झाले. प्रा. प्रमोद बोर्डे हे स्वभावाने दिलखुलास, मोठ्या मनाचे, माणुसकी जपणारे तसेच शैक्षणिक, सामाजिक व राजकीय क्षेत्रात काम करणारे व्यक्तिमत्त्व होते. अकोला जिल्ह्यात त्यांनी नुटाच्या सर्व कार्यक्रमांमध्ये खूप चांगले योगदान दिले आहे. त्यांच्या दुःखद निधनावहल ही सभा तीव्र शोक संवेदना व्यक्त करित आहे.

विषय क्रमांक ७०८ (३)

**प्रा. श्रीमती सुशीला पांडे यांच्या दुःखद
निधनावहल शोकप्रस्ताव**

प्रा. श्रीमती सुशीला पांडे यांच्या दुःखद निधनावहल प्रा. विवेक हिवरे यांनी मांडलेला पुढील शोकप्रस्ताव संमत करण्यात आला :-

डॉ. एच. एन. सिन्हा महाविद्यालय, पातूर, जि. अकोला येथून सेवानिवृत्त झालेल्या इतिहास विषयाच्या प्राध्यापिका श्रीमती सुशीला नानासाहेब पांडे यांचे वयाच्या ७३ व्या वर्षी दि. २५ एप्रिल २०१७ रोजी दीर्घ आजाराने निधन झाले. त्यांच्या दुःखद निधनावहल ही सभा तीव्र शोक संवेदना व्यक्त करित आहे.

विषय क्रमांक ७०८ (४)

**प्रा. एल. एस. काबरा यांच्या दुःखद
निधनावहल शोकप्रस्ताव**

प्रा. एल. एस. काबरा यांच्या दुःखद निधनावहल प्रा. डॉ. एस. पी. भगत यांनी मांडलेला पुढील शोकप्रस्ताव संमत करण्यात आला :-

प्रा. एल. एस. काबरा, हे राजस्थान आर्यन कला, श्री. मि. क. वाणिज्य व श्री. स. रा. राठी विज्ञान महाविद्यालयामध्ये रसायनशास्त्र विभागामध्ये विभाग प्रमुख म्हणून कार्यरत होते. त्यांचे दुःखद निधन दि. २० नोव्हेंबर २०१६ रोजी झाले. प्रा. काबरा हे नुटाचे आजीवन सभासद होते. त्यांचा नुटाच्या कार्यामध्ये सक्रीय सहभाग होता. त्यांच्या दुःखद निधनावहल ही सभा तीव्र शोक संवेदना व्यक्त करित आहे.

विषय क्रमांक ७०८ (५)

**प्रा. रमेश सोनटक्के यांच्या दुःखद
निधनावहल शोकप्रस्ताव**

प्रा. रमेश सोनटक्के यांच्या दुःखद निधनावहल प्रा. डॉ. नितीन चांगोले यांनी मांडलेला पुढील शोकप्रस्ताव संमत करण्यात आला :-

बॅरि. रामराव देशमुख कला, श्रीमती इंदिराजी कापडिया वाणिज्य आणि न्या. कृष्णराव देशमुख विज्ञान महाविद्यालयातील वाणिज्य विषयाचे प्रा. रमेश सोनटक्के यांचे वयाच्या त्रेसष्टाव्या वर्षी दिनांक १२ ऑगस्ट २०१७ रोजी हृदय विकाराने दुःखद निधन झाले. त्यांच्या निधनाने केवळ त्यांच्याच कुटुंबातीलच नव्हे तर नुटाच्या परिवारातील एक अत्यंत दिलदार, तेवढाच कृतिशील आणि निष्ठावंत लढवय्या सैनिक हरपला आहे. प्रा. रमेश सोनटक्के हे नेट-सेट

संदर्भातील पहिल्या एकोणवीस याचिकाकर्त्यांच्या याचिकेतील प्रथम याचिकाकर्ते होते. प्रा. सोनटक्के यांनी प्रथम याचिकाकर्ते या नात्याने केलेल्या अथक परिश्रमांमुळे त्या याचिकेतील एकोणवीस याचिकाकर्त्यांना स्थाननिश्चितीचे लाभ मिळाले. पुढे रमेश सोनटक्के महाविद्यालयातून निवृत्त झाले. त्यांच्या निवृत्ती वेतनाचा महाविद्यालयाने सादर केलेला प्रस्ताव शासनाने परत पाठवून, त्यांचे निवृत्ती वेतन नव्या २७ जुलै २०१३ च्या शासकीय आदेशाप्रमाणे निश्चित करावे असे शासनातर्फे महाविद्यालयाला कळवण्यात आले. त्याला सोनटक्के यांनी नकार दिला आणि न्यायालयीन लढाईने मिळालेल्या स्थाननिश्चितीप्रमाणेच मला निवृत्ती वेतनाचा लाभ मिळावा यावर सोनटक्के ठाम राहिले. प्रा. सोनटक्केच्या जाण्याने एक उमदा माणूस, संघटनेचा एक लढाऊ सैनिक आणि विद्यार्थीप्रिय शिक्षक काळाच्या पडद्याआड गेली आहे. त्यांच्या दुःखद निधनावद्दल ही सभा तीव्र शोक संवेदना व्यक्त करीत आहे.

विषय क्रमांक ७०८ (६)

प्राचार्य श्री. व्ही. के. पांडे यांच्या दुःखद निधनावद्दल शोकप्रस्ताव

प्राचार्य श्री. व्ही. के. पांडे यांच्या दुःखद निधनावद्दल प्रा. डॉ. रवीशंकर भोर यांनी मांडलेला पुढील शोकप्रस्ताव संमत करण्यात आला :-

वर्धा जिल्हा नुटाचे माजी अध्यक्ष, शिक्षक चळवळीचे एक वरिष्ठ मार्गदर्शक प्राचार्य श्री. व्ही. के. पांडे यांचे दि. २ ऑगस्ट २०१७ रोजी अल्पशा आजाराने दुःखद निधन झाले. प्राचार्य पांडे सर नुटाचे सुरुवातीपासून सदस्य होते. शिक्षक चळवळीत त्यांचे मोलाचे योगदान होते. ते अत्यंत अभ्यासू, वाचनप्रिय व विद्यार्थीप्रिय होते. त्यांच्या दुःखद निधनावद्दल ही सभा तीव्र शोक संवेदना व्यक्त करीत आहे.

