

## AGENDA

of the General Body Meeting of  
NAGPUR UNIVERSITY TEACHERS' ASSOCIATION  
to be held at 12.00 noon on **SUNDAY, the  
12th May, 2019 at  
NABIRA MAHAVIDYALAYA,  
KATOL**

Agenda of the General Body Meeting of Nagpur University Teachers' Association to be held at 12.00 noon on Sunday, 12th May, 2019 at Nabira Mahavidyalaya, Katol is as follows :-

### ITEM NO. 756 : CONFIRMATION OF MINUTES :

**TO CONFIRM** the Minutes of the General Body Meeting of Nagpur University Teachers' Association held at 12.00 noon on SUNDAY, the 9th December, 2018 at Babaji Datey Kala ani Vanijya Mahavidyalaya, Yavatmal.

*Notes :- (1) Copy of the minutes was Circulated on pages 141 to 146 of 2018 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 9th December, 2018 at Babaji Datey Kala ani Vanijya Mahavidyalaya, Yavatmal vide No. CIM/45 Dated 15th December, 2018 published on page 146 of 2018 NUTA Bulletin. No correction is received.*

### ITEM NO. 757: APPROVAL TO THE ANNUAL REPORT :

**TO CONSIDER AND APPROVE** the Annual Report regarding the working of the Association for the calendar year ending on 31st December, 2018.

*Notes : (i) As per Article VI (b) (iii) of the Constitution of NUTA, the Annual Report of the working of the Association is prepared by the Executive Committee (vide item No.2 of 2018) and is now placed for the approval of the General Body.*

*(ii) The Copy of the Annual Report is circulated in this NUTA Bulletin on page 59 to 62.*

*(iii) Dr. Vilas Dhone, Secretary will present the Annual Report on behalf of the Executive Committee.*

### ITEM NO. 758 : APPROVAL TO THE ANNUAL BUDGET :

**TO APPROVE** the Annual Budget of the Association for the Financial year commencing on 1st April, 2019.

*Notes : (i) Dr. Prakash Tayde, Treasurer, NUTA, will present the Budget on behalf of the Executive Committee. (ii) The copy of the Budget is circulated on page No.58 of 2019 NUTA Bulletin. (iii) If any honourable member has a query, regarding the Annual Budget, he should make it, within a week from the date of posting of this Bulletin, to Dr. Prakash Tayde, Treasurer, NUTA, 55, "Aai" Dr. Punjabrao Deshmukh Colony, Near V.M.V. Campus, Amravati 444 604 specifying the exact point on which he seeks information/ clarification. A copy of the query also be sent to Prof. P.B. Raghuvanshi, President NUTA, Buty Plot, Near Mahajan wadi, Rajapeth, Amravati 444 601.*

### ITEM NO. 759 : APPOINTMENT OF THE AUDITORS :

**TO CONSIDER AND APPROVE** the following resolution for the appointment of Auditors for the Financial

year ending on 31st March, 2019 namely :-

**"C.R.Sagdeo & Co. Chartered Accountant  
"Prabha Niwas" Nagpur be appointed as auditor for  
the Financial year ending on the 31st March 2019"**

*Notes : (i) As per Article VII of the Constitution of NUTA the "General Body shall appoint auditors annually in the Annual Meeting of the Association."*

*(ii) The Executive Committee resolved to recommend the above resolution, (Vide item No. 4 of 2019) which is now placed before the General Body for its approval.*

*(iii) Dr. Prakash Tayde, Treasurer, on behalf of the Executive Committee, will move the resolution.*

### ITEM NO. 760 : SUBMISSION OF STATEMENTS OF AUDITED ACCOUNTS FOR THE YEAR ENDING ON 31ST MARCH 2018

**TO NOTE** the submission of statements of Audited Accounts of Nagpur University Teachers' Association for the year ending on 31st March, 2018 to The Deputy Charity

#### NAGPUR UNIVERSITY TEACHERS' ASSOCIATION

#### MEETING NOTICE : 2

**Date : 15.04.2019**

**From :**  
**Dr. Vilas Dhone**  
Secretary, NUTA  
14, Samruddhi Nagar, Sewagram Road,  
Wardha-442 001

**To,**  
**All the members**  
of the Nagpur University Teachers' Association

Dear members,

I have the honour to inform you that in exercise of the powers conferred on it by Article VIII of the Constitution of NUTA, the Executive Committee has decided to have the meeting of General Body at **12.00 Noon** on the date and at the place mentioned below.

2. Agenda of the General Body meeting is printed in this NUTA Bulletin. If you propose to suggest any amendments to any of the proposals/Resolutions included in the Agenda, you may send it to me within a period of one week from the date of the posting of this Bulletin. It will not be possible for the amendments received after the due date to be included in the additional agenda. Please send one copy of your amendment to Prof. P.B. Raghuvanshi, President NUTA, Buty Plot, Near Mahajan wadi, Rajapeth, Amravati 444 601

3. Rules for proposing amendments to the proposals/resolutions are printed on page 97 of 1977 NUTA Bulletin. You are requested to kindly make it convenient to attend the meeting.

Yours faithfully  
**Sd/- Dr. Vilas Dhone,**  
Secretary, NUTA

**Date and Place of the  
meeting**

**at 12.00 Noon on, Sunday, the  
12th May, 2019 at**

**NABIRA MAHAVIDYALAYA,  
KATOL**

Commissioner Nagpur region, Nagpur by The Secretary NUTA, **DR. VILAS DHONE** vide his letter No. NUTA/CC/02/2018 Dated 20/12/2018.

**Notes :** (1) Copy of the letter No.NUTA/CC/02/2018, Dated 20/12/2018 regarding Submission of Audited Accounts is circulated on page 06 of 2019 NUTA Bulletin.

(2) Statement of Audited Accounts of Nagpur University Teachers' Association for the year ending on 31st March, 2018 were approved by the **Executive Committee** in its meeting held on 4th November, 2018 vide item no. 29, Agenda on page 41, Minutes on page 49, Enclosures on pages 26 to 28 of 2018 Ex-file.

(3) Statements of Audited Accounts of Nagpur University Teachers' Association for the year ending on 31st March, 2018 were approved by **General Body** in its meeting held on 9th December, 2018 vide item no.739, Agenda on page 125, Minutes on page 143, Enclosures on pages 128 & 129 of 2018 NUTA Bulletin.

(4) After the approvals mentioned at notes 2 &3 above the Statements of Audited Accounts of Nagpur University Teachers' Association for the year ending on 31st March, 2018 were submitted to the Deputy Charity Commissioner, Nagpur region, Nagpur by the secretary as mentioned at note 1 above.

(5) Reference of **previous submission** for information:-

Details of the submission of statements of Audited Accounts of Nagpur University Teachers' Association for the year ending on 31st March, 2017 to The Deputy Charity Commissioner Nagpur region, Nagpur by The Secretary NUTA, Dr. Vilas Dhone vide his letter No. NUTA/CC/01/2018 Dated 12/01/2018.

**Notes :** (1) Copy of the letter No.NUTA/CC/01/2018, Dated 12/01/2018 regarding Submission of Audited Accounts is circulated on page 28 of 2018 NUTA Bulletin.

(2) Statements of Audited Accounts of Nagpur University Teachers'

Association for the year ending on 31st March, 2017 were approved by the **Executive Committee** in its meeting held on 4th November, 2018 vide item no. 29, Agenda on page 41, Minutes on page 49, Enclosures on page 26 to 28 of 2018 Ex-file.

**ITEM NO. 761 :  
REVISION OF PAY SCALES  
OF TEACHERS**

**TO NOTE** the Government Resolution No. Misc-2018/C.R.56/18/UNI-1 dated 08 March, 2019 issued by Higher & Technical Education Department Government of Maharashtra regarding Revision of Pay Scales of Teachers in NonAgricultural Universities, National Law University, Affiliated Colleges, Government Colleges/ Institutes as per 7th Central Pay Commission and UGC Regulations on minimum qualifications for appointment of teachers and other academic staff in universities and colleges and measure for the maintenance of standards in Higher Education, 2018.

**Note :-** the Government Resolution No. Misc-2018/C.R.56/18/UNI-1 dated 08 March, 2019 issued by Higher & Technical Education Department Government of Maharashtra regarding Revision of Pay Scales of Teachers in NonAgricultural Universities, National Law University, Affiliated Colleges, Government Colleges/Institutes as per 7th Central Pay Commission and UGC Regulations on minimum qualifications for appointment of teachers and other academic staff in universities and colleges and measure for the maintenance of standards in Higher Education, 2018 is circulated on page 37 to 56 of 2019 NUTA Bulletin.

**BUDGET FOR THE FINANCIAL YEAR - 2019-2020**

OFFICIAL ACCOUNTING YEAR OF THE TRUST : 2017-2018 (AS PER SCHEDULE VII-A OF THE B.P.T.A. 1950)

**Name of the Trust : NAGPUR UNIVERSITY TEACHERS' ASSOCIATION.**

Regn. of the Trust : B.P.T.A. Regn. No. F-1564 & Soc. Regn. Act. Regn. No. MAH-15-73(NGP)

ESTIMATED RECEIPTS	RS. P.	ESTIMATED DISBURSEMENTS	Rs. P
<b>I. OPENING BALANCE :</b>		<b>A )NON-RECURRING :</b>	
i) Cash in hand ... ..	... ..	i) Major Repairs or rebuilding of the assets etc. ... ..	... ..
ii) Cash in Bank ... ..	1,42,000.00	ii) Net purchase of immovable property ... ..	... ..
<b>II. ESTIMATED RECEIPTS :</b>		<b>B )RECURRING :</b>	
<b>(A) NON RECURRING</b>		i) Rents, rates taxes etc. ... ..	10,000.00
i) Ordinary Donations to be received for specific earmarked objects (permanent subscription to NUTA Bulletin) ... ..	... ..	ii) Administrative Expenses ... ..	... ..
ii) Ordinary Donations ... ..	... ..	a) Stationery, Typing , Cyclostyling & Printing . ... ..	6,00,000.00
<b>(B) RECURRING :</b>		b) Travelling Expenses . ... ..	20,000.00
i ) Rent etc. on immovable property ... ..	... ..	c) Postage and Telephone. ... ..	15,000.00
ii) Interest on Fixed Deposits ... ..	7,00,000.00	d) Misc. expenses ... ..	15,000.00
iii) Dividend shares etc ... ..	... ..	e) Bank commission ... ..	2,000.00
..		f) Meeting Expenses ... ..	10,000.00
iv) Income from Agri. land ... ..	... ..	g) Audit fees ... ..	11,800.00
v) Other revenue Receipt ... ..	... ..	h) Affiliation fees ... ..	... ..
vi) Legal Aid Fund ... ..	... ..	i) MFUCTO ... ..	40,000.00
<b>III. REALISATION FROM DISPOSAL OF ASSETS :</b>	... ..	ii) AIFUCTO ... ..	7,000.00
<b>IV EXCESS OF EXPENDITURE OVER INCOME :</b>	... ..	iii) Contribution to public trust\ admn. Fund ... ..	... ..
		vi) Books Library ... ..	... ..
<b>TOTAL Rs.</b>	8,42,000.00	iii) Payment of Salaries ... ..	96,000.00
		iv) Transfer of Depreciation Fund ... ..	10,000.00
		v) Special & Current repairs of building Furniture etc ... ..	5,000.00
		vi) Excess of income over expenditure ... ..	200.00
		<b>TOTAL Rs.</b>	8,42,000.00

**NOTE :** Estimated enrolment of members during the year is expected to be 10. On this account the Association will receive an estimated amount of Rs. 1,00,010/- However this amount cannot be included in the estimated receipts because this amount is to be invested in fixed deposit receipts or any other Govt. Securities as per Article III of the Constitution . - Sd. **P. M. Tayde**, Treasurer, NUTA

## SECRETARY'S REPORT ON THE WORKING OF THE ASSOCIATION FOR THE YEAR ENDING ON 31ST DECEMBER, 2018

*Prepared by the Executive Committee of NUTA under article (VI)(b)(ii) of the  
Constitution of NUTA and presented by Secretary on behalf of  
the NUTA Executive Committee*

Dear Friends,

1. It gives me immense pleasure to extend warm welcome to you on behalf of the Executive Committee of NUTA and on my personal behalf. It is indeed a proud privilege to place before this august body a brief account of the activities and achievements during the year 2018.

2. Right from its inception, NUTA has been committed to the welfare of teachers and their professional betterment. In keeping with the commitment, the association took up several issues concerning teaching community during the period of this report which witnessed significant developments and had major achievements.

3. The year 2017 witnessed the submission of 7<sup>th</sup> PRC committee report and the HRD Ministry took the decision to implement the scheme in Central and State universities in 2018. The association was compelled to knock the doors of the court of law for resolving certain issues.

### ISSUE OF NET-SET AFFECTED TEACHERS :

4. With the dismissal of petitions at the special Bench constituted at the High Court of Judicature at Bombay, the scene once again had shifted to the Supreme Court of India. Our non NET/SET teachers who were appointed between 1991 and 2000 and who have been exempted by the UGC are now in Supreme Court. As per the decision taken by MFUCTO, three groups were constituted and each group came to file special leave petition in the Supreme Court in a highly co-ordinated manner. Senior counsels-Kapil Sibbal, Shekhar Naphade, Gurukrishna Kumar have been engaged to argue on behalf of the organization. All SLP's are pending in Supreme Court and have not been listed yet for hearing. So, MFUCTO has taken a decision to file I. A. in Supreme Court with the prayer of application of Supreme Court Interim order. NUTA in all its earnest is set to fight the case with all its might leaving no stone unturned. District wise meetings were organised to apprise the Teachers regarding the developments of NET/SET issue at the Supreme Court level.

### MFUCTO's case regarding non payment of 71 days of salary:

5. MFUCTO had filed WP1913/2013 in Bombay High Court with the prayer to release 71 days salary that was held up by the State Government. BUCTU also had filed a case WP2290/2015 requesting the Hon'ble High Court to issue directions to the State Government to pay 18% interest of the 71 days unpaid salary. Both the cases were clubbed together and came for hearing. The Government of Maharashtra had submitted its affidavit in reply on 1st April, 2016 through the Joint Director, Higher Education Mumbai. The affidavit submitted by the Joint Director was incomplete and misleading regarding several aspects. Hence, the General Council of MFUCTO adopted a resolution on 5th March, 2017 and decided to submit rejoinder to brief the Hon'ble High Court in this regard. The two cases subsequently were clubbed together and came for hearing on January 27th, 2019 at the High Court of Judicature at Bombay before the coram of two Judges Sri. S. C. Dharmadhikari and M. S. Karnik. Two senior advocates, Ms. Gayatri Singh in WP1913 of 2013 and Mr. Mihir Desai in WP2290/2015 represented the organization. After having heard either sides, the Honourable Court gave orders to expeditiously release the salary of 71 days before March 30th, 2019. The Honourable Court further stated in para 4 that if the amount was not released by March 30th, 2019, it shall carry interest @ 8% from the due date till the date the same is disbursed. The verdict has not only given relief to thousands of teachers of Maharashtra but will also be conducive to strengthen the organization. The organization is keeping a watch to see that 71 days salary of teachers is released and deposited to their bank accounts.

