

MAHARASHTRA FEDERATION OF UNIVERSITY & COLLEGE TEACHER'S ORGANISATION
University Club House, B-Road, Churchgate, Mumbai 400 020

MOVEMENT RESOLUTION

This meeting of the General Council of MFUCTO, held in Mumbai on 17th June 2018, notes with deep concern the present crisis of Higher Education in Maharashtra manifested by the following situation:

1) VACANT TEACHING POSTS:

1.1 The government of Maharashtra has brought a complete ban on recruitment of faculty by Finance department GR dated 25th May 2017. This was preceded by restriction to fill 75% of vacancies by GR dated 2nd June 2015, which was slashed to 50% of vacancies by GR dated 15th January 2016. This gradual restriction on regular appointments has resulted in a huge backlog of vacancies. The posts are either kept vacant or filled on contractual/Clock-hour basis for which no grant is sanctioned. In self-financing colleges/ courses, almost all posts are filled on contractual basis. Moreover, the number of posts is based on 1998 staff justification and thus the required number of posts to be filled is much more than 50%. In fact, as per the Annual Survey of Higher Education (AISHE), the estimated total enrolment of students in universities and colleges in Maharashtra during 2015-16 and 2016-17 is about 30 lakhs. Applying the teacher student ratio 1:20 as recommended by UGC (Clause 4.2.7 - UGC (Institutions of Eminence Deemed to be Universities) Regulations, 2017), the universities and colleges in Maharashtra require 1.5 lakh regular teachers.

1.2 The UGC in its Quality Mandate, issued on June 4, 2018, has specified five objectives for improving the quality in Higher Education Institutions (HEIs) which all HEIs shall strive to achieve by 2022. One of the five objectives is; "Ensure that teacher vacancies at any point of time does not exceed 10% of the sanctioned strength; ". The 7th UGC PRC headed by Dr. V. S. Chauhan has described the backlog of recruitment as "alarming". The non-recruitment of required faculty is not only severely compromising the quality of higher education but is also creating a situation where the universities and colleges in Maharashtra are getting deprived of huge amount of grants from RUSA. It is stated in a brief note on RUSA's work

in Maharashtra, that "2. While joining RUSA the State informed that there was no ban on faculty recruitment. However, it has now been learnt that there is a ban on faculty recruitment, which is in violation of commitment given under RUSA. The State is yet to lift the ban on faculty recruitment." It is to be noted that filling up of all vacancies is an important norm to be fulfilled to receive funds from RUSA.

This meeting demands Immediate lifting of the ban on appointments and filling up of all vacancies on regular basis as per the UGC Quality Mandate and RUSA requirement for quality education.

2) NON-RELEASE OF 71 DAYS' SALARY FOR THE PERIOD MARCH 1 – MAY 10, 2013

2.1 One of the most arbitrary anti-teacher action taken by the government of Maharashtra is withholding 71 days' salary of university and college teachers for over 5 years. This unlawful and malicious decision to withhold the salary was taken against the teachers who, at the call of MFUCTO, went on a non-co-operation of examination work to press for fulfilment of their long pending just demands. The sole purpose of this action was to demoralise the teaching community which exercised their democratic right to protest against the government.

2.2 The government has miserably failed to take any decision despite the Hon'ble HC Order of May 10, 2013 to resolve the issue after discussion with MFUCTO. What is most condemnable is that the above decision taken by the earlier government was not revoked by the present government. This is despite a categorical assurance given by Mr. Vinod Tawade, Minister for Higher and Technical Education, in the MFUCTO rally at Azad Maidan that if elected he will ensure that the withheld salary is released

This meeting demands Immediate release of the 71 days' salary withheld since 2013.

If during the course of agitation negotiated settlement is not reached/arrived at then State-wide Indefinite Cease Work will begin from 25th September 2018.

See subpara (j) of para 11 (a) of the Movement Resolution

3) NON-IMPLEMENTATION OF 7TH PAY REVISION

While the MHRD has issued Notification (No.1-7/2015-U.II (2)), dated 2nd November, 2017 on details of 7th UGC Pay revision scheme, and subsequently UGC has forwarded this Notification on 31st January 2018, to Education Secretaries of all States, with an explicit instruction "The State Governments may initiate immediate action so that the implementation of this scheme may be done in a time bound manner"; the state government has not initiated any steps towards implementation of 7th UGC Pay revision scheme.

This meeting demands Immediate implementation of 7th Pay Revision Scheme for all sections of university and college teachers in Maharashtra

4) THE DEFINED CONTRIBUTION PENSION SCHEME (DCPS)

DCPS is made applicable to those recruited on or after 1.11.2005. There is tremendous dissatisfaction among the younger teachers as they remain uncertain of their post-retirement benefits. Moreover, there is no transparency regarding the status and no account of the monthly deductions made from their salary. There is a growing desperation leading to isolated sector-wise mobilisation of employees for extension of Assured Pension to all employees.

This meeting demands Scrapping of DCPS (New Pension Scheme) and extending Assured Pension scheme (Old Pension Scheme) to all teachers

5) SELF-FINANCING COLLEGES

5.1 The self-financing institutions are run in an unregulated manner, where most of statutory norms including pay scales/ terminal benefits/allowances to teachers are violated. The state government allowed the self-financing Engineering college managements to implement 5th Pay scheme w.e.f. June 2000, thereby depriving the faculty of 54 months' arrears. The 6th Pay implementation has taken place in an arbitrary manner. Several institutions are still paying scales/ allowances as per 5th Pay scheme.