विषय क्रमांक ७०८ (७)

डॉ. संदीप आर. सिरसाट यांच्या दुःखद निधनावद्दल शोकप्रस्ताव

डॉ. संदीप आर. सिरसाट यांच्या दुःखद निधनावद्दल प्रा. लक्ष्मीधर मुळे यांनी मांडलेला पुढील शोकप्रस्ताव संमत करण्यात आला :-

जिजामाता महाविद्यालय बुलढाणा येथे संगणकशास्त्र विषयाचे सहयोगी प्राध्यापक व विभागप्रमुख डॉ. संदीप आर. सिरसाट यांचे दि. २४ नोव्हेंबर २०१७ रोजी हृदय विकाराच्या तीव्र झटक्याने दुःखद निधन झाले. दिनांक २४ नोव्हेंबर रोजी प्रा. डॉ. संदीप सिरसाट अमरावती येथे एम.एस्सी कम्प्युटर सायन्सचे प्रात्यक्षिक परीक्षेकरिता बाह्य परीक्षक म्हणून आले होते. परीक्षेचे काम आटोपून महाविद्यालयीन कामाकरिता ते विद्यापीठात गोपनीय विभागात संबंधित टेबलसमोरील खुर्चीत बसलेले असतांना त्यांना अकस्मात हृदय विकाराचा तीव्र झटका आला आणि त्यांना दवाखान्यात उपचाराकरिता नेण्यापूर्वीच त्यांचे निधन झाले. आपले कर्तव्य बजावत असतांना त्यांचा झालेला मृत्यू आम्हा सर्वांसाठी अतिशय वेदनादायी आहे. प्रा. डॉ. संदीप सिरसाट यांनी आपल्या सेवेची सुरुवात श्री. शिवाजी महाविद्यालय चिखली येथे केली. संगणकशास्त्रासारख्या नवीन विषयामध्ये त्यांनी विद्यापीठस्तरावरील अभ्यासमंडळ, विद्वत् परिषदेसारख्या प्राधिकारीणींवर सक्रीय कार्य केलेले आहे. सेवेत आल्यानंतर सुरुवातीपासूनच ते नुटाचे आजीवन सभासद आहेत व संघटनेच्या कार्यात त्यांचा सातत्याने सक्रीय सहभाग राहिलेला आहे. एक अभ्यासू, मनमिळावू, विद्यार्थीप्रिय व संघटन कुशल सहकारी म्हणून ते आमच्या कायम स्मरणात राहतील. त्यांच्या दुःखद निधनावद्दल ही सभा तीव्र शोक संवेदना व्यक्त करीत आहे.

शोकप्रस्ताव मांडणाऱ्या सदस्यांनी आपल्या भावना व्यक्त केल्या. सभाध्यक्षांनी सुद्धा आपल्या भावना व्यक्त केल्या. सभेने दोन मिनिटे स्तब्ध उभे राहून दिवंगत सदस्यांना आपली आदरांजली वाहिली. संमत केलेल्या शोकप्रस्तावाची प्रत संघटनेच्या वतीने सचिव शोकाकुल कुटुंबियांकडे पाठवतील असे सभाध्यक्षांनी सांगितले.

ITEM NO. 709 : APPROVAL TO THE AUDITED STATEMENTS :

CONSIDERED and APPROVED the Audited Balance Sheet and Income and Expenditure Account of the Association for the year ended on 31st March, 2017.

Notes : (i) The copy of the Audited Balance Sheet and Income and Expenditure Account of the Association for the said Financial year was circulated on page 166 & 167 of 2017

NUTA Bulletin.

(ii) The Audited Balance Sheet and Income and Expenditure Account were placed before the General Body by Dr. Prakash Tayade, Treasurer, on behalf of the Executive Committee.

ITEM NO. 710 : STATEMENT ON FIXED SECURITIES POSITION :

NOTED the Statement no. 28 showing the position of the Fixed Securities of the Association as on 31st March, 2017.

Note : (i) Statement no. 28 regarding the fixed securities of the Association as on 31st March, 2017 was circulated on page 168 of 2017 NUTA Bulletin. (ii) The Statement showing the position of the Fixed Securities of the Association as on 31st March, 2017, was placed before the General Body by Dr. Prakash Tayade, Treasurer, on behalf of the Executive Committee.

ITEM NO. 711 : PRESS RELEASE ISSUED BY HRD REGARDING 7TH PRC

(A) CONSIDERED the Press Release issued by Press Information Bureau Ministry of Human Resource Development GOVERNMENT OF INDIA on 11 October 2017 at 19:44 hrs. regarding revised pay scales of teachers and equivalent academic staff in Universities/Colleges as approved by the Central Cabinet.

(B) कार्यकारी मंडळाच्या वतीने प्रा. विवेक देशमुख यांनी मांडलेला पुढील प्रस्ताव विचारात घेण्यात आला. :-

विद्यापीठ अनुदान आयोगाने नेमलेल्या सातव्या वेतन पुनर्विलोकन समितीचा अहवाल व त्यावर विद्यापीठ अनुदान आयोगाच्या शिफारशी विचारात घेवून केंद्रीय मंत्रिमंडळाने विद्यापीठीय व महाविद्यालयीन शिक्षकांच्या संदर्भात सातव्या वेतन आयोगाशी समकक्ष वेतनश्रेण्यांच्या सुधारणेबाबतचे / पुनर्रचनेबाबतचे निर्णय घेतले असून दिनांक ११ ऑक्टोबर २०१७ रोजी केंद्रीय मानव संसाधन मंत्र्यांनी ते एका अधिकृत निवेदनाद्वारे जाहीर केलेले आहेत. केंद्र शासनाचे हे अधिकृत निवेदन "Press Information Bureau : Government of India : Ministry of Human Resource Development : Cabinet approves revised pay scales of teachers and equivalent academic staff in Universities/Colleges & centrally funded technical institutions" अशा मधल्याचे असून खुद्द शिक्षणमंत्र्यांनी ११ ऑक्टोबर २०१७ रोजी सायंकाळी १९.४४ वाजता हे निर्णय अधिकृत निवेदनाद्वारे जाहीर केलेले आहेत.

(१) विलंबाने का होईना पण याबाबतची अनिश्चितता संपुष्टात आली असून वेतनसुधारणेचे प्रस्ताव १ जानेवारी २०१६ पासून लागू होतील हे निःसंदिग्धपणे घोषित करण्यात आलेले आहे. ही समाधानाची बाब आहे.

(२) वेतनसुधारणेच्या प्रस्तावामुळे राज्यशासनावर येणाऱ्या अतिरिक्त भाराबाबत केंद्रशासनाने करावयाच्या आर्थिक भारवहनाबाबतची अनिश्चितता पूर्णपणे संपुष्टात आली ही सुद्धा अत्यंत समाधानाची बाब म्हणावी लागेल. या निवेदनाच्या शेवटच्या परिच्छेदात "The Central Government will bear the additional burden of the States on account of revision of pay scales." असे निःसंदिग्धपणे घोषित करण्यात आले असून या वाक्यरचनेतील कोणत्याही शब्दांचे दोन अर्थ काढता येत नाहीत हे नमूद करण्यात येत आहे.

(३) केंद्रशासनाकडून अनुदानित १०६ विद्यापीठे व महाविद्यालये तसेच राज्यशासनाकडून अनुदानित ३२९ विद्यापीठे व १२९१२ शासकीय किंवा शासन अनुदानित महाविद्यालये यातील ७.५८ लक्ष शिक्षकांना या निर्णयाचा लाभ होईल हे केंद्र शासनाच्या या अधिकृत निवेदनाच्या परिच्छेद २ मध्ये घोषित करण्यात आलेले आहे ही सुद्धा समाधानाचीच बाब आहे.