### Higher Education Commission of India Act, 2018

6. The Ministry of Human Resource Development, Govt. of

India in a systematic move has brought out a draft bill to scrap University Grants Commission and to substitute it with Higher Education Commission of India. By bringing in this bill, they have totally ignored the positive role played by the UGC since its inception in 1956 till date towards building democratic, secular, socialistic and scientific foundation of India's Higher Education system. They did not allow wider consultation with the stakeholders reflecting their unusual haste to destroy and dismantle public funded education system of our country. This step is a well calculated design to implement the project of communalization and commercialization of Higher Education System. It is the duty of the Central Govt. to expand and ensure quality in Higher Education, but with the proposed bill all the powers of funding have been given to MHRD. This will ensure political control over funding which was not the case in UGC. The decreased funding pattern will only bring the slow death of public funded education system replacing it with privatization in Higher Education.

7. The draft has made HECI, a pure government body with negligible presence of academia. The Chairman and the Vice-Chairman are senior bureaucrats while majority of the members are officials from stakeholder ministries. Two serving Vice-Chancellors and two Professors are only representatives from the academic world. This is unprecedented in the history of independent India. This is not only undemocratic but also anti-education. This is unfederal as it does not have any space for the states. The MHRD minister will be the Chairman of the Commission which clearly reveals that the present govt. would have political and ideological control over it. HECI has power to punish those who do not obey the recommendations and hence makes it powerful and authoritarian.

### AIFUCTO ACTIVITIES

8. The UGC had published notification of pay revision both for State universities and Colleges on January 30<sup>th</sup>, 2018 making no changes in the notification published earlier on November 2nd, 2017. In view of this notification, the AIFUCTO delegation met UGC Chairman and other officials on February 12th, 2018 and March 12th, 2018 and apprised them on various issues of teaching community. They also reiterated the demand of 100% financial assistance for uniform and simultaneous implementation of 7th UGC pay revision and pointed out the anomalies of 6th UGC pay revision.

9. A human chain was formed in front of UGC office to express strong resentment on the retrograde draft regulation. Hundreds of teachers under the banner of AIFUCTO participated in the protest on March 12th, 2018.

10. A massive demonstration displayed the solidarity of teachers of India at New Delhi by different Teachers' bodies like AIFUCTO, DUTA, FISE, student organizations, etc. The demonstration was followed by a march from Mandi house to Parliament and the slogan adopted on the occasion was "Save Campus, Save Education, Save Nation". The rally was addressed by leaders of different political parties.

11. On 31st March, 2018 and 9<sup>th</sup> May, 2018 AIFUCTO submitted a memorandum to Shri. Prakash Javadekar, Hon'ble Minister MHRD with a charter of demands enclosed.

12. In response to the call of AIFUCTO, university and college teachers across the country staged a Dharna/Rally programme in the Parliament street on August 3<sup>rd</sup>, 2018 to protest and voice their dissension against the extremely mincing trends in education and demanded immediate withdrawal of proposed HECI Bill, 2018 intended to replace UGC.

13. On 8th September, 2018 executive committee of AIFUCTO met Hon'ble Minister, MHRD along with Shri D.Raja MP and apprised him of the burning issues of teachers like 100% financial assistance to states for simultaneous and uniform implementation of 7<sup>th</sup> UGC scales of pay across the country.

14. On 11th September, 2018 a memorandum was submitted to Shri. Narendra Modi, Hon'ble Prime Minister on the subject

uniform and simultaneous implementation of 7<sup>th</sup> UGC Pay revision for university and college teachers. A public march was organised on October,29<sup>th</sup> to focus on dangerous and disastrous impact of market oriented education policy.

15. AIFUCTO held its XXXI academic conference at Kanyakumari from 23rd to 25th November, 2018 wherein several deliberations were made regarding the challenges confronting the Higher Education. The conference was well attended by

Accompaniment to Government Resolution, Higher and Technical Education Department No. Resolution No. Misc- 2018/ C.R.56 / 18 /UNI-1, dated 08 March, 2019.			
Assessment Criteria and Methodology for University/College Teachers			
APPENDIX II : TABLE 2			
Methodology for University and College Teachers for calculating Academic/Research Score			
(Assessment must be based on evidence produced by the teacher such as: copy of publications, project sanction letter, utilization and completion certificates issued by the University and acknowledgements for patent filing and approval letters, students' Ph.D. award letter, etc.,)			
S. N.	Academic/Research Activity	Faculty of Sciences / Engineering / Agriculture / Medical / Veterinary Sciences	Faculty of Languages / Humanities / Arts / Social Sciences / Library/Education / Physical Education / Commerce / Management & other related disciplines
1.	<b>Research Papers in Peer-Reviewed or UGC listed Journals</b>	08 per paper	10 per paper
2.	<b>Publications (other than Research papers)</b>		
	(a) Books authored which are published by:		
	International publishers	12	12
	National Publishers	10	10
	Chapter in Edited Book	05	05
	Editor of Book by International Publisher	10	10
	Editor of Book by National Publisher	08	08
	<b>(b) Translation works in Indian and Foreign Languages by qualified faculties</b>		
	Chapter or Research paper	03	03
	Book	08	08
3.	<b>Creation of ICT mediated Teaching Learning pedagogy and content and development of new and innovative courses and curricula</b>		
	<b>(a) Development of Innovative pedagogy</b>	05	05
	<b>(b) Design of new curricula and courses</b>	02 per curricula/course	02 per curricula/course
	<b>(c) MOOCs</b>		
	Development of complete MOOCs in 4 quadrants (4 credit course) (In case of MOOCs of lesser credits 05 marks/credit)	20	20
	MOOCs (developed in 4 quadrant) per module/lecture	05	05
	Content writer/subject matter expert for each module of MOOCs (at least one quadrant)	02	02
	Course Coordinator for MOOCs (4 credit course)(In case of MOOCs of lesser credits 02 marks/credit)	08	08
	<b>(d) E-Content</b>		
	Development of e-Content in 4 quadrants for a complete course/e-book	12	12
	e-Content (developed in 4 quadrants) per module	05	05
	Contribution to development of e-content module in complete course/paper/e-book (at least one quadrant)	02	02
	Editor of e-content for complete course/ paper /e-book	10	10
4.	<b>(a) Research guidance</b>		
	Ph.D.	10 per degree awarded 05 per thesis submitted	10 per degree awarded 05 per thesis submitted
	M.Phil./P.G dissertation	02 per degree awarded	02 per degree awarded
	<b>(b) Research Projects Completed</b>		
	More than 10 lakhs	10	10
	Less than 10 lakhs	05	05
	<b>(c) Research Projects Ongoing :</b>		
	More than 10 lakhs	05	05
	Less than 10 lakhs	02	02
	<b>(d) Consultancy</b>	03	03
5.	<b>(a) Patents</b>		
	International	10	10
	National	07	07
	<b>(b) *Policy Document (Submitted to an International body/organisation like UNO/UNESCO/World Bank/International Monetary Fund etc. or Central Government or State Government)</b>		
	International	10	10
	National	07	07
	State	04	04
	<b>(c) Awards/Fellowship</b>		
	International	07	07
	National	05	05
6.	<b>*Invited lectures / Resource Person/ paper presentation in Seminars/ Conferences/full paper n Conference Proceedings (Paper presented in Seminars/Conferences and also published as full paper in Conference Proceedings will be counted only once)</b>		
	International (Abroad)	07	07
	International (within country)	05	05
	National	03	03
	State/University	02	02

more than 3500 teachers across the Country. The conference was held against the backdrop of increasing attacks on the education system of the country with Government of India proposing many legislative steps like Higher Education Commission of India Bill, categorisation of Universities Bill, Accreditation and Agencies Bill, etc to legalise and privatise Higher Education.

**MFUCTO Activities**

16. MFUCTO took the decision of State-wide movement in their general council meeting held on June 17th, 2018 which was adopted by the executive committee in its meeting on July 29th, 2018. A Movement Resolution highlighting nine important demands and an Action Programme was adopted unanimously. The action began on August 6th, 2018 by observing a DEMAND DAY by wearing black badges. It gradually intensified when on August 20th, ten units of MFUCTO held demonstrations before the offices of Joint Directors. A centralised demonstration was organised on August 27 at Pune before the office of Director of Higher Education. On September 4th, a highly demonstrative and inspiring "COURT ARREST" programme took place at Mumbai where more than two thousand college teachers assembled at Fort campus. Several contractual and self financing teachers also participated in the programme.

17. One Day cease work was observed on September 11 by teachers of affiliated colleges of non-agricultural universities of Maharashtra. The participation was 95%. Several contractual teachers also joined the cease work.

18. Since there was no response from the State Govt., an indefinite cease work commenced on September 25th, 2018. The first meeting of MFUCTO delegation with the Hon'ble Minister of Higher Education took place on September 25th wherein all demands were discussed. However, the minutes of the meeting did not show any reflection on assurances given by the Hon'ble Minister so, the organization was left with no alternative but to continue with the cease work. Subsequently, the Minister revised the minutes and gave a time bound assurance to MFUCTO. As a result the executive committee of MFUCTO met on October 10th and decided to withdraw the agitation that had continued for 16 days.

19. Hon'ble Minister of Higher Education gave assurances as under regarding the charter of demands.

**(i) Vacant Teaching Posts :**

The Higher Power Committee gave its consent for lifting the ban on recruitment. The minister assured to fill up 60% of the

posts with immediate effect.

**(ii) Non Release of 71 days salary :** The Hon'ble Minister stated that NO WORK, NO PAY cannot be made applicable to the teachers involved in cease work and hence decided to write to the Finance department to release the salary of 71 days.

**(iii) Non Implementation of 7th Pay Revision :** The minister assured that the 7th Pay Commission would be implemented to all universities and affiliated college teachers along with State Govt. Employees w.e.f. 01.01.2016.

**(iv) Defined Contribution Pension Scheme (DCPS) :** The Minister stated that the teachers who were appointed after 2005 cannot be given old pension scheme. However, he assured that DCPS number and other information regarding contribution would be given to teachers and this work would be done at the level of Director of Higher Education.

**(v) Self Financing Colleges :** The Minister assured that online payment of salary system would be introduced in respect of self-financing colleges and the Fee Regulatory Authority would be able to decide the fees of the students.

**(vi) Contractual Teachers/Clock Hour Faculty :** The Minister assured that there would be a substantial hike in the

APPENDIX II : TABLE: 3 B Criteria for Short-listing of candidates for Interview for the Post of Assistant Professors in Colleges					
S. N.	Academic Record	Score			
1.	Graduation	80% & Above =21	60% to less than 80%=19	55% to less than 60%=16	45% to less than 55%=10
2.	Post Graduation	80% & Above =25	60% to less than 80%=23	55% (50% in case of SC/ST/OBC (non-creamy layer)/PWD) to less than 60%=20	
3.	M.Phil.	60% and above = 07	55% to less than 60% = 05		
4.	Ph.D.	25			
5.	NET with JRF	10			
	NET	08			
	SET	05			
6.	Research Publications (2 marks for each research publication published in Peer Reviewed or UGClistered Journals)	06			
7.	Teaching/Post Doctoral Experience (2 marks for one year each)#	10			
8.	Awards	03			
	International/ National Level (Award given by International Organizations/ Government of India/Government of India recognized National Level Bodies)	02			
	State Level (Awards given by State Government)	02			
<b>#However, if the period of teaching/Post-doctoral experience is less than one year then the marks shall be reduced proportionately.</b>					
<b>Note:</b>					
(A) (i) M.Phil + Ph.D	:	Maximum - 25 Marks			
(ii) JRF/NET/SET	:	Maximum - 10 Marks			
(iii) In awards category	:	Maximum - 03 Marks			
(B) Number of candidates to be called for interview shall be decided by the college.					
(C) Academic Score	-	84			
Research Publications	-	06			
Teaching Experience	-	10			
TOTAL	-	100			

Accompaniment to Government Resolution, Higher and Technical Education Department No. Resolution No. Misc- 2018/ C.R.56 / 18 /UNI-1, dated 08 March, 2019.

**Assessment Criteria and Methodology for University/ College Teachers**

**APPENDIX II : TABLE 2 : CONTINUED**

**The Research score for research papers would be augmented as follows :**

Peer-Reviewed or UGC-listed Journals (Impact factor to be determined as per Thomson Reuters list):

**(i)** Paper in refereed journals without impact factor - **5 Points** **(ii)** Paper with impact factor less than 1 - **10 Points** **(iii)** Paper with impact factor between 1 and 2 - **15 Points** **(iv)** Paper with impact factor between 2 and 5 - **20 Points** **(v)** Paper with impact factor between 5 and 10 - **25 Points** **(vi)** Paper with impact factor >10 - **30 Points** **(a) Two authors :** 70% of total value of publication for each author. **(b) More than two authors:** 70% of total value of publication for the First/Principal/Corresponding author and 30% of total value of publication for each of the joint authors. **Joint Projects:** Principal Investigator and Co-investigator would get 50% each.

**Note :** • Paper presented if part of edited book or proceeding then it can be claimed only once. • For joint supervision of research students, the formula shall be 70% of the total score for Supervisor and Co-supervisor. Supervisor and Co-supervisor, both shall get 7 marks each. • \*For the purpose of calculating research score of the teacher, the combined research score from the categories of 5(b). Policy Document and 6. Invited lectures/Resource Person/Paper presentation shall have an upper capping of thirty percent of the total research score of the teacher concerned. • The research score shall be from the minimum of three categories out of six categories.

remuneration of clock hour teachers shortly.

**(vii) Anomalies of 6th Pay Revision:** The Minister also assured that anomalies regarding Ph.D increments and step up cases would be dealt with. The minister assured that the G.R. would be issued for the benefit of all the affected teachers.

#### Participation in Action Programmes :

20. I am happy to inform this august body that the teachers from Rashtrasant Tukdoji Maharaj Nagpur University, Sant Gadge Baba Amravati University and Gondwana University, Gadchiroli participated in large numbers in all the programmes of agitation launched by NUTA, MFUCTO and, AIFUCTO and

made them successful. Nevertheless, the struggle has not ended. The association is keeping a vigilant eye on the developments of all the levels, leaving nothing to chance. I have absolutely no doubt that the days to come will witness more achievements since our demands are lawful and are based on strong legal footing.