5.2 Recently, the Hon'ble SC has, in its Judgement dated 05/01/2017 in CA 115-116 of 2017, ruled in para 89 that the management (of the unaided college) will bear the financial obligation to pay the revised pay scales of the staff. At the same time, the power to regulate the said mechanism will be that of the government (Union/ State) as elaborated in para 53 of the Judgement. However,

despite concrete evidence of serious violation of statutory norms regarding teachers' pay-scales by the managements, the state government has miserably failed to set up the machinery for disbursement of salary in these institutions

This meeting demands well-regulated salary scheme for disbursement of salaries through managements of unaided institutions as per Hon'ble SC Order in CA 115- 116 of 2017

6) CONTRACTUAL TEACHERS/ / CLOCK HOUR FACULTY

6.1 The state government has exhibited complete callousness to address the issues of thousands of Contractual/ CHB/Ad hoc teachers who suffer from deprivation of all statutory service conditions such as security of service, pay-scales, allowances, leaves, vacation salary, Career Advancement, terminal benefits etc while performing the same duties as the regular teachers. For full-time work-load most contractual teachers are paid a consolidated salary ranging from Rs 6000 to Rs. 18,000 pm. or clock-hour basis (CHB) remuneration @ Rs.300 per hour. Many of these teachers have worked for several years and many are Paper setters/ Examiners/ Moderators and even Chairpersons of Examination in their respective subjects.

6.2 The Supreme Court has in a recent landmark Judgement dated 26/10/2016, in CA no. 213 of 2013 has upheld the right of "Equal Pay for Equal Work". The 7th UGC PRC too has recommended its implementation. However, the state government has shockingly shown no inclination to implement this SC Order to provide financial stability and dignity to the thousands of Ad hoc and Contractual teachers in Maharashtra.

This meeting demands Implementation of the principle of "Equal Pay for Equal Work" as per SC Order in CA no. 213 of 2013 and that Full-time contractual teachers to be paid not less than the minimum consolidated salary of a regular teacher at entry point.

7) ABSENCE OF GRIEVANCE REDRESSAL MECHANISM

7.1 There is no mechanism available to the teaching community for redressal of grievances that arise from Cabinet decisions. The Hon'ble High Court in its Order dated 10th May 2013 in Writ Petition No.1326 of 2012 had directed the State government to "set up the Grievance Redressal Mechanism before which the teachers or their Association can raise their grievances or demands....."

महाराष्ट्र प्राध्यापक महासंघाच्या कार्यकारी मंडळाच्या रविवार, दिनांक १७ जून २०१८ रोजी झालेल्या बैठकीत सम्मत झालेला ठराव

महाराष्ट्र प्राध्यापक महासंघाच्या कार्यकारी मंडळाच्या रविवार, दिनांक १७ जून २०१८ रोजी झालेल्या बैठकीत सम्मत झालेल्या ठरावानुसार नागपूर व अमरावती येथील विद्यापीठीय व महाविद्यालयीन शिक्षकांच्या मेळाव्याचा दिवस, दिनांक वेळ व स्थळ खालील तक्त्यात दिल्या प्रमाणे आहे.

सर्व प्राध्यापकांनी उपस्थित रहावे अशी विनंती आहे.- डॉ. विलास ढोणे, सचिव, नुटा

तक्ता

नागपूर व अमरावती येथे विद्यापीठीय व महाविद्यालयीन शिक्षकांच्या मेळाव्यांचे आयोजन

संत गाडगे बाबा अमरावती विद्यापीठ, अमरावती.	केशरबाई लाहोटी महाविद्यालय, अमरावती	शनिवार, दिनांक १४ जुलै, २०१८	दुपारी ४.०० वाजता
राष्ट्रसंत तुकडोजी महाराज नागपूर विद्यापीठ, नागपूर व गोंडवाना विद्यापीठ, गडचिरोली	डॉ. आंबेडकर महाविद्यालय, दिक्षाभूमी, लक्ष्मीनगर चौक, नागपूर	रविवार, दिनांक २९ जुलै, २०१८	दुपारी ३.०० वाजता

7.2 However, the state government has failed to set up a Grievance Redressal Mechanism which shall work independent of the Ministers, Secretaries and other officers, who will be the answerable parties before the Grievance redressal committee.

This meeting demands composition of the Grievance Redressal mechanism in the form of a Committee consisting of two or three retired/sitting Presiding Officers of the University & College Tribunals in Maharashtra.

8) ASSAULT ON DEMOCRATIC GOVERNANCE THROUGH RISE IN NOMINATIONS

The provisions of Maharashtra Public Universities' ACT 2016 have led to curtailed participation of elected representatives of teachers who remain vigilant against violation of rules and exercise social control in the decision making of the university. This is happening due to drastic reduction in the number of elected members and disproportionately large number of members to be nominated by the Chancellor and Vice Chancellor on various Boards, Authorities and Committees of Universities. This will adversely affect the democratic governance of universities as the nominated members generally accept the official line non-critically.

This meeting demands Immediate issuance of an Ordinance to reduce the proportion of nominations on Authorities and Committees of University

9) ANOMALIES OF 6TH PAY REVISION

The state government has stubbornly refused to rectify anomalies created by the manner in which 6th Pay revision was implemented in Maharashtra. In its submission to the 7TH UGC PRC headed by Dr. Chauhan, MFUCTO had highlighted the following anomalies:

A. Pension/Gratuity: Arbitrary and different cut-off dates for revision of Pension and Gratuity have led to enormous financial loss to pre-2006 retirees and to those who retired between 1.1.2006 and 27.2.2009 (revised Pension) and between 1.1.2006 and 1.9.2009 (revised Gratuity). Hundreds of retired teachers have had to fight tortuous legal battles right up to Supreme Court to compel the government to grant them their constitutional right. Still, the state government is dragging its feet to issue the GRs.