(४) अधिकृत निवेदनातील "For the State Govt. funded institutions, the revised pay scales will require adoption by the respective State Governments." हा उल्लेख अत्यंत खेदजनक आहे. या उल्लेखामुळे या संदर्भात केंद्रशासनावर घटनेने व विद्यापीठ अनुदान आयोगावर १९५६ च्या कायद्यान्वये टाकलेली जबाबदारी केंद्र शासनाने संपूर्णपणे

झटकून टाकलेली आहे. याबाबतीत बंधनकारक व्यवस्था अंमलात आणण्याचे संपूर्ण अधिकार घटनेने व कायद्याने केंद्रशासनाला दिलेले आहेत. या कायदेशीर व घटनात्मक जबाबदारीकडे केंद्रशासन दुर्लक्ष करू शकत नाही.

"Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions." हा विषय या देशाच्या घटनेने केंद्रशासनाकडे सोपविलेला विषय आहे कारण तो घटनेच्या ७ व्या परिशिष्टातील केंद्र सूचीमध्ये ६६ व्या क्रमांकावर नमूद आहे. (Entry 66 in the Union List i.e. List I of Seventh Schedule of the Constitution of India.)

"Education, including technical education, medical education and universities," हा विषय राज्यसूचीतून काढून घटनादुरुस्तीच्या माध्यमाने समवर्ती सूचीमध्ये समाविष्ट करण्यात आलेला असल्याने याबाबतसुद्धा प्रशासनाचे व विधिविधानाचे तसेच "बंधनकारक व्यवस्था" अंमलात आणण्याचे अधिकार या देशाच्या घटनेने केंद्रशासनाकडेच सोपविलेले असतांना केंद्र शासनाने आपण मान्य केलेली व्यवस्था राज्यशासनाने अंमलात आणावी यासाठी राज्याकडे याचना करणे हे सर्वथैव अनुचित तर आहेच पण घटनाबाह्य व बेकायदेशीरपणाचे सुद्धा आहे.

(५) आणखी एका गोष्टीचा स्पष्टपणे उल्लेख करणे आवश्यक वाटते. केंद्रीय मंत्रिमंडळाने घेतलेल्या निर्णयातील "Additional Burden" या शब्दाचा अर्थ तपशीलवार सूचना निर्गमित करतांना "80% of the Additional Burden" किंवा "50% of the Additional Burden" असा लावण्याचा प्रयत्न केंद्रीय मंत्रालयातील किंवा विद्यापीठ अनुदान आयोगातील अधिकारी करणार नाहीत याची काळजी घेणे आवश्यक आहे. तसा प्रयत्न झाल्यास देशभरातील विद्यापीठीय व महाविद्यालयीन शिक्षकांमध्ये तीव्र असंतोष निर्माण होण्यास तो कारणीभूत ठरेल. त्यामुळेच "मंत्रिमंडळाने घेतलेल्या निर्णयामध्ये अधिकाऱ्यांना बदल करता येणार नाही" हे नमूद करण्यात येत आहे. केंद्रीय मंत्रिमंडळाने घेतलेल्या निर्णयामध्ये नंतर अधिकाऱ्यांनी प्रतिकूल

बदल केल्याची अनेक उदाहरणे उपलब्ध आहेत. ती सर्व नमूद करण्याची आवश्यकता नाही.

(६) सहाव्या वेतन आयोगाशी समकक्ष वेतनश्रेण्यांबाबतचे केंद्रशासनाचे निर्णय हे तत्कालीन मानव संसाधन मंत्र्यांनी दिनांक १६ डिसेंबर २००८ रोजी लोकसभेत जाहीर केले होते. त्याच्या ३ महिने अगोदर दिनांक ३ ऑक्टोबर २००८ रोजी "Report of the Committee to Review the Pay Scales and Service Conditions of University and College Teachers, 2008" हा जाहीर करण्यात आला होता. सातव्या PRC चा अहवाल अजूनही जाहीर केला जात नाही, ही अत्यंत खेदजनक बाब आहे.

(७) केंद्रीय मानव संसाधन मंत्र्यांनी दिलेल्या अधिकृत निवेदनावरील संघटनेची ही प्रतिक्रिया आहे. सातव्या PRC चा अहवाल, त्यावरील विद्यापीठ अनुदान आयोगाच्या शिफारशी, अधिकृत निवेदनानंतर केंद्र शासनाने किंवा विद्यापीठ अनुदान आयोगाने निर्गमित केलेल्या तपशीलवार सूचना प्राप्त झाल्यानंतरच त्याबाबत प्रतिक्रिया व्यक्त करता येतील.

Note :- The Press Release issued by Press Information Bureau Ministry of Human Resource Development GOVERNMENT OF INDIA on 11 October 2017 at 19.44 hrs. regarding revised pay scales of teachers and equivalent academic staff in Universities/Colleges as approved by the Central Cabinet was circulated herewith on page 170 of this Bulletin.

**ITEM NO. : 712
STATEMENT & CIRCULAR ISSUED
BY AIFUCTO**

CONSIDERED (a) Statement dated 12th Oct., 2017 and (b) Circular-10/ 2017 dated 14th October, 2017 issued by All India Federation of University & College Teachers' Organisations

Note :- (a) Statement dated 12th Oct., 2017 and (b)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5271 OF 2014

Shivaji University Teachers' Association (SUTA) through its General Secretary Dr. Raghunath Hindurao Patil and others ..Petitioners **VERSUS** The State of Maharashtra Through its Secretary of Ministry of Higher and Technical Education, Mantralaya, Mumbai 400 032 and others ..Respondents Mr. C. G. Gavnekar a/w Mr. Gautam Hiranandani for the Petitioners. Mrs. Rupali M. Shinde, AGP for Respondent Nos.1 to 4.

CORAM: B. R. GAVAI & SANDEEP K. SHINDE, JJ.

Date : 8th November, 2017

P.C.:- (1) Rule. Rule is made returnable forthwith. Respondents waive service. Heard, by consent of parties.

(2) The issue involved in this Petition is no more res integra. Division Bench of this Court (Bench at Aurangabad) in Writ Petition No.10283 of 2012 alongwith companion Writ Petition, vide judgment and order dated 21/11/2013, considered the question with regard to anomaly in pay structure of the employees, on account of teachers junior to the Petitioners therein having been awarded Ph.D.Degree, after 01/01/2006. The Court considered the anomalous situation, since the Petitioners who were awarded Ph.D. Degree were entitled to three non-compoundable increments, whereas the teachers who had acquired Ph.D. Degree prior to 01/01/2006 were entitled to only two increments of Rs 420/- each, totaling to Rs 840/-. As against this, teachers in the first category, were entitled to increase in salary by almost Rs 9,000/- per month.

(3) After considering the law laid down on the issue by the Apex Court, Division Bench of this Court (Bench at Aurangabad) in its order dated 21/11/2017 passed in Writ Petition No.10283 of 2012 alongwith companion Writ Petition, has observed in para 16 as under:-

"16. For the above reasons both the Petitions need to be allowed with directions that Respondents shall take necessary action to step up the pay of the Petitioners in both the Petitions so as to be at par with juniors where all the things given are same and shall not discriminate only because the junior teacher has acquired Ph.D. Degree

in the course of 6th Pay Commission. The salaries of the Petitioners in both the Petitions may be re-fixed and arrears be paid within a period of THREE MONTHS. For Petitioners who have already retired, the pension shall be re-fixed accordingly."