#### Tasks ahead :

21. Friends, it is true that some of our demands are nearing fulfillment because of the struggle of the NUTA under the able leadership of MFUCTO and AIFUCTO. However, some of the old issues are yet to be resolved. NUTA has always been committed to taking up problems of every section of the teaching community irrespective of their number and strength in the organization. NUTA has therefore several tasks ahead viz.

a. Faithful implementation of 7th Pay revision 'Package Scheme' in the state of Maharashtra.

b. To fight for filling up all the vacancies of Teaching and Non-teaching posts on regular basis.

c. To strengthen the battle for scrapping new pension scheme and extending assured pension scheme to all the employees including teachers by joining hands with other organizations.

d. A well regulated salary scheme to be framed for disbursement of salary to employees in professional institutes as per the Supreme Court judgment dated January 5th, 2017.

e. To take initiatives to protect the democratic functioning of the universities and to fight for issuing ordinance so as to reduce nominations on authorities in order to protect the autonomy of the University in state.

f. Stopping arbitrary functioning at the offices of the Joint Director and Director of Higher Education.

g. Compelling the Government to withdraw orders on contractual appointments and till such withdrawal to pay them the salary on par with their counterparts in Government colleges.

h. To organize and fight against anti-teacher attitude of the Government.

i. Enactment of suitable legislation for providing penalties for non-compliance of the University Grievance Committee Recommendations.

j. Ensure that all the benefits which teachers are given under the central orders are extended to Librarians and Directors of Physical Education.

k. To build pressure on Maharashtra Government to reconstitute Grievance Cell as per the High Court order dated May 10th, 2013 with retired judge as the Head of the Cell.

l. To strengthen the legal battle in Supreme Court in respect of NET-SET teachers and to take all the ongoing cases in the Courts to their logical end.

#### MEMBERSHIP OF NUTA :

22. The membership of NUTA has reached 5740 by the end of the year 2018. This year the increase in membership is 57. I am glad to announce that NUTA Bulletin has completed 43rd year of purposeful existence. This year we have circulated 156 pages of NUTA Bulletin. On going through the pages of the NUTA Bulletin, one finds that the Executive Committee has made an attempt to include relevant developments and documents in the bulletin to keep the members updated about the issues concerning their professional life.

23. I am grateful to media and their representatives from Nagpur, Amravati and Gadchiroli areas for wide coverage of various events, programmes and press notes issued from time to time. This report shall not be complete unless I acknowledge the active co-operation and the support of all members of NUTA and other colleagues, as well as other members of the teaching profession at different levels to the activities of the Association; and the response given by them to various calls given by NUTA from time to time.

Yours,

Dr. Vilas B.Dhone  
Secretary, NUTA

<b>APPENDIX II : TABLE 4</b> <b>Assessment Criteria and Methodology for Librarians</b>
<b>Sr. No. 1.</b>
<b>Activity :</b> Regularity of attending library (calculated in terms of percentage of days attended to the total number of days he/she is expected to attend) While attending in the library, the individual is expected to undertake, inter alia, following items of work : • Library Resource and Organization and maintenance of books, journals and reports. • Provision of Library reader services such as literature retrieval services to researchers and analysis of report. • Assistance towards updating institutional website.
<b>Grading Criteria :</b> 90% and above – Good Below 90% but 80% and above – Satisfactory Less than 80% - Not satisfactory
<b>Sr. No. 2.</b>
<b>Activity :</b> Conduct of seminars/workshops related to library activity or on specific books or genre of books.
<b>Grading Criteria :</b> Good – 1 National level seminar/workshop + 1 State/institution level workshop/Seminar Satisfactory - 1 National level seminar/ workshop or 1 State level seminar/workshop + 1 institution level seminar/workshop or 4 institution seminar / workshop Unsatisfactory – Not falling in above two categories
<b>Sr. No. 3.</b>
<b>Activity :</b> If library has a computerized database then OR If library does not have a computerized database
<b>Grading Criteria :</b> Good – 100% of physical books and journals in computerized database. Satisfactory – At least 99% of physical books and journals in computerized database. Unsatisfactory – Not falling under good or satisfactory. OR Good – 100% Catalogue database made up to date Satisfactory- 90% catalogue database made up to date Unsatisfactory - Catalogue database not up to mark. (To be verified in random by the CAS Promotion Committee)
<b>Sr. No. 4.</b>
<b>Activity :</b> Checking inventory and extent of missing books
<b>Grading Criteria :</b> Good : Checked inventory and missing book less than 0.5% Satisfactory - Checked inventory and missing book less than 1% Unsatisfactory - Did not check inventory Or Checked inventory and missing books 1% or more.
<b>Sr. No. 5.</b>
<b>Activity :</b> (i) Digitisation of books database in institution having no computerized database. (ii) Promotion of library network. (iii) Systems in place for dissemination of information relating to books and other resources. (iv) Assistance in college administration and governance related work including work done during admissions, examinations and extracurricular activities. (v) Design and offer short-term courses for users. (vi) Publications of at least one research paper in UGC approved journals.
<b>Grading Criteria :</b> Good : Involved in any two activities Satisfactory : At least one activity Not Satisfactory: Not involved/ undertaken any of the activities.
<b>Overall Grading :</b> Good : Good in Item 1 and satisfactory/good in any two other items including Item 4. Satisfactory: Satisfactory in Item 1 and satisfactory /good in any other two items including Item 4. Not satisfactory: If neither good nor satisfactory in overall grading. <b>Note :</b> (1) It is recommended to use ICT technology to monitor the attendance of library staff and compute the criteria of assessment. (2) The Librarian must submit evidence of published paper, participation certificate for refresher or methodology course, successful research guidance from Head of Department of the concerned department, project completion (3) The system of tracking user grievances and the extent of grievances redressal details may also be made available to the CAS promotion committee.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY : NAGPUR BENCH, NAGPUR  
WRIT PETITION NO.4048 OF 2013**

Maharashtra Association of Social Work Educators, Sai Sukh Apratim Colony, Jail Road, Camp, Amravati, through its Vice President Dilip Barahate. ... Petitioner **VERSUS** (1) The State of Maharashtra, through Secretary, Department of Social Justice and Special Assistance, Mantralaya, Mumbai 400 032. (2) The State of Maharashtra, through Secretary, Department of Finance, Mantralaya, Mumbai 400 032. (3) Commissioner, Social Welfare, State of Maharashtra, having its office at 3, Church Road, Pune 1.... Respondents Shri P.D. Meghe, Advocate for Petitioner. Shri N.S. Rao, Assistant Government Pleader for Respondents.

**CORAM : R.K. DESHPANDE & M.G. GIRATKAR, JJ.**

**DATE OF RESERVING THE JUDGMENT : 30.11.2017 : DATE OF PRONOUNCING THE JUDGMENT : 5.12.2017**

**JUDGMENT (Per : R.K. DESHPANDE, J.) :**

**1. This petition is filed by the Association of teachers and nonteaching employees** working in the aided Colleges of Social Work in the State of Maharashtra claiming a relief of declaration that the Government Resolution dated 8.3.2011 be declared as illegal to the extent it denies the arrears of payscales of the Sixth Pay Commission to the nonteaching employees in the aided Colleges of Social Work for the period from 1.1.2006 to 31.3.2010. **It further claims a direction to the respondents to release the arrears arising out of the revision as per the Sixth Pay Commission for the period from 1.1.2006 to 31.3.2010.**

**2.** The pay scales of teachers and nonteaching employees working in the aided Colleges affiliated to NonAgricultural Universities were revised as per the recommendations of the Sixth Pay Commission with effect from 112006. Accordingly, a notification was issued by the Higher and Technical Education Department of the State Government on 7102009 publishing the Maharashtra NonAgricultural Universities Standard Code (Revision of Pay of NonTeaching Employees) Rules, 2009, brought into force with effect from 112006. Rule 16 under the said Rules deals with the entitlement of the nonteaching employees in the aided nonGovernment Colleges affiliated to NonAgricultural Universities to the arrears of the difference in their pay from 1.1.2006 to 31.3.2009 arising out of revision in the scale of pay with effect from 1.1.2006. The nonteaching employees working in the aided nonGovernment Colleges of Social Work in the State of Maharashtra also expected that they would be getting the arrears arising out of the revision of pay scales with effect from 1.1.2006 till 31.3.2009.

**3.** The Department of Social Justice and Special Assistance in the Government of Maharashtra issued a resolution dated 8.3.2011 making the revision in the scale of pay as recommended by the Sixth Pay Commission applicable to the nonteaching employees working in the nonGovernment aided Colleges of Social Work in the State of Maharashtra subject to two conditions (i) that their pay in the revised scale shall be fixed notionally with effect from 1.1.2006, i.e. the date from which the pay scales recommended by the Sixth Pay Commission were implemented, and (ii) **that they would not be entitled to arrears of difference arising out of the revised pay scales for the period from 1.1.2006 to 31.3.2010.** It is clarified in the said Government Resolution that the revised pay would be actually payable to the nonteaching employees with effect from 142010.

**4. The challenge is to the denial of arrears of difference arising out of revised pay scales for the period from 1.1.2006 to 31.3.2010.** The case of the petitioner is that this amounts to providing discriminatory treatment to deprive the nonteaching employees in aided Colleges of Social Work, their legitimate claim for arrears of difference arising out of the revision of pay scales, and it violates the guarantee of such employees contained in Article 14 of the Constitution of India. It is specifically averred in the petition that the nonteaching employees in Matru Sewa Sangh Institute of Social Work at Nagpur, which is also an aided College affiliated to NonAgricultural University, were paid the arrears of difference arising out

of the revision of pay scales from 1.1.2006. However, the nonteaching employees in other Colleges of Social Work run on grantinaid basis are denied the equal treatment.

**5.** The claim made in the petition is denied by the respondents by filing their common affidavit dated 2162014. The stand taken in the affidavit in paras 3, 4, 5, 7 and 8 is reproduced below :

*“3. It is submitted that by Government Notification High*

<b>APPENDIX II : TABLE 5 Assessment Criteria and Methodology for Directors of Physical Education and Sports</b>
<b>Sr. No. 1.</b>
<b>Activity :</b> Attendance calculated in terms of percentage of days attended to the total number of days he is expected to attend. <b>Grading Criteria :</b> 90 and above - Good Above 80 but below 90- Satisfactory. Less than 80 - Not satisfactory.
<b>Sr. No. 2.</b>
<b>Activity :</b> Organizing intra college competition Good - Intra college competition in more than 5 disciplines. <b>Grading Criteria :</b> Satisfactory - Intra college competition in 3-5 disciplines. Unsatisfactory – neither good nor satisfactory
<b>Sr. No. 3.</b>
<b>Activity :</b> Institution participating in external competitions <b>Grading Criteria :</b> Good - National level competition in at least one discipline plus State/District level competition in at least 3 disciplines. Satisfactory- State level competition in at least one discipline plus district level competition in at least 3 disciplines. Or District level competition in at least 5 Disciplines Unsatisfactory – neither good nor satisfactory
<b>Sr. No. 4.</b>
<b>Activity :</b> Up-gradation of sports and physical training infrastructure with scientific and Technological inputs. Development and maintenance of playfields and sports and physical Education facilities. <b>Grading Criteria :</b> Good/Satisfactory/Not-Satisfactory to be assessed by the Promotion committee.
<b>Sr. No. 5.</b>
<b>Activity :</b> (i)At least one student of the institution participating in national/ state/ university (for college levels only) teams. Organizing state/national/inter university/inter college level competition. (ii) Being invited for coaching at state/national level. (iii) Organizing at least three workshops in a year. (iv) Publications of at least one research paper in UGC approved journal. Assistance in college administration and governance related work including work done during admissions, examinations and extracurricular college activities. <b>Grading Criteria :</b> Good: Involved in any two activities. Satisfactory: 1 activity Not Satisfactory: Not involved/ undertaken any of the activities.
<b>Overall Grading :</b> Good: Good in Item 1 and satisfactory/good in any two other items. Satisfactory: Satisfactory in Item 1 and satisfactory/good in any other two items. Not Satisfactory: If neither good nor satisfactory in overall grading.
<b>Note :</b> (1) It is recommended to use ICT technology to monitor the attendance of sports and physical education and compute the criteria of assessment. (2) The institution must obtain student feedback. The feed-backs must be shared with the concerned Director of Physical and Education and Sports and also the CAS Promotion committee. (3) The system of tracking user grievances and the extent of grievance redressal details may also be made available to the CAS Promotion Committee.

Education Department dated 7.10.2009 thereby making 6th Pay Commission applicable to all non teaching employees of Government aided college under the Higher Education Department. It is submitted that the Respondent no.1 issued resolution dated 8.3.2011 to grant revised Pay scale as per 6th Pay Commission to the non teaching employees of Social work colleges which are run on grant in aid basis. **It is submitted in respect of the financial matters Social Justice and Special Assistance Department and Higher Education Department have their independent policies."**

"4. It is submitted that, the proposal for extending benefit of 6th pay commission to teaching and non teaching employees of Social Welfare College running under Social Justice and Special Assistance Department was submitted before Finance Department, Mantralaya, Mumbai for approval by Respondent no.1. After perusing the proposal, Finance Department comes to the conclusion that, for payment of arrears as per 6th pay commission Rs.610.00 lakhs approximately only are required. By ascertaining the revised pay scale prescribed in Government Resolution, Finance Department has given remark that 6th pay commission is applicable from 1.1.2006 to non teaching employees of Social Welfare colleges and only to give notional fixation of pay benefit of pay scale is to be given from 1.4.2010. **It is also made it clear by Finance Department that arrears will not be admissible for the period 1.1.2006 to 31.3.2010."**

"5. It is submitted that as per G.R. Dated 8.3.2011 actual benefit of pay scale as per 6th pay is to be given from 1.4.2010 and arrears from 1.1.2006 to 31.3.2010 are not made admissible **hence extending benefit of 6th pay commission to the employees who have retired during 1.1.2006 to 31.1.2010 does not arise at all."**

"7. ...

It is mentioned in Government Resolution dated 8.3.2011 that, the said G.R. is issued with the consent of the Finance Department."

"8. **It is submitted that Matru Seva Sangh Institute of Social Work, Nagpur is under Higher Education Department. As stated in earlier para in the respect of financial matters Social Justice and Special Assistance Department and Higher Education Department have their independent policies."**

**6.** It is a fact that there are several aided Colleges affiliated to twelve NonAgricultural Universities in the entire State of Maharashtra, including the Universities incorporated under Section 3 of the Maharashtra

Accompaniment to Government Resolution, Higher and Technical Education Department No. Resolution No. Misc- 2018/ C.R.56 / 18 / UNI-1, dated 08 March, 2019.