B. Denial of Incentive Increments to teachers who acquired M.Phil./ Ph.D. prior to 1.1.2006. This resulted in multiple anomalies and led to: i) Juniors getting more pay than the Seniors (ii) Substantial difference in pay within the peer group and (iii) Consequential lower levels of Pension. Several Writ petitions were filed in different benches of the hon'ble Bombay High Court by hundreds of aggrieved teachers. The Hon'ble High Court has ruled in favour of stepping up of the pay of the senior teachers. The SLPs filed in the Supreme Court by the State Government challenging the above Orders of Bombay High Court have been dismissed and as such the matter has been concluded in favour of the senior teachers (petitioners). Yet, the state government refuses to issue a GR to remove the discrimination, compelling more teachers

महाराष्ट्र प्राध्यापक महासंघाच्या कार्यकारी मंडळाच्या रविवार, दिनांक १७ जून २०१८

रोजी झालेल्या बैठकीत सम्मत झालेला ठराव

जिल्हास्तरीय मेळाव्यांचे आयोजन

महाराष्ट्र प्राध्यापक महासंघाच्या कार्यकारी मंडळाच्या रविवार, दिनांक १७ जून २०१८ रोजी झालेल्या बैठकीत सम्मत झालेल्या ठरावानुसार स्तंभ २ मध्ये दर्शविलेल्या जिल्हातील शिक्षकांचा मेळावा स्तंभ तीनमध्ये दर्शविलेल्या दिवशी व दिनांकाला, स्तंभ ४ मध्ये दर्शविलेल्या वेळी व स्तंभ ५ मध्ये दर्शविलेल्या स्थळी होईल. या सर्व जिल्हा मेळाव्यांना विद्यापीठस्तरीय संघटनेचे पदाधिकारी व नेते संबोधित करतील. खालील तक्त्यात दर्शविल्याप्रमाणे जिल्हास्तरीय मेळाव्यांचे आयोजन केलेले आहे. सर्व प्राध्यापकांनी उपस्थित रहावे अशी विनंती आहे.- डॉ. विलास ढोणे, सचिव, नुटा

तक्ता

अ.नं. व जिल्ह्याचे नांव	मेळाव्याचा दिवस व दिनांक	मेळाव्याची वेळ	मेळाव्याचे ठिकाण
१ २	३	४	५
१. भंडारा	रविवार, १५.०७.२०१८	सकाळी १०.०० वा.	जे.एम. पटेल महाविद्यालय, भंडारा
२. गोंदिया	रविवार, १५.०७.२०१८	दुपारी ३.३० वा.	एन. एम. डी. कॉलेज गोंदिया
३. वर्धा	शनिवार, २१.०७.२०१८	दुपारी ४.०० वा.	यशवंत महाविद्यालय, वर्धा.
४. वाशिम	शनिवार, २१.०७.२०१८	दुपारी ४.०० वा.	आर. ए. महाविद्यालय, वाशिम
५. अकोला	रविवार, २२.०७.२०१८	सकाळी १०.०० वा.	शिवाजी महाविद्यालय, अकोला.
६. बुलढाणा	रविवार, २२.०७.२०१८	दुपारी ४.०० वा.	जिजामाता महाविद्यालय, बुलढाणा
७. यवतमाळ	शनिवार, २८.०७.२०१८	दुपारी ४.०० वा.	अणे महिला महाविद्यालय, यवतमाळ.
८. चंद्रपूर व गडचिरोली	शनिवार, २८.०७.२०१८	दुपारी ३.०० वा.	एफ. ई. एस. कॉलेज, चंद्रपूर.

to go in litigation to get the same Order from the High Court.

C. Allowances: As per 6th Pay Commission, existing rates of most of the allowances, including HRA for non-A1 cities were increased and the uniform date of implementation of all allowances was fixed as 01/09/2008. However, the state government revised the allowances with effect from arbitrarily decided different cut-off dates for different allowances – **HRA was revised in Maharashtra from 1.09.2009.** This has resulted in monthly loss of up to Rs. 10000 per month for a period of 11 months; **Travelling allowance (TA) was revised w.e.f. 01/04/2010.** This resulted in more than 50% loss in TA for a period of 19 months. Not granting the D.A component on TA has defeated the purpose of 6th Central pay commission of making the allowance inflation- proof.

This meeting demands Immediate Rectification of all anomalies of 6th Pay revision

10) ANTI -TEACHER ATTITUDE OF GOVERNMENT

The state government has consistently taken Anti-teacher stand – Age of superannuation enhanced for Principals and not for Teachers; Leave package not implemented; discriminatory role played by the Director and Regional Joint directors in matters of working hours, increments, CAS etc. Moreover, the state has refused to implement several Orders of High Court and Supreme Court.

11 (a) CHARTER OF DEMANDS:

In the light of above situation, this meeting of General Council of MFUCTO resolves to build up a militant movement in Maharashtra by unifying all sections of teachers in higher education, including contractual and ad hoc teachers for the following demands:

(i) Immediate lifting of the ban on appointments and filling up of all vacancies on regular basis as per the UGC Quality Mandate and RUSA requirement for quality education. The number of posts/ teachers required to be determined in strict conformity with the teacher-student ratio of 1:20, recommended by UGC.

(ii) Immediate Release of 71 days' Salary.