(4) The judgment of Division Bench was carried to the Hon'ble Supreme Court by way of SLP Nos 15053-15056/2015. Vide order dated 17/11/2015 SLPs have been dismissed.

(5) We therefore find that in view of the judgment of Division Bench of this Court (Bench at Aurangabad) and dismissal of SLPs of the State, Petitioners are also entitled to the same benefit as per the judgment of Aurangabad Bench of this Court.

(6) In that view of the matter, Rule is made absolute in the following terms:-

(i) Petitioners, through their respective colleges, shall submit a proposal for pay-scale in accordance with the Judgment of Division Bench of this Court (Bench at Aurangabad) dated 21/11/2013 passed in Writ Petition No.10283 of 2012 alongwith companion Writ Petition and for arrears, within a period of two months from today.

(ii) On receipt of such proposal, the competent authority i.e. Respondent No.3 shall make payment to the Petitioners of arrears within a period of three months from the date of receipt of the proposal.

(SANDEEP K. SHINDE, J.)

(B. R. GAVAI, J.)

CIRCULAR dated 14th October, 2017 issued by All India Federation of University & College Teachers' Organisations was circulated on page 170 & 171 of 2017 Bulletin.

consideration and appropriate use thereof. (This Note is circulated on page 213 of this Bulletin.)

विषय क्रमांक ७१३ :

२००६ ते २००९ या काळात सेवानिवृत्त अधिव्याख्यात्यांच्या प्रकरणी सर्वोच्च न्यायालयाचा अंतिम निर्णय

निवडश्रेणीमध्ये ३ वर्षे किंवा त्यापेक्षा जास्त सेवा होऊन १ जानेवारी, २००६ ते २७ फेब्रुवारी, २००९ या कालावधीत सेवानिवृत्त झालेल्या अधिव्याख्यात्यांना देण्यात आलेल्या भेदभावपूर्ण वागणूकीच्या संदर्भात मा.सर्वोच्च न्यायालयाने या शिक्षकांच्या बाजूने दि. ११ ऑक्टोबर २०१७ रोजी दिलेल्या अंतिम निर्णयाची नोंद घेण्यात आली.

निवडश्रेणीमध्ये ३ वर्षे किंवा त्यापेक्षा जास्त सेवा होऊन १ जानेवारी, २००६ ते २७ फेब्रुवारी, २००९ या कालावधीत सेवानिवृत्त झालेल्या अधिव्याख्यात्यांना देण्यात आलेल्या भेदभावपूर्ण वागणूकीच्या संदर्भात मा.सर्वोच्च न्यायालयाने या शिक्षकांच्या बाजूने दि. ११ ऑक्टोबर २०१७ रोजी दिलेला अंतिम निर्णय बुलेटीनच्या सन २०१७ च्या पृष्ठ १६९ वर प्रसृत करण्यात आलेला आहे.

ITEM NO. 714 :

SAVE HIGHER EDUCATION DAY

(A) **CONSIDERED** the steps to be taken for making Programme of Agitation directed by AIFUCTO successful and **RESOLVED** to observe A Country wide Save Higher Education Day on November 30, 2017 with a sit in dharna at all affiliate units.

Memorandum dated 16.11.2017 submitted by AIFUCTO to the Hon'ble Prime Minister, Government of India will be signed in support by every teacher and the first signed copy will be send to the MHRD, New Delhi. The Zerox Copy of the same memorandum will be send to the General Secretary of AIFUCTO.

(B) **CONSIDERED** Memorandum sent by President and Secretary of AIFUCTO addressed to the Hon'ble Prime Minister, Government of India dated 16.11.2017 on the subject "Request to Intervene for Removal of Anomalies in the Notification Of 7th UGC Pay Scale {MHRD notification No.1-7/2015-U.II(2) G.o.I dated 02-11-2017}for University & College Teachers of India and humble request for Appointment for AIFUCTO Delegation."

(C) At this stage Prof. B. T. Deshmukh presented a Note supporting the averments made in para 6 of the Memorandum dated 16.11.2017 addressed to the Hon'ble Prime Minister by the President and Secretary of AIFUCTO. **RESOLVED** that this eight paragraph note be forwarded to MFUCTO and AIFUCTO for further

No.CIM/ 43 : : Date 15.12.2017

**CORRECTION
in the copy of the Minutes
of the General Body Meeting of NUTA**

Copy of the Minutes of the General Body Meeting of NAGPUR UNIVERSITY TEACHERS' ASSOCIATION held at 12.00 noon on Sunday, the 26th November, 2017 at R.A. Arts, M.K. Commerce & S.R. Rathi Science College, Washim. is circulated in this NUTA Bulletin.

If you propose to suggest any correction to the Minutes, it may be pointed out to the Secretary (Dr.Vilas Dhone Secretary, NUTA 14, Samruddhi Nagar, Sewagram Road, Wardha-442 001) by letter within 10 days from the date of posting of this Bulletin.

It will not be possible for the corrections received after the due date to be included in the List of corrections for consideration. Please send one copy of your letter to Prof. P. B. Raghuvanshi, President NUTA, Buty Plot, Near Mahajan Wadi, Rajapeth, Amravati. 444 601.

- Dr.Vilas Dhone Secretary

**ITEM NO. 715 :
PRE-2006 RETIREES**

NOTED : (1) The Judgment delivered by High Court of Gujrat at Ahmedabad on 28th June, 2017 regarding Pre-2006 retirees.

(2) The order passed by the Hon'ble Supreme Court of India on 23.10.2017 dismissing the Special Leave Petition filed by Government of Gujrat in case of "The State of Gujarat & Ors. Petitioner(s) Versus Prabhudas C. Barot & Ors. Respondent(s)."

Note :- (1) The Judgment delivered by High Court of Gujrat at Ahmedabad on 28th June, 2017 is Circulated on page 181 to 200 of 2017 NUTA Bulletin.

(2) The order passed by the Hon'ble Supreme Court of India on 23.10.2017 dismissing the Special Leave Petition filed by Government of Gujrat in case of the "State of Gujarat & Ors. Petitioner(s) Versus Prabhudas C. Barot & Ors. Respondent(s)" is Circulated on page 192 of 2017 NUTA Bulletin.