**APPENDIX VI: FIXATION OF PAY IN THE REVISED PAY STRUCTURE: ILLUSTRATIONS**

**ILLUSTRATION -1**

An Assistant Professor drawing a Basic Pay of Rs. 22,250/- as on 01.07.2015 in the existing Pay Band Rs. 15,600-39,100, AGP Rs. 6,000. His date of appointment is 02.10.2014. His pay in the revised pay matrix as on 01.01.2016 shall be fixed as follows:

- |   |                |
|---|----------------|
| 1. Existing Basic Pay (Pay in PB + AGP)   | = Rs.22,250    |
| 2. 2.57 × Basic Pay   | = Rs.57,182.50 |
| 3. Rounding off the resultant figure to the nearest Rs. 100                     | = Rs. 57,200   |
| 4. Level corresponding to AGP Rs. 6,000   | : Level 10     |
| 5. Revised pay in Pay Matrix (Either equal to or next cell higher to Rs.57,200) | = Rs. 57,700   |

He shall be fixed at Basic Pay of Rs. 57,700/- The next date of annual increment shall be 1st July, 2016 and pay after increment is Rs. 59, 400/-

Universities Act ("the said Act"). All such Colleges are getting grantinaid from different Departments of the State Government, like Education and Employment, Higher and Technical Education, Social Justice, Cultural and Sports, Social Justice and Special Assistance, etc. Subsection (3) of Section 8 of the said Act being relevant, is reproduced below :

**"8. Control of State Government and universities.**

(3) The State Government may in accordance with the provisions contained in this Act, for the purpose of securing and maintaining uniform standards, by notification in the Official Gazette, prescribe a Standard Code providing for the classification, manner and mode of selection and appointment, absorption of teachers and employees rendered surplus, reservation of posts in favour of members of the Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes and Other Backward Classes, duties, workload, pay, allowances, postretirement benefits, other benefits, conduct and disciplinary matters and other conditions of service of the officers, teachers and other employees of the universities and the teachers and other employees in the affiliated colleges and recognised institutions (other than those managed and maintained by the State Government, Central Government and the local authorities). When such Code is prescribed, the provisions made in the Code shall prevail, and the provisions made in the Statutes, Ordinances, Regulations and Rules made under this Act, for matters included in the Code shall, to the extent to which they are inconsistent with the provisions of the Code, be invalid."

The aforesaid provision confers power upon the State Government to prescribe a 'Standard Code' by notification in the Official Gazette for the purpose of securing and maintaining uniform standards and providing for several matters stipulated therein, including pay, allowances and other terms and conditions of the teachers and other employees in the affiliated Colleges. It is made clear that upon issuance of such notification, the provisions made in the Code shall prevail and the other provisions made in the Statutes, Ordinances, Regulations and Rules made under the said Act, for matters included in the Code shall, to the extent to which they are inconsistent with the provisions of the Code, be invalid.

**7. The provision of subsection (3) of Section 8 of the said Act, reproduced above, does not make any**

**ILLUSTRATION -2**

An Assistant Professor drawing a Basic Pay of Rs. 23,610/- as on 01.07.2015 in the existing Pay Band Rs. 15,600-39,100, AGP Rs. 6,000. His date of appointment is 05.02.2012. His pay in the revised pay matrix as on 01.01.2016 shall be fixed as follows:

- |   |                 |
|---|-----------------|
| 1. Existing Basic Pay (Pay in PB + AGP)   | = Rs. 23,610    |
| 2. 2.57 × Basic Pay   | = Rs. 60,677.70 |
| 3. Rounding off the resultant figure to the nearest Rs. 100                     | = Rs. 60,700    |
| 4. Level corresponding to AGP Rs. 6,000   | : Level 10      |
| 5. Revised pay in Pay Matrix (Either equal to or next cell higher to Rs.60,700) | = Rs. 61,200    |

He shall be fixed at Basic Pay of Rs. 61,200/- . His successive dates of increment and the basic pay shall be as under :

Date of Increment	Basic Pay (Rs.)
1.7.2016	63,000
1.7.2017	64,900

He is eligible for promotion under CAS (AGP Rs. 6,000 to AGP Rs. 7,000/ Level 10 to Level 11) on 05.02.2018. On promotion, he shall be given a notional increment in Level 10 and his basic pay would be Rs. 66,800/-. Locating this figure Rs. 66,800 in Academic level 11, a cell identical to Rs. 66,800 or next higher cell in level 11 is cell no.1 with entry Rs. 68,900/-.

His revised basic pay as on 05.02.2018 shall be Rs. 68,900/- and date of increment shall be 1st January, 2019, and pay after increment is Rs. 71,000/-



**distinction between the Colleges functioning under the control and getting grants from the different Departments of the State Government.** The provision does not contemplate framing of multiple 'Standard Codes' by different Departments of the State Government to make separate provisions for the teaching and nonteaching employees working in the Colleges to which they provide the grantinaid. The power to frame a 'Standard Code' by issuing notification under subsection (3) of Section 8 of the said Act is exercised and completely exhausted by the Higher and Technical Education Department of the State Government thereby issuing notification dated 7.10.2009, **leaving no scope for the other Departments, like Social Justice, Cultural and Sports or Social Justice and Special Assistance, to encroach upon the subject covered by such notification and to make any provision inconsistent with it in respect of the aided Colleges under their control.**

**8.** Rule 2(1) of the 'Standard Code' stipulates that those Rules apply to the fulltime nonteaching employees of twelve specified NonAgricultural Universities and Affiliated NonGovernment Aided Colleges. Rule 16 of the 'Standard Code' deals with the payment of arrears arising out of revision of pay scales with effect from 112006 to all the employees eligible in terms of the provisions of the 'Standard Code'. Rule 17 deals with the overriding effect of the Rules and it states " Barring unless otherwise providing for in these Rules in cases where pay has been regulated as per the Rules, the provisions in the Maharashtra NonAgricultural Universities and Affiliated Colleges Standard Code (Service and Conditions of the NonTeaching Employees) Rules, 1984 if inconsistent with these Rules, then would not apply up to that limit." **The rules under the 'Standard Code' nowhere provide for framing of different policies by the Departments in respect of the employees working in the Colleges getting grantinaid from them.**

**9. Neither the provision of subsection (3) of Section 8 of the said Act nor the 'Standard Code' brought into force with effect from 1.1.2006 by issuing notification dated 7.10.2009 makes any distinction or reflects different policies in respect of the Colleges getting grantinaid from different Departments of the State Government.** The object and

purpose of these provisions is to secure and maintain uniform standards and to provide for several matters stipulated therein, including pay, allowances and other terms and conditions of the teachers and other employees in the Colleges affiliated to twelve NonAgricultural Universities, as is stipulated in the 'Standard Code'. Thus, the object and purpose prohibits applying the different standards and different pay scales and terms and conditions of service of the teachers and other employees working in several aided Colleges affiliated to twelve NonAgricultural Universities in the State of Maharashtra. The provisions make it clear that anything inconsistent with the provisions of the 'Standard Code' shall be invalid.

**10.** The provision of Rule 16 in the 'Standard Code' makes all nonteaching employees working in the aided Colleges affiliated to NonAgricultural Universities in the State of Maharashtra to get the arrears arising out of revision of pay scales with effect from 1.1.2006. This confers a legal right upon the petitionernonteaching employees to receive such arrears with effect from 1.1.2006 arising out of implementation of the revised pay scales as per the recommendations of the Sixth Pay Commission, irrespective of the fact of the source of their grantinaid. **There cannot be a different policy of the Department of Social Justice and Special Assistance, in deviation of the policy published by way of 'Standard Code' in the notification dated 7.10.2009 by the Higher and Technical Education Department of the State Government.** We, therefore, cannot sustain such a reasoning adopted by the State Government in the reply filed in response to the present petition.

**11.** Even otherwise, the nonteaching employees working in all the aided Colleges affiliated to the NonAgricultural Universities are governed by the same terms and conditions, as are prescribed in the 'Standard Code', their duties and responsibilities are the same, they form a single class and, therefore, no discriminatory treatment can be provided to them, as contemplated by the Government Resolution dated 8.3.2011 denying the benefit of arrears for the period from 1.1.2006 to 31.3.2010 to the nonteaching employees working in the aided Colleges of Social Work. **The source of grantinaid to create classification for providing discrimination becomes artificial having no nexus with the object of securing and maintaining uniform standard of education. It,**

### ILLUSTRATION -3

An Assistant Professor drawing a Basic Pay of Rs. 28,480/- as on 01.07.2015 in the existing Pay Band Rs. 15,600-39,10, AGP Rs. 7,000. His pay in the revised pay matrix as on 01.01.2016 shall be fixed as follows:

1. Existing Basic Pay (Pay in PB + AGP)	= Rs. 28,480
2. $2.57 \times$ Basic Pay	= Rs. 73,193.60
3. Rounding off the resultant figure to the nearest Rs. 100	= Rs. 73,200
4. Level corresponding to AGP Rs. 7,000	: Level 11
5. Revised pay in Pay Matrix (Either equal to or next cell higher to Rs.73,200)	= Rs. 75,300

He shall be fixed at Basic Pay of Rs. 75,300/- . His successive dates of increment and the basic pay shall be as under:

Date of Increment	Basic Pay (Rs.)
1.7.2016	77,600
1.7.2017	79,900

He is eligible for promotion under CAS (AGP Rs. 7,000 to AGP Rs. 8,000/ Level 11 to Level 12) on 12.08.2017. On promotion, he shall be given a notional increment in Level 11 and his basic pay would be Rs. 82,300/-. Locating this figure Rs. 82,300 in Academic level 12, a cell identical to Rs. 82,300 or next higher cell in level 12 is cell no.3 with entry Rs. 84,700/-.

His revised basic pay as on 12.08.2017 shall be Rs. 84,700/- and date of increment shall be 1st July, 2018, and pay after increment is Rs. 87, 200/-

### ILLUSTRATION -4

An Assistant Professor drawing a Basic Pay of Rs. 31,250 as on 01.07.2015 in the existing Pay Band Rs. 15,600-39,100, AGP Rs. 8,000. His pay in the revised pay matrix as on 01.01.2016 shall be fixed as follows :

1. Existing Basic Pay (Pay in PB + AGP)	= Rs. 31,250
2. $2.57 \times$ Basic Pay	= Rs. 80,312.50
3. Rounding off the resultant figure to the nearest Rs. 100	= Rs. 80,300
4. Level corresponding to AGP Rs. 8,000	: Level 12
5. Revised pay in Pay Matrix (Either equal to or next cell higher to Rs.80,300)	= Rs. 82,200

He shall be fixed at Basic Pay of Rs. 82,200/- The next date of annual increment shall be 1st July, 2016 and pay after increment is Rs. 84,700/-

He is eligible for promotion under CAS (AGP Rs. 8,000/- to AGP Rs. 9,000/- Level 12 to Level 13A) on 12.03.2018. On promotion, he shall be re-designated as Associate Professor, he shall be given a notional increment in Level 12 and his basic pay would be Rs. 92,500/-. Locating this figure Rs. 92,500 in Academic level 13A, a cell identical to Rs. 92,500 or next higher cell in level 13A is cell no.1 with entry Rs. 1,31,400/-.

His revised basic pay as on 12.03.2018 shall be Rs. 1, 31,400/- and date of increment shall be 1st January, 2019, and pay after increment is Rs. 1, 35,300/-

therefore, violates the guarantee of the nonteaching employees working in the aided Colleges of Social Work affiliated to the NonAgricultural Universities contained in Article 14 of the Constitution of India. The same cannot, therefore, be sustained.

**12.** It is not in dispute that nonteaching employees in Matru Sewa Sangh Institute of Social Works, Nagpur, conducting the courses in social work, like any other Colleges of Social Works and affiliated to NonAgricultural University, are getting arrears as per Rule 16 of the 'Standard Code' merely because it is getting grantin aid from the Department of Higher and Technical Education, but the nonteaching employees in other Colleges of Social Works are deprived of it on the ground that they are getting grantin aid from the Department of Social Works. **This is a micro classification not based upon any valid criteria having any nexus with the object sought to be achieved.** It is unreasonable and arbitrary, violating fundamental right under Article 14 of the Constitution of India of the nonteaching employees in the Colleges of Social Works getting grantin aid from the Social Works Department. It cannot be sustained.

**13.** We may point out at this stage that similar question arose before the Apex Court in Civil Appeal Nos.115-116 of 2017 (*Secretary, Mahatma Gandhi Mission and another v. Bhartiya Kamgar Sena*) decided on 5.1.2017. Para 74 of the said decision being relevant, is reproduced below :

*"74. At the outset, it must be remembered that the 1999 Rules, which extended the 5th pay commission recommendations to the nonteaching staff of the affiliated colleges, did not make any distinction between the aided and unaided colleges. For the first time, that classification is sought to be made under the 2009 Rules. No doubt aided and unaided colleges ostensibly fall under two separate categories. But for the purpose of Article 14, every classification does not automatically become permissible. Second requirement of the doctrine of reasonable classification is that such classification must bear a nexus to the objects sought to be achieved. Therefore, the object sought to be achieved by the 2009 Rules is required to be identified and that it is required to be examined whether the classification made bears any reasonable nexus to such object."*

Further in the last portion of para 84, the Apex Court has observed as under :

#### ILLUSTRATION -5

An Associate Professor drawing a Basic Pay of Rs. 53,820/- as on 01.07.2015 in the existing Pay Band Rs.37,400-67,000, AGP Rs. 9,000. His pay in the revised pay matrix as on 01.01.2016 shall be fixed as follows :

1. Existing Basic Pay (Pay in PB + AGP)	=Rs. 53,820/-
2. 2.57 × Basic Pay	=Rs. 1,38,317.40
3. Rounding off the resultant figure to the nearest Rs. 100	= Rs. 1,38,400
4. Level corresponding to AGP Rs. 9,000	: Level 13A
5. Revised pay in Pay Matrix (Either equal to or next cell higher to Rs. 1,38,400)	= Rs. 1,39,400

He shall be fixed at Basic Pay of Rs. 1, 39,400/-. The next date of annual increment shall be 1st July, 2016 and pay after increment is Rs. 1, 43,600/-

He is eligible for promotion under CAS (AGP Rs. 9,000 to AGP Rs. 10,000/ Level 13A to Level 14) on 10.12.2018. On promotion, he shall be re-designated as Professor, he shall be given a notional increment in Level 13A and his basic pay would be Rs. 1,56,900/-. Locating this figure Rs. 1,56,900 in Academic level 14, a cell identical to Rs. 1,56,900 or next higher cell in level 14 is cell no.4 with entry Rs. 1,57,600/-.

His revised basic pay as on 10.12.2018 shall be Rs. 1, 57,600/- and the date of increment shall be 1st July, 2019, and pay after increment is Rs. 1, 62,300/-

"84. ...

*It did deal with the subject under Section 8(3) of the Maharashtra Universities Act. Section 8(3) clearly authorises the State Government to frame rules dealing with the service conditions of the employees (both teaching and nonteaching) of various educational institutions. The power is duly exercised. While exercising such power is that State of Maharashtra drew an artificial distinction between aided and unaided educational institutions."*

**14.** In view of the aforesaid position, this petition needs to be allowed with a direction to the respondents to pay to the petitioner all the arrears arising out of revision in the pay of scale for the period from 1.1.2006 to 31.3.2010.