(iii) Immediate implementation of 7th Pay Revision Scheme for all sections of teachers, including DPEs, DPEds and Librarians. Demand 100% Central assistance for payment of Arrears

(iv) Scrapping of DCPS (New Pension Scheme) and extending Assured Pension scheme (Old Pension Scheme) to all teachers

(v) 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.

(vi) Implementation of the principle of "Equal Pay for Equal Work" as per SC Order in CA no. 213 of 2013. Full-time contractual teachers to be paid not less than the minimum consolidated salary of a regular teacher at entry point. The fully qualified contractual teachers should be absorbed as regular faculty and Regulations should be prescribed for their absorption.

(vii) Immediate setting up of the Grievance Redressal

mechanism consisting of a Committee of two or three retired or sitting Presiding Officers of the University & College Tribunals.

(viii) Immediate Rectification of all anomalies of 6th Pay revision

(ix) Increase the age of superannuation as per UGC regulations for all sections of teachers

(x) Immediate issuance of Ordinance to reduce the proportion of nominations on authorities to protect democratic functioning of the Universities in the State

(xi) Stop arbitrary functioning of the offices of the Joint director and Director of higher education.

11 (b) PLAN OF ACTION:

The meeting further adopts the following programme of Action to press for above demands:

(a) During July 2 – July 15, 2018, all affiliated units of MFUCTO will print the Resolution on agitation in a "Special Agitation Issue" of their respective Organ/ Newsletter.

(b) During July 17- August 4, 2018, district level meetings of University and College teachers will be held. The district level leaders will tour and campaign to mobilize for agitation.

(c) During the same period, signature campaign will be carried out – signatures will be collected on a memorandum to the Chancellor. Special meetings will be organised to mobilise Contractual teachers. Mass contact programme will be held where copies of "Special Agitation Issue" will be submitted to MLAs and MLCs with a request to raise the issues in the House

(d) **On August 6, 2018, teachers will observe "Demands Day" by wearing Black Badges.** Same day MFUCTO delegation will submit the signatures to Hon'ble Chancellor at Mumbai with a request for a detailed meeting of Chancellor with MFUCTO. Copy of the Memorandum will be submitted to the Chief Minister.

(e) During August 6 – 18, 2018, Contact fortnight will be observed to explain MFUCTO's stand to (a) Representatives of print and electronic media and (b) Parents and students.

(f) During August 20 – 31, 2018 demonstrations will be held at offices of the Collector, Joint Directors and Director of Higher Education

(g) **September 4, 2018 will be observed as a Black Day when teachers all over the State will participate in Court Arrest programme.**

(h) September 5, 2018 onwards, peaceful demonstrations will be held wherever the Higher Education Minister attends public function/meeting.

(i) **On 11th September 2018, teachers will go on One-day Cease Work**

(i) September 15, 2018 onwards, peaceful demonstrations will be held wherever any Cabinet Minister attends public function/meeting.

(j) **If during the course of agitation negotiated settlement is not reached/arrived at then State-wide Indefinite Cease Work will begin from 25th September 2018.**

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MAHARASHTRA FEDERATION OF UNIVERSITY & COLLEGE TEACHER'S ORGANISATION

IN THE HIGH COURT OF JUDICATURE AT BOMBAY : CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO.188 OF 2015Vihar Durve...Petitioner **VERSUS** The State of Maharashtra and Ors....Respondents

Mr. Jalan Sandeep for the Petitioner. Mr. Rohit Deo, Advocate General a/w Mr. A.B. Vagyani, Government Pleader and Mr. Manish M. Pabale, AGP for the Respondent No.1.Mr. Sanjay Udeshi i/by M/s. Sanjay Udeshi & Co. for the Respondent No.2. Mr. Atul G. Damle, Senior Advocate i/by Mr. Jayesh Madhav Joshi for the Respondent No.3.

CORAM : A.S.OKA & A.K.MENON, JJ.

DATE ON WHICH SUBMISSIONS WERE HEARD : 5th MAY 2017

DATE ON WHICH JUDGMENT IS PRONOUNCED : 11th AUGUST 2017

JUDGMENT (PER A.S.OKA, J.) :-

1 This Public Interest Litigation is preferred raising several issues regarding the Judiciary in the State of Maharashtra in general. A prayer is for setting up various additional Courts as set out in prayer clauses (a) to (j). In the first paragraph of order dated 12th February, 2016, a bench of this Court of which one of us (A.S.Oka, J.) is a party, passed the following order :-

“Amongst various issues which are raised in this petition, at present we are dealing with two issues. The first issue is regarding the discontinuation of the Pension Scheme to the judicial officers which was applicable in terms of the recommendations of the Shetty Commission. Now a Contributory Pension Scheme is made applicable with effect from the year 2010 even to the judicial officers who will have to contribute 10% of their salary to the said pension scheme. The recommendations of the Shetty Commission were accepted by the Apex Court. Even the recommendations of the committee headed by Justice Padmanabhan were accepted by the Apex Court. Based on the said recommendations, a Government Resolution dated 5th January 2011 was issued by the State Government. Apart from the binding recommendations of the Shetty Commission and the Padmanabhan Commission, the question is whether the judicial officers can be treated on par with the officers of the State as far as pension is concerned. Under the present Recruitment Rules, even a fresh law graduate who is not having any experience of practice can join the Judicial Service at the age of 25 years as a Civil Judge, Junior Division. If such a fresh law graduate after rendering service for 35 years retires, he will not be entitled to the benefit of the Pension Scheme which was available as per the recommendations of the Shetty Commission and Pension Scheme can be made applicable to the judicial officers in the face of the recommendations which were accepted by the Apex Court. The State Government will have to treat the Judicial Officers differently from any other officers on its establishment. This aspect was brought to the notice of the learned Government Pleader on the last occasion. Today, he states that the issue is being considered by the State Government.”