विषय क्रमांक ७१६

सिनेट निवडणुकीतील यशाबद्दल अभिनंदन

प्रा. शंकरराव सांगळे यांनी मांडलेला पुढील अभिनंदनाचा प्रस्ताव संमत करण्यात आला :-

संत गाडगेबाबा अमरावती विद्यापीठाच्या १५ ऑक्टोबर २०१७ रोजी झालेल्या सिनेटच्या निवडणुकीमध्ये 'नुटा'ने दिलेल्या सूचनांचे पालन करण्यास वचनबद्ध असलेल्या शिक्षक व पदवीधर उमेदवारांचे एक पॅनेल संघटनेच्या पदाधिकाऱ्यांनी उभे केले होते. सिनेटवर निवडून घ्यावयाच्या १० शिक्षक प्रतिनिधींमध्ये या पॅनेलचे ७ उमेदवार निवडून आले असून त्याचबरोबर पदवीधरांचे जे १० प्रतिनिधी निवडून घ्यावयाचे होते, त्यामध्ये या पॅनेलमधील ७ उमेदवार निवडून आलेले आहेत. सत्ताधारकांच्या मागे धावण्याची स्पर्धा लागलेली असतांना सर्व सत्तासाधनाच्या समोर ठामपणे उभे राहून संघटनात्मक विचार मतदारांसमोर मांडून साधनसामुग्रीच्या उपलब्धतेच्या अत्यंत विषम स्थितीला तोंड देत हे यश मिळविल्याबद्दल संघटनेचे अध्यक्ष डॉ. प्रवीण रघुवंशी व त्यांच्या सर्व सहकारी पदाधिकाऱ्यांचे ही सभा मनापासून अभिनंदन करित आहे. या व इतरही मतदार संघातून सिनेटवर तसेच विद्यापरिषदेवर निवडून आलेल्या सर्व समविचारी उमेदवारांचे सुद्धा अभिनंदन करण्यात येत आहे. त्याचबरोबर ठामपणे व निष्ठापूर्वक संघटनात्मक विचारावर विश्वास ठेवून ज्या शिक्षकांनी व पदवीधर मतदारांनी हे घवघवित यश मिळविण्यास बळ दिले त्या शिक्षक व पदवीधरांच्या प्रती ही आमसभा मनापासून आभार व्यक्त करित आहे.

विषय क्रमांक ७१७ :

गणसंख्या :

नुटाच्या घटनेतील खंड ५ मध्ये असलेल्या तरतुदीनुसार गणसंख्येच्या अभावी सुरुवातीला सभा अर्धा तासासाठी तहकुब करण्यात आली होती, ही बाब कार्यवृत्तामध्ये नोंदविण्यात येत आहे, असे अध्यक्षांनी जाहीर केले.

विषय क्रमांक ७१८ :

आभार

सभा व्यवस्थेबद्दल आभार : कार्यकारी मंडळाच्या वतीने अध्यक्षांनी महाविद्यालयाचे प्राचार्य व स्थानिक शाखेचे इतर प्राध्यापक, जिल्हा नुटाचे अध्यक्ष, सचिव व सदस्य, यांनी ही सभा यशस्वी करण्यासाठी घेतलेल्या परिश्रमाबद्दल आणि दिलेल्या सहकार्याबद्दल त्यांचे मनःपूर्वक आभार मानले. शेवटी सर्व उपस्थित सदस्यांचे आभार मानून सभा संपली असे अध्यक्षांनी जाहीर केले.

स्वा / प्रा. पी. बी. रघुवंशी
अध्यक्ष

स्वा / डॉ. विलास ढोणे
सचिव

Enclosure to Item No. 714 (C)

of the Minutes of the General Body Meeting of NUTA held on 26th November 2017

NOTE

supporting the averments made in para 6 of the Memorandum dated 16.11.2017 addressed to the Hon'ble Prime Minister by the President and the Secretary of AIFUCTO

1. Following is the para 6 of Memorandum dated 16.11.2017 addressed to the Hon'ble Prime Minister by the President and Secretary of AIFUCTO :-

“6. The subject “Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions.” is the constitutional responsibility of the Central government as it is Entry 66 in the Union List (List I of Seventh Schedule of the Constitution of India). Similarly, in view of the fact, that the subject “Education, including technical education, medical education and universities,” is included as Entry 25 in the Concurrent List (List III of Seventh Schedule of the Constitution of India), the powers regarding administration and procedure as well as implementation of mandatory system have been bestowed upon the central government. It is wholly inappropriate on the part of central government to beg before the state governments for implementation of Central scheme approved by the Cabinet. Moreover, it is also unconstitutional and illegal.”

2. **Provisions regarding High Constitutional Functionaries :-** To maintain the dignity of the High Constitutional Offices it was considered desirable by the Constitution makers to include the provisions regarding salary and allowances of the persons occupying these offices in the Constitution itself. Emoluments and allowances of the High Constitutional Functionaries is a subject matter provided by the Constitution of India. (1) President and the Governors of States (2) Prime Minister and the Central Ministers (3) Chief Minister and the Ministers in the States (4) Speaker and the Deputy Speaker of the House of the People and the Chairman and the Deputy Chairman of the Council of States and the Speaker and the Deputy Speaker of the Legislative Assembly and the Chairman and the Deputy Chairman of the Legislative Council of a state. (5) Judges of the Supreme Court and of the High Court (6) Comptroller and Auditor-General of India. These are the High Constitutional Functionaries originally mentioned in the second schedule of the Constitution of India. Emoluments at the time of the commencement of the Constitution were also mentioned in this schedule. Thereafter broadly speaking as per the constitutional provisions High Constitutional Functionaries were entitled to such “**emoluments, allowances and privileges as may be determined by Parliament by law**” and accordingly it was so determined.

3. **Provisions regarding Central Civil Services:-** It is provided in article 309 of the Constitution of India that service conditions of the Civil Servants working under the Union Government shall be prescribed by law and the rules framed thereunder by the President of India. i.e. Government of India.

3.1 With an amazing speed the Seventh Pay Commission report was implemented in respect of this class of Civil Servants. Pay Commission Report was submitted to the Government of India on 19th November 2015. Within few minutes it was made public and was made available to the nation. Entire process was completed within a period of few months and extra ordinary Gazette Notification was published in the Gazette of India on 25th July 2016. In a period of one month all Civil Servants belonging to this class started getting revised salaries, according to the decision of the Government of India on 7th Pay Commission Report. Arrogance of the bureaucracy was exhibited at the National level in as much as the process of amending legal frame-

work was not completed even after one year regarding the High Constitutional Functionaries. It is not that money is not important but what is more important is National exhibition of undignified and contemptuous behaviour towards Constitutional dignitaries. It was so hurting that one of the Hon'ble Supreme Court Judges, looking towards the Advocate of the Government of India, in the open court remarked that “you have practically forgotten Judges of the High Court and the Supreme Court in respect of 7th Pay revision.”

4. **Provisions regarding State Civil Services:-** It is provided in article 309 of the Constitution of India that service conditions of the Civil Servants working under the State Government shall be prescribed by the Act of the State Legislature and by the rules framed thereunder by the Governor of the State i.e. Government of State.

4.1 In every State these files are handled by the Senior IAS officers. In so many States, State Government employees are waiting for the implementation of the 7th Pay revision. But in every State, Government Resolution issued with a spectacular speed and it has been implemented only in respect of IAS, IPS, IFS officers working in that State.

4.2 The State of Maharashtra can be cited as an example. In Maharashtra State, Government Resolution was issued on 1st October 2016 in which following are the important

ITEM NO.4 COURT NO.11 SECTION IX

SUPREME COURT OF INDIA

(Record of Proceedings)

Petition(s) for Special Leave to Appeal (C) No(s). 15053-15056/2015 (Arising out of impugned final judgment and order dated 21/11/2013 in WPC No. 888/2013,28/02/2014 in WPC No. 455/2013,21/11/2013 in WPC No. 10283/2012,28/02/2014 in WPC No. 489/2013 passed by the High Court Of Bombay At Aurangabad)

State Of Maharashtra And Ors Petitioner(s) **Versus** Sudamrao Keshawrao Aher And Ors Etc Respondent(s)
(With appln.(s) for impleadment and stay and office report)

Date : 17/11/2015

These petitions were called on for hearing today.