**15.** In the result, the petition is allowed in the following terms :

(i) The Government Resolution dated 8.3.2011 to the extent it denies to the nonteaching employees working in the aided Colleges of Social Work affiliated to the NonAgricultural Universities the arrears of pay arising out of difference upon implementation of the Sixth Pay Commission recommendations, for the period from 1.1.2006 to 31.3.2010, is held to be illegal and invalid.

(ii) The respondents are directed to pay the arrears of pay arising out of revision of pay scale as per the notification dated 7.10.2009 to the nonteaching employees working in the aided Colleges of Social Work affiliated to the NonAgricultural Universities, including those incorporated under Section 3 of the Maharashtra Universities Act, 1994.

(iii) The direction be complied with within a period of three months from today, failing which, the employees shall be entitled to interest at the rate of 12% per annum on the amount of arrears with effect from 31.3.2010 till the date of payment.

**16.** Rule is made absolute in the aforesaid terms. No order as to costs.

(M.G. Giratkar, J.) (R.K. Deshpande, J.)

**17.** After pronouncement of this judgment, Shri N.S. Rao, the learned Assistant Government Pleader for the respondents, submits that after hearing was concluded, he was granted time to take instructions from the respondents as to the cutoff date prescribed in the Government Resolution impugned in this petition, for payment of arrears.

**18.** No doubt, we had granted time to take instructions up to 7.12.2017. However, the hearing was concluded and the case was closed for judgment. Keeping in view the law which we have enunciated, we do not think that more time is required to be granted or any consent of the respondents is required for that purpose.

(M.G. Giratkar, J.) (R.K. Deshpande, J.)

#### ILLUSTRATION -6

College Principal drawing a Basic Pay of Rs. 61,890/- as on 01.07.2015 in the existing Pay Band Rs.37,400-67,000, AGP Rs. 10,000. His pay in the revised pay matrix as on 01.01.2016 shall be fixed as follows :

1. Existing Basic Pay (Pay in PB + AGP)	=Rs. 61,890/-
2. 2.57 × Basic Pay	=Rs. 1,59,057.30
3. Rounding off the resultant figure to the nearest Rs. 100	= Rs. 1,59,000
4. Level corresponding to AGP Rs. 10,000	: Level 14
5. Revised pay in Pay Matrix (Either equal to or next cell higher to Rs. 1,59,000)	= Rs. 1,62,300

He shall be fixed at Basic Pay of Rs. 1, 62,300. The next date of annual increment shall be 1st July, 2016 and pay after increment is Rs. 1, 67,200/-.

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
 DATED : 15.09.2017  
 CORAM  
 THE HON'BLE MR.JUSTICE HULUVADI GRAMESH  
 AND  
 THE HON'BLE MR.JUSTICE RMT.TEEKAARAMAN  
**W.P.No.15732 of 2017**

P.Ayyamperumal...Petitioner -vs- (1) The Registrar, Central Administrative Tribunal, Madras Bench, High Court Complex, Chennai-600 105. (2) Union of India rep.by the Chairman, CBEC, North Block, New Delhi-110 001. (3) Union of India rep.by Department of Personnel & Training, New Delhi. (4) The Director of General (Inspection), Customs & Central Excise, "D" Block, I.P.Bhawan, I.P.Estate, New Delhi-110 002. ... Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus calling for the records of the first respondent in O.A./310/00917/2015 dated 21.03.2017 and quash the same and consequently direct the fourth respondent to treat the retirement date of the petitioner as on 01.07.2013 and grant all the consequential benefits including the pensionary benefits.

**For Petitioner :** Mr.P.Ayyamperumal, Petitioner-in-Person  
**For Respondents :** Mr.K.Mohanamurali, Sr.Panel Counsel for R2 to R4

### ORDER

(Order of the Court was made by **HULUVADI GRAMESH, J.**)

This writ petition has been filed to quash the order passed by the first respondent-Tribunal in O.A./310/00917/2015 dated 21.03.2017 and to consequently direct the fourth respondent to treat the retirement date of the petitioner as 01.07.2013 and grant him all the consequential benefits including the pensionary benefits.

2.The case of the petitioner is that he joined the Indian Revenue Service in Customs and Excise Department in the year 1982 and retired as Additional Director General, Chennai on 30.06.2013 on attaining the age of superannuation. After the Sixth Pay Commission, the Central Government fixed 1st July as the date of increment for all employees by amending Rule 10 of the Central Civil Services (Revised Pay) Rules, 2008. In view of the said amendment, the petitioner was denied the last increment, though he completed a full one year in service, ie., from 01.07.2012 to 30.06.2013. Hence, the petitioner filed the original application in O.A.No.310/00917/2015 before the Central Administrative Tribunal, Madras Bench, and by order dated 21.03.2017, the Tribunal rejected the claim of the petitioner by taking a view that an incumbent is only entitled to increment on 1st July if he continued in service on that day. Since the petitioner was no longer in service on 1st July 2013, he was denied the relief. Challenging the order passed by the Tribunal, the present writ petition is filed.

### ILLUSTRATION -7

A Senior Professor drawing a Basic Pay of Rs. 75,420/- as on 01.07.2015 in the HAG Scale of Rs.67, 000-79,000. His pay in the revised pay matrix as on 01.01.2016 shall be fixed as follows:

1. Existing Basic Pay	=Rs. 75,420
2. $2.57 \times$ Basic Pay	=Rs. 1,93,829.40
3. Rounding off the resultant figure to the nearest Rs. 100	= Rs. 1,93,900
4. Level corresponding to AGP Rs. 10,000	: Level 15
5. Revised pay in Pay Matrix (Either equal to or next cell higher to Rs. 1,93,900)	= Rs. 1,99,100

He shall be fixed at Basic Pay of Rs. 1,99,100. The next date of annual increment shall be 1st July, 2016 and pay after increment is Rs. 2,05,100/-.

3.The petitioner, appearing as party-in-person, has referred to the judgment passed by this Court in **State of Tamil Nadu, rep. by its Secretary to Government, Finance Department and others v. M. Balasubramaniam, reported in CDJ 2012 MHC 6525**, wherein the appeal filed by the State challenging the order passed in the writ petition entitling the employee who was similarly placed like that of the petitioner, the benefit of increment on the ground that he has completed one full year of service from 01.04.2002 to 31.03.2003, was rejected. Referring to that judgment, the petitioner has submitted that the said benefit has to be extended to him. He further submitted that even though the above decision squarely covers his case, no mention has been made by the Central Administrative Tribunal as to how that decision is not applicable to him. With regard to the said issue, the petitioner has also referred to the order passed by the Government of Tamil Nadu in G.O.Ms.No.311, Finance (CMPC) Department, dated 31.12.2014, and submitted that in the said G.O., it has been mentioned that the Pay Grievance Redressal Cell has recommended that when the date of increment of a Government servant falls due on the day following superannuation on completion of one full year of service, such service may be considered for the benefit of notional increment purely for the purpose of pensionary benefits and not for any other purpose. Stating so, the petitioner prayed for allowing this writ petition.

4. Heard the learned Senior Panel Counsel appearing for the respondents 2 to 4 on the submissions made by the petitioner and perused the materials available on record.

5. The petitioner retired as Additional Director General, Chennai on 30.06.2013 on attaining the age of superannuation. After the Sixth Pay Commission, the Central Government fixed 1st July as the date of increment for all employees by amending Rule 10 of the Central Civil Services (Revised Pay) Rules, 2008. In view of the said amendment, the petitioner was denied the last increment, though he completed a full one year in service, ie., from 01.07.2012 to 30.06.2013. Hence, the petitioner filed the original application in O.A.No.310/00917/2015 before the Central Administrative Tribunal, Madras Bench, and the same was rejected on the ground that an incumbent is only entitled to increment on 1st July if he continued in service on that day.

6. In the case on hand, the petitioner got retired on 30.06.2013. As per the Central Civil Services (Revised Pay) Rules, 2008, the increment has to be given only on 01.07.2013, but he had been superannuated on 30.06.2013 itself. The judgment referred to by the petitioner in **State**

### ILLUSTRATION -8

An Associate Professor drawing a Basic Pay of Rs. 58,660/- as on 01.07.2015 in the existing Pay Band Rs.37,400-67,000, AGP Rs. 9,000. His pay in the revised pay matrix as on 01.01.2016 shall be fixed as follows :

1. Existing Basic Pay (Pay in PB + AGP)	= Rs. 58,660
2. $2.57 \times$ Basic Pay	=Rs. 1,50,756.20
3. Rounding off the resultant figure to the nearest Rs. 100	= Rs. 1,50,800
4. Level corresponding to AGP Rs. 9,000	: Level 13A
5. Revised pay in Pay Matrix (Either equal to or next cell higher to Rs. 1,50,800)	= Rs. 1,52,300

He shall be fixed at Basic Pay of Rs. 1,52,300/-. The next date of annual increment shall be 1st July, 2016 and pay after increment is Rs. 1,56,900/-

He is appointed as under graduate college Principal as on 15.7.2019 when he was drawing a basic pay of Rs. 1,71,400/- in Academic Level 13A. On appointment, he shall remain in Level 13A with a basic pay of Rs. 1,71,400/-.

of Tamil Nadu, rep.by its Secretary to Government, Finance Department and others v. M. Balasubramaniam, reported in CDJ 2012 MHC 6525, was passed under similar circumstances on 20.09.2012, wherein this Court confirmed the order passed in W.P.No.8440 of 2011 allowing the writ petition filed by the employee, by observing that the employee had completed one full year of service from 01.04.2002 to 31.03.2003, which entitled him to the benefit of increment which accrued to him during that period.

7. The petitioner herein had completed one full year service as on 30.06.2013, but the increment fell due on 01.07.2013, on which date he was not in service. In view of the above judgment of this Court, naturally he has to be treated as having completed one full year of service, though the date of increment falls on the next day of his retirement. Applying the said judgment to the present case, the writ petition is allowed and the impugned order passed by the first respondent-Tribunal dated 21.03.2017 is

quashed. The petitioner shall be given one notional increment for the period from 01.07.2012 to 30.06.2013, as he has completed one full year of service, though his increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purpose. No costs.

Index : Yes/No (H.G.R.,J.) (T.K.R.,J.)

Internet : Yes/No 15.09.2017

KM

To

(1) The Registrar, Central Administrative Tribunal, Madras Bench, High Court Complex, Chennai-600 105.

(2) The Chairman, CBEC, Union of India, North Block, New Delhi-110 001.

(3) Department of Personnel & Training, Union of India, New Delhi.

(4) The Director of General (Inspection), Customs & Central Excise, "D" Block, I.P.Bhawan, I.P.Estate, New Delhi-110 002.

HULUVADI G.RAMESH, J. AND RMT.TEEKAA RAMAN, J.KM  
W.P.No.15732 of 2017 15.09.2017

**RULES FOR PROPOSING AMENDMENTS**

(Reproduced from page 97 of 1977 NUTA Bulletin )

1. Any proposal before the meeting may be amended

(a) by leaving out a word or words or

(b) by leaving out a word or words in order to add or insert a word or words or

(c) by adding or inserting a word or words.

2. An amendment to be in order shall :

(a) not constitute a direct negative to the original resolution :

(b) be relevant to and within the scope of the resolution to which it is moved.

**नुटाच्या आमसभेच्या वेळी करावयाच्या व्यवस्थेसंबंधी सूचना**

आमसभा ठरलेल्या वेळी म्हणजे बरोबर दुपारी १२.०० वाजता सुरु होत असते, हे लक्षात ठेऊनच एकूण व्यवस्था असावी. सभा सुरु होण्याच्या पूर्वीच्या एक तासात सर्व सदस्य आपापल्या सोबत आणलेल्या जेवणाच्या डब्यांचा एकमेकासोबत आस्वाद घेत असतांना त्यांच्या बसण्यासाठी बघीच्यात, झाडाखाली, सावलीत किंवा उन असल्यास खोल्यातून स्वच्छतायुक्त व्यवस्था व सोबत पिण्याच्या पाण्याची निट व्यवस्था ही आमसभेच्या आयोजकांनी करावी एवढीच याबाबत अपेक्षा असते. - डॉ.विलास ढोणे, सचिव, नुटा

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

**WRIT PETITION NO. 7519/2018**

(Anudanit Ayurved or Unani Mahavidyalaya Shikshaketar Karmarchari Sanstha, Pune Vs.State of Maharashtra & ors.)

Shri P. D. Meghe, Advocate for petitioner. Shri N. R. Patil, Assistant Government Pleader for respondent Nos. 1 & 2.

CORAM : R.K.DESHPANDE & VINAY JOSHI,JJ.

DATE : 30.11.2018.

The claim in this petition for arrears as per 6th Pay Commission for the period from 01.01.2006 to 31.03.2010 which are denied by the Government Resolution dated 24.07.2010. Hence, the same is subject matter of challenge in this petition. Placing reliance upon the decision of the Division Bench of this Court rendered in *Writ Petition No. 4048/2013 (Maharashtra Association of Social Work Educator Vs. The State of Maharashtra and ors.)* delivered on 05.12.2017, it is the contention raised that the members of the petitioner Sanstha are also nonteaching employees in aided affiliated Ayurved College governed by standard Code, hence no discriminatory treatment can be practiced upon them to deny the arrears arising out of revision. It is also informed that the decision in Writ Petition No. 4048/2013 has been implemented by issuing Government Resolution.

Issue notice to the to the respondents returnable on 01.02.2019.

The learned Assistant Government Pleader waives service of notice to the respondent Nos. 1 and 2.

JUDGE JUDGE

ITEM NO.36 COURT NO.3 SECTION XII

**SUPREME COURT OF INDIA**

Record of Proceedings

**SPECIAL LEAVE PETITION (CIVIL)**

**Diary No(s).22283/2018**

(Arising out of impugned final judgment and order dated 15-09-2017 in WP No. 15732/2017 passed by the High Court of Judicature at Madras)

**UNION OF INDIA & ORS. Petitioner(s) VERSUS**

**P. AYYAMPERUMAL Respondent(s)**

(WITH I.R. and IA No.90336/2018-CONDONATION OF DELAY IN FILING)

**DATE : 23-07-2018**

This petition was called on for hearing today.

**CORAM**

**HON'BLE MR. JUSTICE MADAN B.**

**LOKUR**

**HON'BLE MR. JUSTICE DEEPAK GUPTA**

**For Petitioner(s)** Mr. Aman Lekhi, ASG\* Mr. Harish Pandey, Adv.\* Ms. Seema Bangani, Adv.\* Mr. Piyush Beriwal, Adv.\* Mr. B. Krishna Prasad, AOR  
**For Respondent(s)**

UPON hearing the counsel the Court made the following  
**ORDER**

Delay condoned.