2 On the basis of a prayer made by the learned counsel appearing for the petitioner, a permission was granted on 9th August, 2016 to amend the petition for the purposes of incorporating a challenge to the Government Resolution dated 31st October, 2005 which introduces “Defined Contribution Pension Scheme (for short “the New Scheme”) for the Government Servants who are recruited on or after 1st November, 2005 in the Government service. The challenge to this Government Resolution (for short “the impugned Government Resolution”) is confined to its applicability to the Judicial Officers in the State.

3 As far as the other issues involved in this Writ Petition are concerned, several steps have been taken during the pendency of the Petition for appointing additional Judges and for creating additional Courts. By an order dated 27th October, 2016, a Bench of this Court directed that the issue regarding pensionary benefits admissible to the Judicial Officers deserves to be disposed of finally. Accordingly, the State Government was permitted to file a reply. There are two affidavits on record of Shri Neeraj Pradeep Dhote, Legal Advisor-cum-Joint Secretary of the Law and Judiciary Department which are dated 16th June, 2016 and 19th July, 2016. There is also a reply filed on behalf of the High Court Registry which does not deal with the issue of pension to the Judicial Officers.

4 Before we come to the submissions made on the issue of challenge to the impugned Government Resolution, we must make a reference to the provisions relating to payment of pension to the Judicial Officers in the State before the impugned

communication came into force. For that purpose, it will be necessary to make a reference to the decision of the Apex Court in the case of *All India Judges Association and Ors. Vs. Union of India and Ors.*¹ (1 (2002)4 SCC 247). The Apex Court, in its earlier order in the case of *All India Judges Association and Ors. Vs. Union of India*² (2 1992(1) SCC 119), issued certain directions. The first direction was that steps should be taken to bring about uniformity in the designations of the Judicial Officers by March 31, 1993. Another direction was that as and when Pay Commissions are set up in the Union Territories, the question of appropriate pay scales of the Judicial Officers be specifically referred and considered.

5 Union of India filed a Petition for review of the directions issued by the Apex Court in the case of *All India Judges' Association and Ors. Vs. Union of India and Ors.*³ (3 1993(4) SCC 288) The Judgment in Review contains a direction that an independent Commission should be set up for determining the service conditions of Judicial Officers. The Government of India, by a resolution dated 21st March, 1993 constituted the first National Judicial Pay Commission under the Chairmanship of the Hon'ble Shri Justice K.J. Shetty. The report was submitted by Justice Shetty on 11th November, 1999. Various recommendations were made by Shetty Commission regarding various cadres in the Judiciary. By the aforesaid decision in the case of *All India Judges Association and Ors. Vs. Union of India and Ors.*, the Apex Court accepted the recommendations of the Shetty Commission except certain modifications made as set out in the judgment. Clause 22.18 of the report contains the recommendations of the Shetty Commission on the aspect of pension. Relevant part of clause 22.18 reads thus :-

“22.18

1. *The Revised Pension of the Retired Judicial Officers should be 50% of the minimum pay of the post held at the time of retirement, as revised from time to time.*

2. *There should not be any ceiling limit on the maximum pension payable.*

3. *The Pensioners should be given the benefit of full neutralisation of the cost of living in the same scale as is being extended to the serving Judicial Officers.*

4. *A cash payment of Rs.1,250/- per month as 'Domestic Help Allowance' to every retired Judicial Officer, which would be paid upon producing a certificate to that effect.*

5. *All retired Judicial Officers should be given a fixed monthly medical allowance of Rs.100/- to meet day-to-day medical expenses.*

6. *All the medical facilities that we have recommended to serving Judicial Officers with regard to treatment and reimbursement of expenditure etc. be made applicable to retirees.”*

6 The Apex Court accepted all the recommendations of the Shetty Commission subject to the amendments made by the same judgment of the Apex Court. Directions were issued under the said judgment to the State Government to report compliance. By further order dated 8th April 2004^{3A} (3A (2004)12 SCC 444) passed in the same case, the Apex Court directed all the State Governments to adopt Karnataka model in regard to payment of pension to retired Judicial Officers.

7 There were directions issued by the Apex Court from time to time to various State Governments to make compliance with the recommendations of the Shetty Commission as approved by the Apex Court. By another decision in the case of *All India Judges and Ors. Vs. Union of India and Ors.*⁴, (4 (2010) 4 SCC

730) the Apex Court directed that as the salary of the Judges of the High Court has been increased, it was necessary to appoint a Commission to go into the question of salary payable to the Judicial Officers. Accordingly, the following directions were issued by the Apex Court :-

“7. As salary of the High Court Judges had been increased, this Court appointed Justice E. Padmanabhan, a retired Judge of the High Court of Judicature at Madras, to go into the question as to what extent salary, allowances and perquisites of the judicial officers of the States can be increased. Justice Padmanabhan Committee has submitted Report suggesting various recommendations. Copy of the Report was furnished to all the State Governments and High Courts and opportunities were given to them to furnish their objections. Some of the States have filed their objections.

8. The main objection seems to be that some of the States have financial difficulties and it would not be possible for them to increase the salary of the Judges of the subordinate judiciary. It was argued by some of the States that they have implemented the Sixth Central Pay Commission and the scale of pay of the judicial officers had also been correspondingly increased. In these States, rules applicable shall have to be amended to give full effect to the Sixth Central Pay Commission, if any of the judicial officers are getting higher salary or perquisites, such State would be at liberty to give higher salary, allowances and perquisites than what has already been recommended by Justice Padmanabhan Committee.”