CORAM

HON'BLE MR. JUSTICE V. GOPALA GOWDA

HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s) Dr. K.P. Kylashnatha Pillay, Sr. Adv.* Mr. Nishant Ramakantrao Katneshwarkar, Adv.* Mr. Arpit Rai, Adv.* **For Respondent(s)** Ms. Indu Malhotra, Sr. Adv.* Mr. Amol B. Karande, Adv.*

UPON hearing the counsel the Court made the following

ORDER

Heard learned senior counsel for the parties.

No ground for interference is made out to exercise our jurisdiction under Article 136 of the Constitution of India.

The special leave petitions are **DISMISSED**.

All pending applications are also dismissed.

(VINOD KUMAR)
COURT MASTER

(MALA KUMARI SHARMA)
COURT MASTER

provisions (1) Revised Pay Scales would be applicable from 1st January 2016 (2) October 2016 to be paid in November 2016 shall be in accordance with the revised Pay Scales (3) Arrears from 01.01.2016 to 30.09.2016 shall be paid in Cash immediately with October 2016 salary. (4) This Government Resolution would be applicable to only IAS, IPS and IFS Officers (officers in the Central Services) working in the State Government. Meaning thereby State Government's employees can wait until further orders. For the time being forget about the teachers working at all levels.

4.3 Funny part of the issuance of this Government Resolution is that the last para of this Government Resolution reads "This Government Resolution is issued by the order of and in the name of Governor of Maharashtra" Care was not taken to amend the legal provisions prescribing emoluments of the Governor of the State on the day or prior to the day of the issuance of the said Government Resolution. Net result is that in the next month and months thereafter the Hon'ble Governor was receiving less emoluments than the emoluments of the Chief Secretary of this State. It is not that money is not important, but what is more important is to note the tendency of some unscrupulous officers in exhibiting that as a class we are "Higher than His Highness" and "excellent than his excellency"

The State of Maharashtra is quoted here as an example. It is our authentic information received from units in different states which clearly indicates that this exercise is completed in every state of Union of India in the manner it is completed in the State of Maharashtra.

5. University and College Teachers :- Service Conditions of University and College Teachers are closely related to the "Co-ordination and determination of standards in institutions for higher education" which according to the Constitution of India is a matter strictly within the jurisdiction of Legislative and Administrative Authority of the Government of India.

5.1 It is the clear mandate of the Constitution of India emanating from article 246 and entry 66 of the Union List in the Seventh Schedule of the Constitution that the Pay Scales of the teachers working in the Universities and Colleges shall be same throughout the nation and hence uniform and simultaneous implementation is the natural corollary. Now the question is when this provision is very much there enshrined in the Constitution since the day of the commencement of the Constitution, why was it not implemented? Answer is simple. In a nation where bureaucracy can compel the High Constitutional Functionaries to wait for a year, there is no surprise that they are asking University and College Teachers to wait for years together. **Fortunately it is not the case that nothing is done.**

प्रकरण अंतिम झाल्याबाबतचा अहवाल

सन २००६ पूर्वी पी.एचडी. प्राप्त सेवाज्येष्ठ शिक्षकांना सेवा-कनिष्ठ शिक्षकांपेक्षा कमी वेतन मिळणे : ६

गेल्या महिना पंधरा दिवसात लक्षात आलेल्या दोन बाबी सर्वांच्या माहितीकरीता नमूद करण्यात येत आहेत. मा. मुंबई उच्च न्यायालयापुढे 'सुटा'ने दाखल केलेल्या आणखी एका याचिकेचा निर्णय (W.P.5271 of 2014) नुकताच दिनांक ८ नोव्हेंबर २०१७ रोजी झालेला असून तो याच अंकात प्रसूत करण्यात आलेला आहे. (P211NB2017) दुसरी महत्वाची घटना मा. उच्च न्यायालयाच्या ८ नोव्हेंबर २०१७ च्या निर्णयामुळे लक्षात आली ती म्हणजे या प्रकरणी मा. औरंगाबाद उच्च न्यायालयाच्या मूळ निर्णयाच्या विरोधात राज्यशासनाने मा. सर्वोच्च न्यायालयात विशेष अनुमती याचिका (SLP Nos. 15053-1506/2015) दाखल केली होती. ती मा. सर्वोच्च न्यायालयाने १७ नोव्हेंबर २०१५ रोजी 'डीसमिस' केलेली आहे. मा.सर्वोच्च न्यायालयाचा तो निर्णय याच अंकात प्रसूत केलेला आहे. (P213NB2017) आता हे प्रकरण अंतिमतः संपुष्टात आलेले आहे असे समजण्यास हरकत नाही.

- डॉ. प्रवीण रघुवंशी, अध्यक्ष, नुटा

PR :- (1) P16 NB14 (2) P151 NB14 (3) P4 NB15 (4) P65 NB15
(5) P74 NB15 (6) P214NB17

5.2 For performing the duty of maintenance of Standards and determination of standard in institutions of Higher Education one important step was enactment of UGC Act 1956. The UGC was entrusted with the powers of maintaining and co-ordinating the standards, thereby prescribing Service Conditions including the Pay Scales among otherthings. UGC was authorised and empowered by this Act to make Regulations, with the approval of Government of India and to publish it in the Gazette of India.

5.3 Mandatory provisions could be prescribed by the UGC in the form of Regulation relating to the Service Conditions. Hereinbefore qualifications, CAS, API etc. were accordingly prescribed. It was always excluding the Pay Scales of University and College Teachers. Not even once Pay Scales were prescribed as a part of Mandatory Regulation.

5.4 It would not be out of place to mention here one historical reference.Hon'ble Shri. Maulana Azad introduced the statement of object and reason on September 24, 1954 regarding the UGC Bill. Following is the extract from that statement:-

"The Constitution of India vests Parliament with **exclusive authority in regard to coordination and determination of the standard in institution for higher education** or research and scientific and technical institutions. It is obvious that neither coordination nor determination of standards is possible unless the central government has some voice in the determination of standards of teaching and examination in universities, both old and new."

6. UGC totally ignored the directions of the Government of India :- AIFUCTO every now and then

नव्या पेन्शन योजनेत ग्रॅज्युईटी ही घावीच लागेल

मुंबई येथील प्रशासकीय न्यायाधिकरणाने सन २०१६ च्या O.A. 138 मध्ये १३ एप्रिल २०१७ रोजी एक महत्त्वपूर्ण निर्णय दिलेला असून तो याच अंकात प्रसूत करण्यात आलेला आहे. (P216NB2017) नव्या पेन्शन योजनेला एक मोठे भगदाड पडलेले आहे याची सर्व संघटनांनी दखल घेण्याचा हा विषय आहे. "pension includes gratuity and if no pension is payable, the gratuity would also not be payable." अशी भूमिका सरकारी वकिलांनी (Presenting Officer : P.O.) न्यायाधिकरणासमोर मांडली.