On the facts, we are not inclined to interfere with the impugned judgment and order passed by the High Court of Judicature at Madras.

The special leave petition is dismissed.

(SANJAY KUMAR-I)  
AR-CUM-PS

(KAILASH CHANDER)  
COURT MASTER

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

**PRESIDENT**

Prof. Dr. Tapati Mukhopadhyay  
Park Side 3, Wing, Flat No. 1308  
Kulupwadi Road, Borivali (East)  
Mumbai 400 066  
Ph. 02228871430/+919820319455  
Email: mukhopadhyay\_tapati@rediffmail.com

**GENERAL SECRETARY**

Prof. Dr. S.P. Lawande  
SARANG, Balajinagar  
Mandavgan Road, Shrigonds,  
Dist Ahmednagar 413 701  
Ph: 09422228174  
Email: splawande@gmail.com

**22 MARCH 2019**

To,  
The Chief Electoral Officer, Maharashtra,  
General Administration Department,  
Annex Building, Madam Cama Road,  
Mantralaya, Mumbai 400 032

**Sub: Election Duty of College Teachers**

Sir,

The Election Commission has announced the dates for the 16th Lok Sabha election for 543 constituencies in seven phases from 11 April through 19 May 2019.

**I. Mobilization of Manpower for Conducting the Election...**

**1.1** The Commission has initiated several institutional arrangements for conducting free and fair election for upholding the democratic structure and function of the world's largest democracy, India.

**1.2** The Commission has taken initiatives for mobilizing / requisitioning manpower from various authorities like state government departments, local authorities, universities and colleges, schools, state public sector units, etc. by requisition, deputation, etc.

**II. ...Teachers from Colleges and Schools :**

**2.1** The Commission has also decided to include both school and college teachers, inter alia, for conducting the election. Already, more than 50% of the teachers in various colleges in Mumbai have received official letters to attend the election duties for several dates. (Please see the copies of these letters received by teachers: Annex I)

**III. Disruption of Teaching / Learning :**

**3.1** The institutions, where these teachers work, have been requested to relieve the teachers from their regular duties. These would involve loss of huge numbers of teaching/learning hours. With such large number of teachers being deployed in election duties, many institutions would not be able to conduct their regular duties of teaching / learning.

**3.2** Besides, final examination of students in many Institutions has already begun; this would be disrupted in the absence of teachers attending election duties. These examinations would continue up to the end of May 2019. Simultaneously, assessment of examination papers also will continue during this period. Hence, teachers are not free even for a single day during this period.

**IV. Verdicts from the Apex Court against Deploying Teachers for Election Duty on Working Days :**

**4.1** Please note in this context, that the Honorable Supreme Court of India have given clear direction in a judgement (Judgement Civil Appeal No 5659 of 2007 (Arising out of SLP (Civil No 21963 of 2004), para 27. To quote: "... Holding of an election is no doubt of paramount importance. But for the said purpose, the education of the children cannot be neglected. Therefore, it is necessary to maintain the balance between the two."

**4.2** Further, to quote from para 28 of the above mentioned judgement of the Honorable Supreme Court of India : "The

question if right to exercise franchise whereupon the emphasis is laid by Mr. Venugopal is an important one, right to education is also no less important being a fundamental right."

**4.3** In yet another case, the Honorable Supreme Court has given a direction (para 32 of the same judgement) that: "... Teachers should not ordinarily be put on duty on teaching days and within teaching hours ..." (Please see the copy of judgement: Annex II.)

**4.4** Further, the Honorable High Court (In the High Court of Judicature at Bombay, Bench at Aurangabad) has issued similar orders (Writ Petition No 1011 of 2012. To quote the relevant portion from para 05): "... it is directed that the election duties be not assigned/allotted to the teachers on school/college working days and to the above extent the impugned requisitions will be inoperative."

**4.5** Incidentally, the Writ Petition mentioned above has been filed by Dr Shamrao Pandurang lawande and others, happens to be the present General Secretary of MUFCTO, and a signatory of this letter. (Please see the copy of the judgement: Annex III)

**4.6** Finally, ,a petition was filed (Writ Petition N. 7482 of 2015) on July 31 2015 in the Honorable High Court of Bombay as teachers of C T Bora College were asked to do election duty on August 3 & 4 2015; both days being working days, the college would have to be closed. This violated the judgement of the Honorable Supreme Court. Since the date of the petition (July 31, 2015) was too close to the dates of election (August 3 & 4 2015), the considered verdict was, to quote from para 5: "...It is, however, made clear that herein after the directions given by the Apex Court in the case of Election Commission vs St Mary School (supra.) be scrupulously followed."

**4.7** To continue further, the judgement specifically mentioned in para 7: "...under no circumstances, teachers/ lecturers/ professors shall be asked to do the election duty on working days as directed by the Apex Court in the said case." (Please see the copy of the judgement: Annex IV)

**V. Our Request :**

**5.1** Drawing your kind attention to the above-mentioned verdicts of the Apex Court as well as Bombay High Court against allocating election duties to teachers of colleges on working days, may we therefore request you, Sir, to consider the fact that there would be serious loss of teaching/learning days, because of which the students would immensely suffer. There would long delays and disruption of academic schedule of the year.

**5.2** Under the circumstances, we request to intervene in, and resolve the above mentioned matter for the benefit of the teacher and the taught.

Thanking you,

Yours Sincerely

Dr. Tapati Mukhopadhyay  
(President)

Dr. S.P Lawande  
(General Secretary)

**Encl :** Annexures as above.

**No. 1/5/2017-Estt (Pay-I)**  
**Government of India : Ministry of Personnel, Public Grievances & Pensions**  
**(Department of Personnel & Training)**

*North Block, New Delhi : Dated the 15th March, 2019*

**OFFICE MEMORANDUM**

**Subject : Incentive for acquiring fresh higher qualifications, in the 7th CPC Scenario - reg.**

Central Government Servants acquiring fresh higher qualifications after coming into service are granted incentive in the form of one-time lump-sum amount ranging from Rs. 2000/- to Rs. 10,000/-, as provided in this Department's OM No. 1/2/89-Estt.(Pay-I) dated 09.04.1999 and other related OMs.

2. The 7th CPC has reviewed the rates of incentive presently available to employees on this account in addition to pay, and have suggested their rationalization and simplification in Para 8.9.11 to 8.9.14 of their report.

3. Ministry of Finance, Department of Expenditure (DOE) Resolution No. 1-2/2016-IC dated 25.07.2016 vide Para 7 provided that the matter regarding allowances (except Dearness Allowance) based on the recommendations of the 7th CPC shall be referred to a Committee under the Chairmanship of Finance Secretary, and until a final decision thereon, all allowances including this incentive were required to be paid at the existing rates in the existing pay structure (the pay structure based on 6th CPC) as if the pay has not been revised w.e.f. 1st January, 2016.

4. The decision of the Government on various allowances based on the recommendations of the 7th CPC and in the light of the recommendations of the Committee under the Chairmanship of Finance Secretary has been issued as per the Resolution No. 11-1/2016-IC dated 06.07.2017 of DOE.

5. The President is pleased to decide that in supersession of all the existing orders/OMs/instructions/guidelines on the subject of granting incentive for acquiring fresh higher qualifications, the following one-time lump-sum rates as incentive for acquiring fresh higher qualification by a Government employee shall be permissible for courses in fields that are directly relevant to the employee's job:

SI. No.	Qualification	Amount (Rs.)
1.	Ph.D. or equivalent.	30,000
2.	PG Degree/Diploma of duration more than one year, or equivalent.	25,000
3.	PG Degree/Diploma of duration one year or less, or equivalent.	20,000
4.	Degree/Diploma of duration more than three years, or equivalent.	15,000
5.	Degree/Diploma of duration three years or less, or equivalent.	10,000

6. Professional courses directly relevant to the functional requirement of the Organization/Ministry/Department but not covered by any one of the categories mentioned in para 5 above, shall be notified specifically under SI. No. 4 or 5 of para 5 above, by the concerned Ministry/Department in consultation with their respective IFD.

7. Ministries/Departments are free to choose courses on their own. However, the grant of incentive in respect of above qualifications will be subject to the fulfillment of the criteria laid down in para 8 below. The grant of incentive for the qualifications listed above shall be considered by the administrative authorities in consultation with their IFD and necessary orders shall be issued after ensuring that the criteria laid down in para 8 below are fulfilled.

**8. Criteria/guidelines for granting incentive for acquiring fresh higher qualifications, in the 7th CPC Scenario, are as under :**

8.1. The incentive will not be available for the qualifications

which are laid down as essential or desirable qualifications in the recruitment rules for the post.

8.2. No incentive shall be allowed for acquiring higher qualification purely on academic or literary subjects. The acquisition of the qualification should be directly related to the functions of the post held by him/her, or to the functions to be performed in the next higher post. There should be direct nexus between the functions of the post and the qualification acquired and that it should contribute to the efficiency of the government servant.

8.3. The quantum of incentive will be uniform for all posts, irrespective of their classification or grade or the department.

8.4. The incentive shall not be admissible where the government servant is sponsored by the government or he/she avails study leave for acquiring the qualification.

8.5. The incentive would be given only for higher qualification acquired after induction into service.

8.6. No incentive would be admissible if an appointment is made in relaxation of the educational qualification. No incentive would be admissible if employee acquires the requisite qualification for such appointment at a later date.

8.7. The qualifications meriting grant of incentive should be recognized by University Grants Commission, respective regulatory bodies like AICTE, Medical Council of India, etc. set up by Central/State Government or recognized by the Government.

8.8. The incentive shall be limited to maximum two times in an employee's career, with a minimum gap of two years between successive grants.

8.9. The Government servant should prefer the claim within six months from the date of acquisition of the higher qualification.

9. The incentive as per this OM will be admissible for above qualifications acquired on or after 01.07.2017.

10. Government Servants, who have acquired the fresh higher qualification on or after 01.07.2017 till the date of issuance of this OM, may also claim these incentives within six months from the date of issuance of this OM.

11. Insofar as the persons working in the Indian Audit and Accounts Department are concerned, these orders issue in consultation with the Comptroller and Auditor General of India.

12. Hindi Version will follow.

(Rajeev Bahree)

Under Secretary to the Government of India

To : All Ministries / Departments of Government of India  
 Copy also forwarded to : (1) The Comptroller & Auditor General of India. (2) Secretary General, Supreme Court of India. (3) Controller General of Accounts / Controller of Accounts, Ministry of Finance. (4) Union Public Service Commission / Lok Sabha Sectt. / Rajya Sabha Sectt. / Cabinet Sectt./Central Vigilance Commission / President's Sectt./ Vice-President's Sectt. / Prime Minister's Office / Niti Aayog. (5) Governments of all States and Union Territories. (6) Department of Personnel and Training (AIS Division) / JCA /Admn. Section. (7) Secretary, National Council of JCM (Staff Side), 13-C, Feroz Shah Road, New Delhi. (8) All Members of Staff Side of the National Council of JCM / Departmental Council. (9) All Officers / Sections of Department of Personnel and Training / Department of Administrative Reforms & Public Grievances / Department of Pensions & Pensioners' Welfare / PESB. (10) Joint Secretary (Pers), Department of Expenditure, Ministry of Finance. (11) Additional Secretary (Union Territories), Ministry of Home Affairs. (12) JD (OL), DoPT, North Block, New Delhi- for Hindi version of this OM.

(Rajeev Bahree)

Under Secretary to the Government of India

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**  
**DATED THIS THE 22ND DAY OF MARCH, 2019**  
**BEFORE**  
**THE HON' BLE MR.JUSTICE R. DEVDAS**  
**WRIT PETITION NOs.775-787 OF 2015(S-R) C/W WRIT PETITION NOs.49241-49242**  
**OF 2015(S-RES) IN W.P. NOs.775-787/2015 BETWEEN**