8 Accordingly, Justice Padmanabhan Committee submitted recommendations to the Apex Court. In the order dated 4th May, 2010 passed by the Apex Court in All India Judges Association and Ors. Vs. Union of India and Ors.⁵ (5 (2010) 14 SCC 720) passed in the same case, the Apex Court recorded that certain States including the State of Maharashtra and Goa agreed to implement the recommendations made by Justice Padmanabhan Committee Report. The Apex Court, while issuing directions to implement Justice Padmanabhan Committee Report with effect from 1st January, 2006 observed that if any 6th Pay Commission recommendations are more beneficial to the Judicial Officers, they will continue to be benefited to that effect.

9 The State Government issued Government Resolutions for giving effect to the directions of the Apex Court. The Government Resolution dated 28th September, 2005 was issued for giving effect to the aforesaid order dated 8th April 2004 of the Apex Court for granting benefits of pension to the Judicial Officers retired after 1st July, 1996 and the Judicial Officers retired prior to 1st July, 1996.

10 The State Government issued a notification dated 5th January, 2011 (as amended on 30th March 2011) by which recommendations of Padmanabhan Committee were accepted. The said Government Resolution gives effect to the recommendations of Padmanabhan Committee regarding the pension payable to the Judicial Officers in the State. The said GR specifically deals with pension payable to Judicial Officers who retired on 1st January, 2006 or thereafter. By a Government Resolution dated 25th July 2011, the benefits of the Government Resolutions were extended to the judicial officers who retired prior to 1st January 2006. Clause 2 of the aforesaid Resolution dated 5th January 2011 provides that the pension shall be computed in accordance with the Pension Rules of the State Government. The said Rules are the Maharashtra Civil Services (Pension) Rules, 1982 (for short “the Pension Rules”).

11 The impugned Government Resolution dated 31st October, 2005 reads thus :-

“INTRODUCTION

Government of India vide Notification, Ministry of Finance, Department of Economic Affairs, dated 22nd December 2003

संघटनेच्या जिल्हा कार्यकारिणी व तालुका कार्यकारिणीच्या तातडीच्या सभा

संघटनेच्या जिल्हा कार्यकारी मंडळांच्या व तालुका कार्यकारी मंडळांच्या तातडीच्या बैठकी आयोजित करण्यात याव्यात. जिल्हा पदाधिकाऱ्यांनी व तालुका पदाधिकाऱ्यांनी आपआपल्या जिल्ह्यामध्ये व तालुक्यामध्ये दोरे आयोजित करून उपरोक्त मेळावे/आंदोलन यशस्वी करण्यासाठी कार्यरत व्हावे अशी विनंती करण्यात येत आहे. - डॉ. विलास ढोणे, सचिव “नुटा”

introduced a new Contribution Pension Scheme i.e. “Defined Contribution Pension System” for the employees who are recruited on or after 1st January 2004 in Central Government Service. Government of India has also declared that the option of joining the aforesaid new Contribution Pension Scheme would also be available to the State Government. Besides, under this scheme Government of India have Constituted an independent “Pension Fund Regulatory and Development Authority (PFRDA)” for the management and regulation of the pension fund.

The question of introduction of New Contribution Pension Scheme, on the lines of Government of India, for new recruits in State Government was under consideration of this Government.

RESOLUTIONS

2. (a) Government has now decided that a new “Defined Contribution Pension Scheme”, on the lines of Government of India, replacing the existing pension scheme, as detailed below, would be made applicable to the Government servants who are recruited on or after 1st November 2005 in State Government Service,

(b) Government is also pleased to decide that for the purpose of implementation of the above new Defined Contribution Pension Scheme, this State Government would join the aforesaid, new defined contribution pension system introduced by Government of India.

(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.

SALIENT FEATURES OF THE NEW PENSION SCHEME

3. The salient features of the new pension scheme are as under:-

(a) This scheme shall be called as “Defined Contribution Pension Scheme”.

(b) This scheme will come into force with effect from 1st November 2005.

(c) The New Contribution Pension Scheme will be mandatory for all the Government servants who are recruited on or after 1st November 2005 in State Government service.

(d) The new contribution pension Scheme will be based on defined contribution and will have two tiers, i.e. - Tier-I & Tier-II. Tier-I will be mandatory for all the Government servants who will be recruited on or after 1st November 2005 in State Government service whereas Tier-II will be optional for them and at their discretion.

(e) Under Tier-I, every Government servant will have to make a monthly contribution at 10% of his “Basic Pay plus Dearness Pay (if any) plus Dearness Allowance”, which will be deducted from his salary bill every month. The State Government will make an equal matching contribution. The contributions and the investment returns will be kept in a nonwithdrawable “Pension Tier-I Account.”

(f) Under Tier-II, each Government servant, in addition to the above mentioned Pension Tier-I Account, will also have a “Voluntary Tier - II withdrawable Account” at his option. Contribution made by the Government servant will be kept in such separate account and that will be withdrawable at the option of the Government servant. However, Government will not make any contribution in this account.

(g) A Government servant can normally exit at or after attaining the age of superannuation (i.e. 58 years/60 years, as the case may be) from the Tier-I of the new pension scheme. However, at exit, it would be mandatory for him to invest 40% of the total accumulated pension wealth to purchase an annuity (from Life Insurance Company regulated by Pension Fund Regulatory and Development Authority).

In the case of Government servant, the annuity should provide for pension for the life time of the Government servant and his dependent parents and his spouse at the time of retirement.