२. न्यायाधिकरणाने आपल्या निर्णयामध्ये असे स्पष्टपणे नमूद केले आहे की, १ नोव्हेंबर २००५ या दिवशी किंवा त्यानंतर सेवेत आलेल्या शिक्षक किंवा कर्मचाऱ्याला नवीन पेन्शन लागू करण्याच्या वित्त विभागाच्या ३१ ऑक्टोबर २००५ च्या शासन निर्णयाच्या परिच्छेद 2 (c) मध्ये त्यांना काय लागू राहणार नाही हे नमूद आहे. "त्यामध्ये ८२ ची पेन्शन योजना, ८४ ची Commutation of Pension ची योजना व GPF ह्या बाबी त्यांना लागू राहणार नाहीत" असा स्पष्ट उल्लेख त्यामध्ये आहे. न्यायाधिकरणाने पुढे असेही नमूद केले आहे की, "त्यांना काय लागू राहणार नाही याची तुम्ही एकदा यादी दिल्यानंतर त्या यादीत नसलेल्या गोष्टी सुद्धा त्यांना लागू राहणार नाहीत असे म्हणण्यास वाव नाही." ("On its plain reading, there is no scope left to include something which is quite clearly excluded thereby.") जे सेवानिवृत्तीचे लाभ त्यांना लागू नाहीत ते तुम्ही नियम 2 (c) मध्ये नमूद केलेले आहे. त्यात आणखी भर तुम्हाला घालता येणार नाही. ("As I mentioned above, the provisions of Rule 2(c) are exhaustive and admit to inclusion of no other head of post retiral benefits.")

३. अस्तित्वात असलेल्या नियमाप्रमाणे नवीन पेन्शन योजनेच्या धारकाला सुद्धा ग्रॅज्युईटी घावीच लागेल. ती सहा आठवड्यात देण्यात यावी असे स्पष्ट आदेश न्यायाधिकरणाने दिलेले आहेत. "The Respondents will have to pay gratuity in accordance with the prevalent Rules to the Applicant."

४. शासन यावर स्वस्थ वसेल असे वाटत नाही. ते उच्च न्यायालयात जातील, सर्वोच्च न्यायालयात विशेष अनुमती याचिका (SLP) दाखल करतील. त्यानंतर पुनर्विलोकन याचिका (Review Petition) दाखल करतील आणि इतक्या उपर जमले नाही तर पूर्वनिर्णय निवारक याचिका सुद्धा (Curative Petition) दाखल करतील.

- डॉ. प्रवीण रघुवंशी, अध्यक्ष, नुटा

and particularly at the time of every pay revision, is requesting the Government of India to direct UGC for issuance of a Mandatory Regulation wherein Pay Scales will be included along with other matters related to the pay revision. This request of AIFUCTO was accepted by the Government of India at the time of the implementations of the 6th Central Pay Commission's recommendations.

6.1 Letter dated 31.12.2008 (No.1-32/2006-U.II/U.I(i)) was addressed by Ministry of Human Resource Development, Department of Higher Education, Government of India to the UGC. Following is the extract from the opening para of this letter :-

"The revision of pay scales of teachers shall be subject to various provisions of the Scheme of revision of pay scales as contained in this letter, and **Regulations to be framed by the UGC in this behalf in accordance with the Scheme given below.** The revised pay scales and other provisions of the Scheme are as under:-"

6.2 Plain and simple reading of the paragraph above shows that UGC was directed to frame and issue "Regulations in this behalf in accordance with the Scheme given below" including "the revised Pay Scales and other provisions of the scheme." But Regulations issued subsequently by the UGC were relating to the matters excluding the Pay Scales. It is another matter that UGC acted otherwise.

6.3 We are of the considered opinion that this direction of the Government of India to the UGC was to fulfil the Constitutional responsibility of satisfying the Constitutional Mandate of Co-ordination and determination of standards in institutions for higher education.

6.4 As stated earlier it is not the case that nothing is done towards fulfilling the Constitutional responsibility in this behalf.

(A) The present Union Cabinet took a decision that "**The Central Government will bear the additional burden of the States on account of revision of pay scales.**" Now it is not open for the HRD to define "Additional Burden" as "Fifty percent of the Additional Burden"

(B) Cabinet decision as communicated by the Hon'ble HRD Minister reads :- "**The decision will benefit 7.58 lakh teachers** and equivalent academic staff in the 106 Universities / Colleges which are funded by the UGC/MHRD and also **329 Universities which are funded by State Governments and 12,912 Govt. and private aided colleges affiliated to State Public Universities.**" The words chosen by the Cabinet are "**The decision will benefit 7.58 lakh teachers**" It is now not open for the MHRD to convert the said decision into "getting benefited without getting any benefit"

(C) We must appreciate that with the approval of the Union Government the committee is appointed by UGC "to discuss the proposed *UGC Regulations for the Maintenance of Standards in Higher Education* and make its recommendations to the Commission."

7. Responsibility of the Union Government emanating from entry 66 of Union List and article 246 is further increased by entry 25 in Concurrent List of the Seventh Schedule. Our analysis regarding **Constitutional obligation** of the Central government as stated in Para 6 of our letter is strengthened further by the following paras of the landmark Judgment dated 05/01/2017 of the **Hon'ble Supreme Court** in Civil Appeal Nos. 115 -116 of 2017 :-

"51. The expression 'education' occurring under Entry 25 of List III to the Seventh Schedule of the Constitution takes within its sweep the authority to legislate with respect to every aspect of education including establishment and administration of educational institutions such as schools, colleges etc. Administration of an educational institution has mainly two facets (i) imparting of knowledge, and (ii) maintaining the necessary infrastructure for providing the venue and other facilities for imparting of knowledge. To perform the twin functions,

manpower is required. Such manpower consists of two classes of persons, teaching staff and non-teaching staff."

"52. Therefore Entry 25 must necessarily take within its sweep inter alia the power to regulate the activity of employment by educational institutions, whether they are established by the State, or its instrumentalities or non-State actors.

53. In view of the fact Entry 25 occurs in the Concurrent List of the Seventh Schedule, both the Parliament and State legislatures are competent to make laws regulating inter alia the establishment and administration of colleges either by the governments (Union or State) or their instrumentalities or by non-State actors (private sector)."

7.1 UGC for the first time attempted in 1991, introduction of a National Eligibility Test (NET) as mandatory entry point eligibility with a view to maintain and improve the standard of higher education. This 1991 attempt was proved to be a total fiasco because 1991 Regulations were not issued by using the appropriate Regulatory powers. Judgment by the Apex Court delivered in Civil Appeal No. 1819 of 1994, on 8-9-1994 (AIR 1995 Supreme Court 336) Delhi University & ors vs. Raj Singh & ors proved the hollowness of NET-SET conditionality, in as much as it was declared to be of a **recommendatory nature.** Proven recommendatory nature of NET-SET condition was converted into **mandatory condition** by issuing UGC Regulations 2000, on 4th April 2000 by using appropriate Regulatory powers granted by the Constitution and the law after a period of six years from the date of the Judgement. After 1994 Judgment of the Apex Court corrective measures as envisaged by the Constitution and Law were inducted regarding the entry point eligibility test. Now is the time to treat the 7th PRC pay package and there is 2017 Judgment of the Apex Court of which details are given above.