(1) DR. K. GOPALA S/O LATE SRI B.V KRISHNAPPA, AGED ABOUT 77 YEARS, EARLIER WORKING AS PROFESSOR IN PHYSICS, DEPARTMENT OF POST GRADUATE STUDIES & RESEARCH, UNIVERSITY OF MYSORE, MANASAGANGOTHRI, MYSORE 570006. SINCE RETIRED AND RESIDING AT NO.498, II CROSS, III MAIN ROAD, MARUTI TEMPLE ROAD, SARASWATHIPURAM, MYSORE 570009. (2) DR. P. VENKATARAMAIAH SON OF LATE P T.PUTTAIAH, AGED ABOUT 77 YEARS, EARLIER WORKING AS VICE CHANCELLOR, KUVEMPU UNIVERSITY, SINCE RETIRED AND RESIDING AT NO.436, VISHWA MANAVA DOUBLE ROAD, KUVEMPU NAGAR, MYSORE 570009. (3) SRI. K. KEMPEGOWDA SON OF KEMPEGOWDA, AGED ABOUT 77 YEARS, EARLIER WORKING AS PROFESSOR OF LINGUISTICS, INSTITUTE OF KANNADA STUDIES, UNIVERSITY OF MYSORE, MANASAGANGOTHRI, MYSORE 570006, SINCE RETIRED AND RESIDING AT NO.527, 3RD CROSS, 15TH MAIN ROAD, SARASWATHIPURAM, MYSORE 570009. (4) PROF. S.N. HEGDE SON OF SADASHIVA HEGDE, AGED ABOUT 72 YEARS, EARLIER WORKING AS VICE CHANCELLOR, UNIVERSITY OF MYSORE, MANASAGANGOTHRI, MYSORE 570006 SINCE RETIRED RESIDING AT NO.2437, VIJAYANAGAR II STAGE, MYSORE 570017. (5) DR. D. A. SHANKAR S/O LATE D ASHWATHANARAYANA RAO, AGED ABOUT 77 YEARS, EARLIER WORKING AS PROFESSOR EMERITUS, DEPARTMENT OF POST GRADUATE STUDIES & RESEARCH IN ENGLISH, UNIVERSITY OF MYSORE, MANASAGANGOTHRI, MYSORE-570 006 SINCE RETIRED R/ AT NO.995,DODDERIMANE, AGNIHAMS ROAD, KUVEMPUNAGAR, MYSORE-570 023. (6) PROF. E. SAMPATH KUMAR S/O LATE EMBAR KRISHNAMACHAR, AGED ABOUT 78 YEARS, EARLIER WORKING AS PROFESSOR IN MATHEMATICS, DEPARTMENT OF POST GRADUATE STUDIES & RESEARCH IN MATHEMATICS, UNIVERSITY OF MYSORE, MANASAGANGOTHRI, MYSORE-570 006 SINCE RETIRED R/AT NO.8/1, 13TH CROSS, ADI PAMPA ROAD, V. V. MOHALLA, MYSORE-570 002. (7) PROF. S. BHARGAVA S/O J SRINIVASAMURTHY, AGED ABOUT 74 YEARS, EARLIER WORKING AS PROFESSOR DEPARTMENT OF POST GRADUATE STUDIES & RESEARCH IN MATHEMATICS, UNIVERSITY OF MYSORE, MANASAGANGOTHRI, MYSORE-570 006 SINCE RETIRED R/AT NO.5, II STAGE, GANGOTHRI LAYOUT, SAHUKAR CHANNAYYA ROAD, MYSORE-570 009. (8) SRI. H. S. GOPALAKRISHNA SON OF H SUNDARAM IYER, AGED ABOUT 76 YEARS, EARLIER WORKING AS PROFESSOR, DEPARTMENT OF POST GRADUATE STUDIES & RESEARCH IN MATHEMATICS, UNIVERSITY OF MYSORE, MANASAGANTOTHRI, MYSORE-570006 SINCE RETIRED RESIDING AT NO.746/B, 17TH MAIN ROAD, SARASWATHIPURAM, MYSORE-570009. (9) SRI. S. SYED ABDUL AZEEZ SON OF LATE R SYAD ABDUL SUBHAN, AGED ABOUT 80 YEARS, EARLIER WORKING AS LECTURER (SELECTION GRADE) IN MATHEMATICS, YUVARAJA'S COLLEGE (A CONSTITUENT COLLEGE OF UNIVERSITY OF MYSORE) MYSORE -570006 SINCE RETIRED AND RESIDING AT FLAT NO.3A, III FLOOR, ROYAL APARTMENT NO.5-8, 8TH MAIN ROAD, I CROSS, NEW GURAPPANAPALYA, BANGALORE-560029. (10) PROF. V. B. COUTINHO S/O BERNARD COUTINHO, AGED ABOUT 70 YEARS, EARLIER WORKING AS VICE CHANCELLOR, GULBARGA UNIVERSITY, BULBARGA-585106 SINCE RETIRED AND RESIDING AT FLAT NO.202, SERENE MANOR, 26, WHEELER ROAD EXTENSION, ST THOMAS TOWN P. O., BANGALORE-560084. (11) PROF. A. M. PATHAN, S/O M R PATHAN AGED ABOUT 72 YEARS, EARLEIR WORKING AS VICE CHANCELLOR, KARNATAKA UNIVERSITY, DHARWAD-580003, SINCE RETIRED AND RESIDING AT 75/1, 3RD FLOOR, RANOJI RAO ROAD, BASAVANAGUDI, BANGALORE-560 004. (12) PROF. M. MUNIYAMMA, D/O M MUNISWAMAPPA, AGED ABOUT 76 YEARS, EARLEIR WORKING AS VICE CHANCELLOR, GULBARGA UNIVERSITY, GULBARGA-585106, SINCE RETIRED AND RESIDING AT FLAT NO.3, 11TH CROSS, JAYAMAHAL, BANGALORE-560 046. (13) DR. MRUTYUNJAYA P KULENUR, S/O LATE PUTTAPPA KULENUR, RESIDING AT NO.3, DAN DEN APARTMENTS, NEAR VIJAYA BANK CIRCLE, KUVEMPUNAGARA, MYSORE-570023.... **PETITIONERS** (BY SRI. P. S. RAJAGOPAL, SENIOR COUNSEL FOR M/S M. NAGA PRASANNA ASSTS, ADVOCATES) **AND** (1) THE STATE OF KARNATAKA REPRESENTED BY THE SECRETARY TO GOVERNMENT, DEPARTMENT OF HIGHER EDUCATION, M.S. BUILDING, DR. B.R AMBEDKAR VEEDHI, BANGALORE 560001. (2) THE PRINCIPAL SECRETARY TO GOVERNMENT FINANCE DEPARTMENT, VIDHANA SOUDHA, BANGALORE 560001.(3) MYSORE UNIVERSITY CRAWFORD HALL, MYSORE 570005 BY ITS REGISTRAR.(4) BANGALORE UNIVERSITY JNANA BHARATHI, BANGALORE 560056 BY ITS REGISTRAR. (5) MANGALORE UNIVERSITY MANGALAGANGOTHRI 574199 BY ITS REGISTRAR....**RESPONDENTS** (BY SRI. NITIN RAMESH, AAG A/W SRI. SRIDHAR N HEGDE, HCGP FOR R1 & R2, SRI. T. P. RAJENDERA KUMAR SUNGAY, ADVOCATE FOR R3 TO R5)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE R- 1/ STATE GOVERNMENT TO GRANT TO PETITIONERS REVISION OF PENSION ON THE BASIS OF PAY SCALES INTRODUCED BY THE GOVERNMENT ORDER (ANNX-D) DTD 24.12.2009 WITH EFFECT FROM 01.01.2006, GRANT PAYMENT OF ARREARS OF PENSION ON THAT BASIS WITH EFFECT FROM 01.01.2006 AND GRANT PRESENT AND FUTURE PENSIONS ACCORDINGLY BY ISSUE OF A WRIT IN THE NATURE OF MANDAMUS IN THE INTEREST OF JUSTICE AND EQUITY.

**IN W.P. NOs.49241-49242/2015 BETWEEN**

(1) KARNATAKA STATE UNIVERSITIES AND COLLEGES RETIRED TEACHERS ASSOCIATION (R) NO. 959, 2ND MAIN, 4TH CROSS, VIJAYANAGAR, BANGALORE 560040 REP. BY ITS PRESEIDENT, PROF. K. SIDDAGANGAIAH. (2) PROF. K. SIDDAGANGAIAH S/O. LATE. KEMPAIAH, AGED ABOUT 77 YEARS, NO.959, 2ND MAIN, 4TH CROSS, VIJAYANAGAR, BANGALORE 560040....**PETITIONERS** (BY SRI. VIVEK HOLLA, ADVOCATE) **AND** (1) STATE OF KARNATAKA REP. BY ITS PRINCIPAL SECRETARY, HIGHER EDUCATION DEPARTMENT, BANGALORE 560001. (2) UNIVERSITY GRANTS COMMISSION BAHADUR SHAH ZAFAR MARG, NEW DELHI 110002 REP. BY ITS CHAIRMAN. (3) KARNATAKA HIGHER EDUCATION COUNCIL INSTITUTION OF PRINTING TECHNOLOGY BUILDING 1ST FLOOR, PALACE ROAD, BANGALORE 560001 REP. BY ITS CHAIRMAN....**RESPONDENTS** (BY SRI NITIN RAMESH, AAG A/W SRI SRIDHAR N HEGDE, HCGP FOR R1; SRI ARVIND SHARMA, ADVOCATE FOR R2; R3 SERVED)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED GOVERNMENT ORDER DTD.24.7.2015, ISSUED BY THE R-1 [ANNEX-J] AND ETC.

THESE WRIT PETITIONS HAVING BEEN HEARD AND RESERVED ON 27.02.2019 AND COMING ON FOR PRONOUNCEMENT OF ORDERS, THIS DAY, THIS COURT MADE THE FOLLOWING :

**COMMON ORDER**

Since question for consideration and grievances urged in these writ petitions are one and the same, these matters are heard and disposed of by this common order.

**2.** The petitioners are retired Teachers. They were working as Teachers in the services of Universities in the State of Karnataka which were established under the Karnataka State Universities Act, 1976/2000. **The petitioners admit that they have retired from service on reaching the age of superannuation after 01.01.1996 and before 01.01.2006.** The only exception is petitioner No.9 who retired on 31.05.1994.

**3.** Initially, when the petitions were filed during the month of January, 2015, the prayer was:

*“(a) Direct the 1st respondent/State Government to grant to the petitioners revision of pension on the basis of pay scales introduced by the Government Order (Annexure-D) dated 24.12.2009 with effect from 01.01.2006, grant payment of arrears of pension on that basis with effect from*

*01.01.2006 and grant present and future pensions accordingly by issue of a writ in the nature of mandamus in the interest of justice and equity.”*

**4.** During the pendency of the writ petitions, the Government having passed a subsequent order dated 24.07.2015, rejecting the recommendation of the Karnataka State Higher Education Council (hereinafter referred to as “KSHE Council”) and pursuant to Court order dated 14.09.2015, the following prayer was added:

*“(aa) QUASH Government Order No.ED 01 UNE 2012 dated 24.07.2015 (under Annexure-S to the writ petition) issued by the 1st respondent by issue of a writ in the nature of certiorari or such other appropriate writ, order or direction and grant all consequential benefits.”*

**5.** The Government of India formulated a scheme of revision of pay of Teachers, etc., which is a composite scheme comprising of pension also. By letter dated 31.12.2008, the Government of India communicated to the State Governments the new scheme stipulating revised pay structure, service conditions

**The question that arises for decision making in these writ petitions is: “Whether the State Government is justified in fixing a cut off date i.e., 01.01.2006 for applying the revised pensionary benefits to retired teachers of the State Universities/Colleges and denying the benefit to the teachers who retired prior to 01.01.2006?”**

See Para 23 of the High Court of Karnataka Judgment

and educational qualification in respect of Teachers, Librarians and Physical Education Directors of Universities, etc. for adoption in the States. By issuing a Government order dated 24.12.2009, the Government of Karnataka accepted the scheme advised by the Government of India. However, as evident from clause 10, the revised UGC Pay Scales were made effective from 01.01.2006 and all other allowances/benefits prospectively from the date of issue of the Government Order. **The grievance of the petitioners is that the revision is not made applicable to the Teachers who retired prior to 01.01.2006.**

**6.** Since it was argued by the learned Additional Advocate General that the State Government was not bound to accept the entire scheme, the learned counsel for the petitioners pointed out that at clause 31 of the Government Order dated 24.12.2009, the State Government chose not to extend the revised UGC Pay Scales to any of the employees, except those having coverage under the said order and who possess the requisite qualification and revised pay scale is made applicable only after due verification of the required qualification by the department. Further, revision was made applicable to the qualified Teaching Staff presently drawing UGC Pay Scales subject to the conditions stipulated in the order. **It was submitted that the petitioners were also drawing UGC Pay Scale.**

**7.** Several representations were made to the State Government to extend the benefit of the scheme including the Teachers who retired prior to 01.01.2006. The Minister for Higher Education in Karnataka referred the matter regarding implementation of the 6th Central Pay Commission Pension to University Teachers who retired prior to 01.01.2006, **vide a letter dated 25.08.2011**, to the KSHE Council. On 16.11.2011, the Council recommended to the State Government that the revised UGC Pay Scales and pensionary benefits applicable to Kendriya Vidyalayas and Colleges be extended to the retired Teachers of Universities and Colleges of the State, who were in receipt of UGC Pay Scales and retired before 01.01.2006. In spite of the recommendation of the KSHE Council, **when the State Government failed to extend the benefit to retired Teachers, many of them approached this Court, at the Principal Bench and the Dharwad Bench.** Writ Petition Nos.45106-45124/2012 and connected matters were disposed of on 12.03.2015, while quashing the endorsement dated

11.03.2011, issued by the Education Department which had rejected the prayer for extending the benefit and **the Writ Court directed the Department of Education to consider the recommendation of KSHE Council, in the light of the 6th Central Pay Commission recommendation and the State Government order implementing the UGC Pay Scales from 01.01.2006 onwards, with a specific direction to pass a speaking order. Similar was the directions issued in W.P.No.100115-100306/2015, at the Dharwad Bench.**

**8.** By order dated 24.07.2015, the State Government passed the impugned order declining to extend the benefit of the scheme to the Teachers who retired prior to 01.01.2006. Consequently, the petitioners are before this Court calling in question the impugned order dated 24.07.2015, while seeking a direction to the State Government to grant the petitioners revision of pension on the basis of pay scales introduced by the Government order dated 24.12.2009, w.e.f. 01.01.2006, along with arrears of pension.

**9.** Learned Senior Counsel Sri. P.S.Rajagopal appearing for the petitioners submits that the State Government could not have rejected the recommendations of the KSHE Council on the ground that the recommendations are not binding on the State Government. It is submitted that Section 5A of the Karnataka State Higher Education Council Act, 2010 (hereinafter referred to as “KSHEC Act, 2010”) provides that the Council shall advise the State Government, Universities and other Institutions of Higher Education in the State. Moreover, the Minister for Higher Education is himself the ex-officio President of the Council, while all the Vice-Chancellors in the State of Karnataka, Principal Secretary to the Department of Higher Education, Commissioner of Collegiate Education, Member Secretary of the Karnataka State Knowledge Commission and Advisor to the Chief Minister and experts in the field of education comprise the Council.

**10.** It was submitted that in the light of the directions issued by this Court in W.P.Nos.45106-45124/2012 to consider the recommendation of KSHE Council in the light of the 6th Central Pay Commission recommendation, with a specific direction to pass a speaking order, the State Government cannot contend that the recommendation of KSHE Council is not binding on the State. It was also submitted that the State Government, by seeking the advise

**State Government is hereby directed to pay the petitioners the revision of pension on the basis of pay scales introduced by the Government order dated 24.12.2009 w.e.f., 01.01.2006, along with arrears of pension on that basis w.e.f., 01.01.2006 and continue to pay future pension accordingly.**

See Para 34 of the High Court of Karnataka Judgment



**If the benefit of the revised pension is given to the teachers of state universities/colleges, all other state pensioners similarly placed will claim the benefit of fixation of pension with reference to the minimum of the corresponding revised state pay scale applicable to the post held by them at the time of retirement,**

See Para 17 of the High Court of Karnataka Judgment

of the Council, has implied the efficacy of the recommendation of the Council. It was therefore submitted that it was not open to the State to contend that the recommendation or decision of the Council is not binding on the State. **It was also submitted that a ground not taken at the first instance before this Court is deemed to have been given up or barred by constructive *res judicata*.**

**11.** The learned Senior Counsel placing reliance on a judgment of the Apex Court in the case of *Union of India and Another Vs. SPS Vains (Retd) and Another*, reported in (2008) 9 SCC 125, submitted that the decision in *D.S.Nakara and Others Vs. Union of India*, reported in (1983) 1 SCC 305, holds the field till date. It was pointed out that **the Supreme Court has held that the object sought to be achieved was not to create a class within a class, but to ensure that the benefits of pensions were made available to all persons of the same class equally.**

**12.** While trying to differentiate between retrospectivity and retroactivity, the learned Senior Counsel submitted that in *R.L.Marwaha Vs. Union of India and Others*, reported in (1987) 4 SCC 31, the Apex Court has explained the difference between the two terms. It was submitted that it is true that the scheme is prospective in operation in the sense that the extra benefit can be claimed only from 01.01.2006, but it certainly looked backward and takes into consideration the service rendered in the past irrespective of date of retirement, by doing so it does not become retrospective.