The Government servant would receive a lumpsum of the remaining pension wealth, which he would be free to utilise in any manner. A Government servant would have the flexibility to leave the

pension scheme prior to age of superannuation (i.e. 58 years/60 years, as the case may be). However, in this case, the mandatory annuitisation would be 80% of the pension wealth.

APPLICABILITY OF THE SCHEME

4. (a) As mentioned above, new defined contribution pension scheme will be applicable to Government servants who are recruited on or after 1st November 2005 in State Government service.

(b) Government is also pleased to direct that the above decision should, mutatis-mutandis, apply to the employees, who are recruited on or after 1st November 2005, in the services of the Recognized and Aided Educational Institutions, Non-Agricultural Universities and affiliated Non-Government Colleges and Agricultural Universities etc., to whom the existing pension scheme and General Provident Fund Scheme is applicable.

(c) In exercise of the powers conferred by the proviso to Section 248 of the Maharashtra Zilla Parishads and Panchayat Samiti's Act 1961 (Mah.V of 1962) and of all the other powers enabling it in that behalf, Government is further pleased to decide that the above decision shall apply to the employees, who are recruited on or after 1st November 2005 in the services of Zilla Parishads.

IMPORTANT INSTRUCTIONS TO ADMINISTRATIVE DEPARTMENTS/APPOINTING AUTHORITIES

5. Consequent to the above decision,

a) Government is pleased to direct that General Administration Department and all concerned administrative departments in Mantralaya, should take immediate steps to notify appropriate amendments to all concerned "Recruitment Rules".

b) Government is also pleased to direct that General Administration Department, all other concerned administrative departments in Mantralaya, all Selection Boards in the State, Maharashtra Public Service Commission and all appointing authorities should immediately bring in writing to the notice of all the candidates who are to be recruited on various Government establishments, on or after 1st November 2005 that,

"On their appointment to the Government Service on or after 1st November 2005, they would be covered under New "Defined Contribution Pension Scheme" and that the existing pension scheme (i.e. Maharashtra Civil Services (Pension) Rules, 1982 and Maharashtra Civil Services (Commutation of Pension) Rules, 1984) and General Provident Fund Scheme will not be applicable to them."

6. Detailed instructions regarding the procedure to be adopted by Heads of Department/Offices/Drawing and Disbursing Officers in respect of drawal of bills, recovery of contribution from Government employees, payment of Government contribution, etc., as well as the instructions regarding the accounting procedure, arrangement regarding fund management and record keeping etc., will be issued shortly.

7. Formal amendment to the Maharashtra Civil Services (Pension) Rules, 1982 and Maharashtra Civil Services (Commutation) Rules, 1984 and General Provident Fund Rules, in terms of the decision contained in this order are being made separately.

8. This order will be available on the following Web Sites of Government :-

(i) finance.mah.nic.in

(ii) www.maharashtra.gov.in

By order and in the name of the Governor of Maharashtra,

NASIMAM. SHAIKH,

Deputy Secretary to Government"

(emphasis added)

12 The stand of the State Government as reflected from the affidavit of Shri Neeraj P. Dhote, Joint Secretary of Law and Judiciary Department is that the New Scheme is being made mandatory to all Government Servants who retire on or after 1st November, 2005. Reliance is placed on amendment to the Maharashtra Civil Services (Pension) Rules, 1992 by incorporating Sub-Rule (2) in Rule 2 which provides that these Rules shall not apply to the Government Servants who are recruited on or after 1st November, 2005. The stand taken in

UNIVERSITY GRANTS COMMISSION

Secretary

PROF. RAJNISH JAIN,

(Ministry of Human Resource Development, Govt. of India)

Bahadur Shah Zafar Marg, New Delhi-110002

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D.O.No.F.1-1/2018(Secy) 4th June, 2018

Subject : UGC Quality Mandate

Dear Sir/Madam,

Please find enclosed UGC 'Quality Mandate', approved by the Commission in its 532nd meeting held on 24.05.2018, for improving the quality in higher educational institutions. The mandate strives to achieve the objectives set by the year 2022.

The detailed guidelines in respect of the objectives/initiatives are being developed by UGC for implementation of the Quality Mandate and will be circulated in due course of time.

You are kindly requested to initiate appropriate necessary actions in your university and the colleges affiliated to the university, as applicable.

Look forward to your continued support in planned and co-ordinated development of quality higher education in the country.

With kind regards,

Yours sincerely,
(Rajmsh Jain)

The Vice-Chancellor of all Universities. Copy to : Publication Officer, UGC for uploading on UGC websites. - (Rajish Jain)

UNIVERSITY GRANTS COMMISSION QUALITY MANDATE

The Commission, in its 532nd meeting held on 24-05-2018, approved the objectives set for improving the quality in Higher Education Institutions (HEIs). All HEIs shall strive to achieve the following Objectives by 2022:

1. Improve the graduate outcomes for the students, so that at least 50% of them secure access to employment/self-employment or engage themselves in pursuit of higher education.

2. Promote link of the students with the society/industry such that at least 2/3rd of the students engage in socially productive activities during their period of study in the institutions.

3. Train the students in essential professional and soft skills such as team work, communication skills, leadership skills, time management skills etc; inculcate human values and professional ethics, and the spirit of innovation/entrepreneurship and critical thinking among the students and promote avenues for display of these talents.

4. Ensure that teacher vacancies at any point of time does not exceed 10% of the sanctioned strength; and 100% of the teachers are oriented about the latest and emerging trends in their respective domains of knowledge, and the pedagogies that translate their knowledge to the students.