8. Taking into consideration the provisions of article 246 of the Constitution of India and further considering Entry 66 in the Union List (List I of Seventh Schedule of the Constitution of India) and Entry 25 in the Concurrent List (List III of Seventh Schedule of the Constitution of India) and further considering the landmark Judgment dated 05/01/2017 of the **Hon'ble Supreme Court** in Civil Appeal Nos. 115 -116 of 2017, We demand :-

(i) **Implementation of 7th PRC pay package through Mandatory Regulations issued by UGC in accordance with the powers conferred on it by the Constitution of India and UGC Act.**

(ii) **100 percent financial assistance for uniform and simultaneous implementation of Seventh Pay Scale.**

(iii) **Issuance of a clear declaration that the 7th UGC Pay revision scheme is also applicable to unaided institutions**

(iv) **Well- regulated Salary scheme for disbursement of salaries through managements of unaided institutions as per para 89 of Hon'ble SC Order in CA 115 – 116 of 2017.**

The regulations of AICTE can be mandatory. The regulations of the Central Council of Indian Medicine can be mandatory. The regulations of the Medical Council of India can be mandatory. The regulations of the Bar Council of India can be mandatory. NET-SET Regulations of UGC (2000) itself can be mandatory. API prescribed by UGC can form a part of mandatory regulations of UGC. In the light of these realities, should the perpetually existing chaos/anarchy created at the State level due to non issuance a mandatory Regulations by the UGC in the context of the Scheme of pay scales (for University and College Teachers) be allowed to perpetuate timelessly? This is the genuinely pertinent question which the Central Government is constitutionally obliged to answer. Entire teaching fraternity working in Colleges and Universities across the nation is waiting for the legitimate and rational answer to this question.

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI

Original Application No.138 Of 2016 : District : Pune

Shri Arun Laxman Pansare (ASI/SM)) Age : 59 Yrs, Occu.: Retired ASI/SM,) R/o. B-Wing, Flat No.306, Polite Paradise,) Near Jakat Naka, Dhanori, Pune 411 015.)...Applicant **VERSUS** (1) The State of Maharashtra. Through Addl. Chief Secretary, Home Department, Mantralaya, Mumbai - 400 032. (2) The Commissioner of Police. Thane City, Near Kalwa Bridge, Thane. (3) The District Treasury Office. Premises of District Collector Office, Court Naka, Thane (W) - 400 601.(4) The Addl. Chief Secretary. Finance Department, Mantralaya, Mumbai 400 032. ...Respondents Mr. R.M. Kolge, Advocate for Applicant. Mrs. K.S. Gaikwad, Presenting Officer for Respondents.

P.C. : R.B. MALIK (MEMBER-JUDICIAL)

DATE : 13.04.2017

JUDGMENT

1. The facts at issue falling within the prayer clause (a), no more remain for determination because the demand therein made has been complied with. The only issue that now survives for judicial determination is as to whether under the defined Contribution Pension Scheme introduced by the Government of Maharashtra by way of G.R. in Finance Department dated 31st October, 2005, the claim for gratuity has ceased to be there for the asking.

2. It is an admitted position that the Applicant having been appointed after his discharge from Army post 1st November, 2005 is governed by the said Scheme. The perusal of the said Scheme which is at Page 66 of the Paper Book (PB) would make it clear that in line with the Central Government Service Rules, the said Scheme was introduced for the State of Maharashtra. That has been described as new Contribution Scheme and the earlier existing Pension Scheme enshrined inter-alia in the Maharashtra Civil Services (Pension) Rules, 1981 came to be replaced by the said Scheme. **It was applicable to those who were recruited on or after 1st November, 2005 in State Government service.** The Government would join the said Scheme. Vide Para 2(c) of the said Scheme, the following was provided.

"2(c) : The Government is also pleased to decide that the provisions of,-

(i) the existing pension scheme (i.e. Maharashtra Civil Services (Pension) Rules, 1982 and Maharashtra Civil Services (Commutation of Pension) Rules, 1984) **and**

(ii) the existing General Provident Fund Scheme (GPF) **would not be applicable to the Government servants, who are recruited on or after 1st November, 2005 in State Government Service."**

It would thus become very clear that thereby the Pension Rules as well as Maharashtra Civil Services (Commutation of Pension) Rules, 1984 and the existing Scheme of the GPF ceased to be in force for those employees who were governed by the said Scheme. As I mentioned above, the only fact at issue is as to whether gratuity also would come within the ambit of the said Clause 2(c) or whether the gratuity would still be claimable and payable.

3. I have perused the record and proceedings and heard Mr. R.M. Kolge, the learned Advocate for the Applicant and Mrs. K.S. Gaikwad, the learned Presenting Officer for the Respondents.

4. The 1st Respondent is the State of Maharashtra in Home Department through Additional Chief Secretary, the 2nd Respondent is the Commissioner of Police, the 3rd Respondent is the District Treasury Office and the 4th Respondent is the Additional Chief Secretary, Finance Department.

5. Now, it is very clear from the above discussion that Clause 2(c) above quoted is clearly exhaustive and on its plain reading, no room is left for any interpretation. In the other words, the items excluded therefrom on its plain reading can certainly not be read thereinto and if that be so, then in my opinion, to read the head of gratuity therein would be an instance of Rule making rather than interpretation of the Rule. It is very pertinent to note that therein the provisions of the Commutation of Pension Rules have been specifically mentioned and so also, the existing Pension Scheme and the GPF Scheme. **On its plain reading, there is no scope left to include something which is quite clearly excluded thereby.**

6. The order herein impugned is at Exh. 'M' (Page 35 of the Paper Book (PB)). It was addressed on behalf of the 2nd Respondent to the Applicant. It was therein mentioned (in Marathi) that the provisions of the Pension Rules, 1982 and Commutation Rules, 1984 were not applicable in his case, and therefore, gratuity would not be payable to him.

7. Finance Department has filed the Affidavit-inreply of Shri Narayan B. Ringne, Deputy Secretary. There also broadly, the same stand is adopted viz. the nonapplication of Pension Rules and as some kind of consequence, the gratuity also being not payable. Mrs. Gaikwad, the learned PO for the Respondents invited attention to the provisions of the dictionary clause in Rule 9 (37) of the Pension Rules which reads as, "37. Pension includes Gratuity".

8. The learned PO, therefore, contended that if the pension includes gratuity and if no pension is payable, the gratuity would also not be payable. I am not in a position to agree with the learned PO in so far as that submission is concerned. The governing Rule would be of the new Scheme and as already mentioned above, if gratuity was to be read ipso facto therein and if there was a new Scheme for pension introduced, then there was no need for specifically providing the exclusionary clause for commutation of Pension Rules. **As I mentioned above, the provisions of Rule 2(c) are exhaustive and admit to inclusion of no other head of post retiral benefits.**

9. In this view of the matter, therefore, I hold that the impugned order in so far as it relates to the issue of grant of gratuity is unsustainable. **The Respondents will have to pay gratuity in accordance with the prevalent Rules to the Applicant.**

10. The impugned order in so far as it declines to grant gratuity to the Applicant stand hereby quashed and set aside and the Respondents are **directed to pay to the Applicant the gratuity in accordance with the relevant Rules within a period of six weeks from today.** The Original Application is allowed in these terms with no order as to costs.

(R. B. Malik) Member-J

Mumbai : Date : 13.04.2017

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