5. Every institution shall get NAAC accreditation with a minimum score of 2.5 by 2022.

** AF : P 53 **

Ensure that teacher vacancies at any point of time does not exceed 10% of the sanctioned strength;

paragraph 9 is that in the appointment letters issued to the Judicial Officers after 1st November, 2005 it has been specifically mentioned that they will be governed by the New Scheme. By way of illustration, reliance is placed on a letter of appointment issued to a Judicial Officer on 7th June, 2016.

13 The learned Counsel for the Petitioner submitted that the Pensionary benefits payable to the Judicial Officers of the State are governed by the aforesaid directions issued from time to time and the Government Resolutions issued from time to time on the basis of the orders of the Apex Court. Therefore, the action of applying the New Scheme under the impugned Government Resolution without seeking modification of the orders of the Apex Court is illegal. The learned Advocate General defended the impugned Government Resolution. The learned senior counsel representing the Maharashtra State Judges Association supported the stand taken by the Petitioner. The learned counsel for the High Court administration has assisted the Court by pointing out various directions of the Apex Court.

14 We have considered the submissions. There is a fallacy in the stand taken by the State Government. In fact, the State Government accepted the recommendations of Padmanabhan Committee appointed under the orders of the Apex Court. The Apex Court by an order dated 26th July, 2010 directed that the benefits recommended by the Padmanabhan Committee should be applied with effect from 1st January, 2006. As per the orders of the Apex Court, service conditions of the Judicial Officers in the State including pensionary benefits shall be in terms of recommendations of Padmanabhan Committee which are accepted by the Supreme Court. As far as pensionary benefits to the Judicial Officers are concerned what operates is the Government Resolution dated 5th January, 2011 (as modified on 30th March 2011). Prior to acceptance of the report of the Padmanabhan Committee, the service conditions were governed by the Report of Justice Shetty Commission as modified by the Apex Court. The recommendations as amended by the order of the Apex Court were in operation. Therefore, when the impugned Government Resolution was issued, the order of the Apex Court directing that service conditions of the Judicial Officers shall be governed by the Shetty Commission Report was in force. Therefore, the action of applying the impugned Government Resolution to the Judicial Officers is completely contrary to the directions of the Apex Court. In fact, the impugned Government Resolution is not at all applicable to the Judicial Officers who are appointed from 1st November, 2005. The terms and conditions of service of Judicial Officers including the grant of pensionary benefits are governed by the directions of the Apex Court. Therefore, even if the letters of appointment issued to the Judicial Officers appointed after 1st January, 2005 contain a clause that the pension will be governed by the impugned Government Resolution, the same will not be binding on the Judicial Officers.

15 As per the New Scheme introduced by the impugned Government Resolution, a government servant is required to make contribution equivalent to 10% of his basic salary plus dearness pay and the said amount will be deducted from his salary. The salary payable to the Judicial Officers is determined firstly by recommendations of Shetty Commission and secondly by recommendations of Padmanabhan Committee as accepted by the Apex Court. The State Government cannot affect the quantum of salary of Judicial Officers in this fashion by providing for a deduction of 10% of basic salary plus dearness pay from

the salary of a Judicial Officer. The orders of the Apex Court do not permit such a deduction to be made. Making of such deduction from the salary of a Judicial Officer will be a breach of the orders of the Apex Court.

16 Therefore, in our considered view, the impugned Government Resolution could not have been applied to the Judicial Officers appointed after 31st October 2005 and the action of Government of Maharashtra of applying the same to the Judicial Officers is completely in breach of the orders of the Apex Court.

17 Certain amounts have been deducted by way of contribution to the Pension Scheme from the salary payable to the Judicial Officers appointed on or after 1st November, 2005. It goes without saying that if some of the Judicial Officers who have been appointed after 31st October, 2005 have no objection for continuing with the New Scheme under the impugned Government Resolution, they will be entitled to continue under the New Scheme. The State Government will have to give time of two months from today to all the Judicial Officers appointed on or after 1st November 2005 to exercise option of continuing under the New Scheme. However, those who do not opt for the Scheme, will be entitled to refund. After deducting matching contribution made by the Government with interest/ return, if any, thereon, the entire amount in "Pension Tier – I" account of the Judicial Officers who do not opt to continue shall be transferred to "Pension Tier – II withdrawable account".

18 Accordingly, we hold that :

(i) We hold that the impugned Government Resolution dated 31st October, 2005 is not applicable to the Judicial Officers in the State who were appointed on or after 1st November 2005. The said officers will be entitled to the same pensionary benefits which are available to the judicial officers appointed before 1st November 2005. However, the judicial officers who are appointed on or after 1st November 2005 will have an option to continue under the New Scheme;

(ii) The State Government shall give an option to the Judicial Officers appointed after cut-off date (31st October 2005) to continue under the New Scheme under the impugned Government Resolution. The option shall be exercised within a period of two months from today. The judicial officers who fail to exercise the option will be governed by Pension Scheme which is applicable to all Judicial Officers appointed before 1st November, 2005.

(iii) In case of those Judicial Officers who do not opt to continue with the New Scheme under the impugned Government Resolution, the entire contribution deducted from their salary along with the return/interest accrued thereon shall be transferred from their respective "Pension Tier-I account" to their "Voluntary Tier-II withdrawable Account" within a period of three months from today. We make it clear that the State Government's Matching Contribution with interest/ return accrued thereon shall not be transferred as aforesaid and the State Government shall be entitled to withdraw the same from Tier-I account. The Judicial Officers will be entitled to withdraw the amounts as and when the same are transferred to "Voluntary Tier-II withdrawable Account".

(iv) Now this Petition shall be placed before the appropriate Bench on 14th August 2017 for directions.

(A.K.MENON, J)

(A.S.OKA, J)

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