**13.** The essence of the arguments of the learned Senior Counsel is that the State Government, having accepted the scheme offered by the Government of India, could not have fixed an artificial date and thereby deny the benefit of revision of pension, without assigning any reason for fixing the cut off date. It was submitted that pension is paid for past satisfactory service rendered, to avoid destitution in old age as well as a social welfare and socio economic justice measure. ***Differential treatment of those retiring prior to a cut off date and those retiring subsequently could be according differential treatment to pensioners who formed a class irrespective of date of retirement, and therefore, would be violative of Article 14.***

**14.** Reliance was placed on the decision of the Supreme

Court in the case of *V.Kasturi Vs. Managing Director, State Bank of India, Bombay and Another*, reported in (1998) 8 SCC 30, wherein it was held that if a person retiring is eligible for pension at the time of his retirement and he survives till the time by subsequent amendment of the relevant pension scheme, he would become eligible to get enhanced pension or become eligible to get more pension as per the new formula of computation of pension subsequently brought into force, he would be entitled to get the benefit of amended pension provision from the date of such order as he would be a member of the very same class of pensioners when the additional pension is being conferred on all of them. In such a situation the additional pension available to the same class cannot be denied to him on the ground that he had retired prior to the date on which the aforesaid additional benefit was conferred on all the members of the same class of pensioners who had survived by the time the scheme granting additional benefits to these pensioners came into force. The line of decisions tracing their roots to the ratio of *Nakara's* case would cover this category of cases.

**15.** Similarly, in the case of *S.P.S.Vains (supra)*, it was held that specifying a cut off date resulted in differential and discriminatory treatment in the matter of commutation of pension. It was further observed that it would have a traumatic effect on those who retired just before that date. The division which classified pensioners into two classes was held to be artificial and arbitrary and not based on any rational principle and whatever principle, if there was any, had not only no nexus to the objects sought to be achieved by amending the pension rules, but was counter productive and ran counter to the very object of the pension scheme. **It was ultimately held that the classification did not satisfy the test of Article 14 of the Constitution.**

**16.** While pointing out to the impugned order dated 24.07.2015, it was submitted by the learned Senior Counsel that the recommendation of the KSHE Council was ignored by the State Government for unjustifiable reasons. It was pointed out from the impugned order that the State Government was not correct in saying that the pension structure as applicable to teachers in Central Universities and colleges are not applicable to the teachers of State Universities/Colleges on UGC pay scales which are fully funded by the State Government. It was pointed out from paragraph 7 of the judgment of the Supreme Court in the case of *U.P.Raghavendra Acharya and Others Vs. State*

**It is an unfortunate attempt to equate two unequal groups namely the pensioners not governed by the guidelines and directions of the UGC and Government of India and the pensioners like the present petitioners, who have been all along given benefits on the basis of the UGCs recommendation in line with Government of India instructions and guidelines.**

See Para 32 of the High Court of Karnataka Judgment

**As regards, the financial burden or incapacity, no factual evidence or information is provided by the State. Moreover, as pointed out by the petitioners, nearly 18 States in the country have extended the benefit of revision of pension to pre-01.01.2006 retirees.**

See Para 30 of the High Court of Karnataka Judgment

of *Karnataka and Others*, reported in (2006) 9 SCC 630, that the State Government had indeed admitted before the Supreme Court that the Government of Karnataka had issued appropriate notification extending the UGC pay scales as revised from 01.01.1996, inter-alia to the teachers of government and aided colleges. Therefore it was submitted that the reasons assigned by the State Government **that it was not mandatory for the government to give the benefit of revision of pension structure as contemplated in the letter dated 11.03.2010 of the Ministry of Human Resources Development to the teachers, who retired prior to 01.01.2006, is demonstrably unfounded.**

17. The other reason assigned in the impugned order is that **if the benefit of the revised pension is given to the teachers of state universities/colleges, all other state pensioners similarly placed will claim the benefit of fixation of pension with reference to the minimum of the corresponding revised state pay scale applicable to the post held by them at the time of retirement, is also without any basis, contends the learned senior counsel. It is submitted that this reason assigned is not justifiable since the revision of pay scale and pension of the state universities/colleges is guided and based on UGC Regulations and Schemes, whereas the same does not hold good to the other State Pensioners.**

18. Finally, with regard to the financial constraints of the State Government, it was submitted that **the contention is not supported by facts and figures.** In this regard, the learned Senior Counsel submits that all the neighbouring states of the Karnataka and many other states have extended the benefit to all retired teachers, without fixing an artificial cut off date.

19. Sri. Nithin Ramesh, learned Additional Advocate General, seeks to justify the impugned order passed by the State Government. It was contended that the law laid down in *Nakara's* case has been watered down in the subsequent judgments of the Supreme Court. In that regard, the learned Additional Advocate General relied upon a decision of the Apex Court in the case of *Union of India Vs. P.N.Menon and Others* reported in (1994) 4 SCC 68 and *Government of Andhra Pradesh and Others Vs. N.Subbarayudu and Others*, reported in 2008 14 SCC 702. It was pointed out from *P.N.Menon (supra)* that the Apex Court had in fact held that it is not always possible to extend the same benefits to one and all, irrespective of the dates of superannuation. As such any revised scheme in respect of post retirement benefits, if implemented with a cut off date, which can be held to be reasonable and rational in the light of Article 14 of the Constitution, need not be held invalid. Similarly, in *N.Subbarayudu (supra)*,

it was held that in subsequent decisions, the supreme court had considerably watered down the rigid view taken in *Nakara's* case as observed in para 29 of the decision in *State of Punjab Vs. Amar Nath Goyal*, reported in (2005) 6 SCC 754. It was submitted that in *Indian Ex-services League and Ors. Vs. Union of India (UOI) and Ors.*, reported in (1991) 2 SCC 104, another constitution bench deviated substantially from *Nakara's* case.

20. It was also submitted that in *Jagdish Prasad Sharma and Others Vs. State of Bihar and Others*, reported in (2013) 8 SCC 633, the Apex Court has categorically held that UGC regulations are not automatically binding on the State since the plenary power of the state cannot be curtailed by such regulations even though the UGC regulations have statutory force. **It was therefore submitted that the present fact situation comes within the ambit of the state policy and the policy decision of the State Government not to extend the revised pensionary benefits to teachers who have retired prior to 01.01.2006 is in compliance with the dicta in *Jagdish Prasad Sharma*.**

21. The learned Additional Advocate General, while referring to the communication dated 11.03.2010 issued by the Ministry of Human Resources Development, submitted that following the letter and spirit of the decision in *Jagdish Prasad Sharma*, the Government of India left it to the discretion of the states to determine the applicability of the revised UGC pension scheme.

22. Heard Sri P.S.Rajagopal, learned Senior Counsel for the petitioners, Sri Nithin Ramesh, learned Additional Advocate General for the State and Sri T.P.Rajendra Kumar Sungay for the respondent - Universities.

23. **The question that arises for decision making in these writ petitions is: "Whether the State Government is justified in fixing a cut off date i.e., 01.01.2006 for applying the revised pensionary benefits to retired teachers of the State Universities/ Colleges and denying the benefit to the teachers who retired prior to 01.01.2006?"**

24. While reliance is placed by the learned Senior Counsel on the decision in *Nakara's* case, the contention of the learned Additional Advocate General is that the principles enunciated in *Nakara* has been watered down substantially by the Supreme Court. The decision in *N.Subbarayudu (supra)* is in the context of amendment brought to the age of superannuation and the consequent cut off date fixed for entitlement of pension. In *P.N.Menon (supra)*, it was held, "whenever the Government or an authority which can be held to be a state within the meaning of Article 12 of the Constitution frames a scheme for persons who have superannuated from service, due to

**The Supreme Court has held that the object sought to be achieved was not to create a class within a class, but to ensure that the benefits of pensions were made available to all persons of the same class equally.**

See Para 11 of the High Court of Karnataka Judgment

## While trying to differentiate between retrospectivity and retroactivity, ... the Apex Court has explained the difference between the two terms.

See Para 12 of the High Court of Karnataka Judgment

many constraints, it is not always possible to extend the same benefits to one and all irrespective of the dates of superannuation. As such any revised scheme in respect of post retirement benefits, if implemented with a cut off date, which can be held to be reasonable and rational in the light of Article 14 of the Constitution, need not be held to be invalid. Whenever a revision takes place, a cut off date becomes imperative because the benefit has to be allowed within the financial resources available with the government.....no scheme can be held to be full-proof, so as to cover and keep in view all persons who were at one time in active service. As such the concern of the court should only be, while examining any such grievance, to see, as to whether a particular date for extending a particular benefit or scheme has been fixed, on objective and rational considerations.”

**25.** The law laid down in Nakara’s case was clarified by another constitution bench in *Indian Ex-services League* (supra) that the ratio in *Nakara’s* case was misconstrued taking that all retirees are entitled to the same amount of pension, which was not the ratio laid down in Nakara’s case. Whereas, another Constitution Bench in the case of *Krishena Kumar Vs. Union of India and Others*, reported in (1990) 4 SCC 207, while following the principles laid down in *Nakara’s* case, rejected the contentions of the retired employees covered under the Provident Fund Scheme, who had opted for the same, and alleged discrimination because the pension retirees in course of time because of revision, were better placed. The contention that a fresh option be given was also rejected, because after exercising the option the Provident Fund retirees formed a separate class from pension retirees.

**26. The common thread running in the three Constitution Bench Judgments is that when the retired employees are covered under a regular pension scheme, they formed a separate class and they cannot be discriminated *inter se*.** The petitioners are covered under the same scheme and any revision in the pay scale/pension is only a change brought about in the scheme and it cannot be construed as a separate scheme.

**27.** In this regard, the legal position enunciated in *V.Kasturi* (supra) is that there can be two categories:

### Category I:

“22. If the person retiring is eligible for pension at the time of his retirement and if he survives till the time by subsequent amendment of the relevant pension scheme, he would become eligible to get enhanced pension or would become eligible to get more pension as per the new formula of computation of pension subsequently brought into force, he would be entitled to get the benefit of the amended pension provision from the date of such order as he would be a member

of the very same class of pensioners when the additional benefit is being conferred on all of them. In such a situation the additional benefit available to the same class of pensioners cannot be denied to him on the ground that he had retired prior to the date on which the aforesaid additional benefit was conferred on all the members of the same class of pensioners who had survived by the time the scheme granting additional benefit to these pensioners came into force. The line of decisions tracing their roots to the ratio of *Nakara’s* case (supra) would cover this category of cases.”

### Category II:

“23. However, if an employee at the time of his retirement is not eligible for earning pension and stands outside the class of pensioners, if subsequently by amendment of relevant pension Rules any beneficial umbrella of pension scheme is extended to cover a new class of pensioners and when such a subsequent scheme comes into force the erstwhile non-pensioner might have survived, then only if such extension of pension scheme to erstwhile non-pensioners is expressly made retrospective by the authorities promulgating such scheme; the erstwhile non-pensioner who has retired prior to the advent of such extended pension scheme can claim benefit of such a new extended pension scheme. If such new scheme is prospective only, old retirees non-pensioners cannot get the benefit of such a scheme even if they survive such new scheme. They will remain outside its sweep. the decisions of this Court covering such second category of cases are: *Commander, Head Quarter, Calcutta & Ors. Vs. Capt. Biplabendra Chanda*, 1997(1) SCC 208 (supra) 606 (supra) and others to which we have made a reference earlier. If the claimant for pension benefits satisfactorily brings his case within the first category of cases he would be entitled to get the additional benefits of pension computation even if he might have retired prior to enforcement of such additional beneficial provisions. But if on the other hand the case of a retired employee falls in the second category, the fact that he retired prior to the relevant date of coming into operation of the new scheme, would disentitle him from getting such a new benefit.”

**28.** The petitioners herein fall within Category I as enunciated by Their Lordships in *V.Kasturi* (supra). **It is therefore clear that the benefit of the revision which is made available to the Teachers who retired after 01.01.2006 should also be made available to Teachers who retired prior to 01.01.2006.**

**29.** In all the decisions of the Hon’ble Apex Court relied upon by the State, where it was held that the State can fix a cut-off date, it was with a rider that the same could be done, if permitted under law and if could be demonstrated to be reasonable and rational in the light of Article 14 of the Constitution. In the opinion of this Court, the State is required to demonstrate that the case of the petitioners falls under *Category II* as enunciated by Their Lordships in *V.Kasturi* (supra). The meaning of the words ‘permissible in law’ in this context means the inherently

## It is therefore clear that the benefit of the revision which is made available to the Teachers who retired after 01.01.2006 should also be made available to Teachers who retired prior to 01.01.2006.

See Para 28 of the High Court of Karnataka Judgment

**The petitioners have been given benefit of revision in pay in past based upon the UGCs and Central Government recommendations like similarly situated Lectures in other States**

See Para 31 of the High Court of Karnataka Judgment

differentiable separate classification in law, projected as *Category II* in *V.Kasturi (supra)*. **The State has failed to point out that the fixing of cut-off date was inherently permissible under a specific provision of law.** No justifiable reason or rationale in fixing the cut-off date is provided by the State, except pointing out to the effective date fixed in the Government Order dated 24.12.2009 of Government of India and communication dated 11.03.2010, issued by the Ministry of Human Resources Development. The artificial classification by fixing a cut-off date is nothing but creating a class within a class, which is not permissible. The law laid down in *Nakara (supra)* that the object sought to be achieved was not to create a class within a class, but to ensure that the benefits of pension were made available to all persons of the same class, continues to hold the field even to this date. The artificial classification sought to be made by the State does not satisfy the test of Article 14.

**30. As regards, the financial burden or incapacity, no factual evidence or information is provided by the State. Moreover, as pointed out by the petitioners, nearly 18 States in the country have extended the benefit of revision of pension to pre-01.01.2006 retirees.** The State of Karnataka has been the front-runner in the filed of education and showcases itself as the most progressive State and has always been a model State in all spheres. It is therefore unacceptable that the State of Karnataka lags behind by feigning financial incapacity.

**31.** Further, as pointed out by Sri. T.P.Rajendra Kumar Sungay, learned counsel for the respondent-Universities, when the very same issue cropped up before the High Court of Gujarat, the Division Bench upheld the decision of a learned Single Judge in Letters Patent Appeal No. 1175/2014 and connected matters, which were disposed of on 20.06.2017. **The Division Bench of the High Court of Gujarat, while relying upon the observation of the Hon'ble Apex Court in the case of State of Rajasthan and Others Vs. Mahendra Nath Sharma,** reported in (2015) 9 SCC 540, observed that the fact remains to be noted that **the petitioners have been given benefit of revision in pay in past based upon the UGCs and Central Government recommendations like similarly situated Lectures in other States and therefore, this time when the 6th Pay Commission recommendations is to be translated into revision, they cannot be deprived of their right to be considered accordingly.**

**32.** It is pertinent to note that the decision in *U.Raghavendra Acharya (supra)* was also taken note of where it was held that the retired Teachers of private aided college and universities were treated on par with the Government employees and given benefits of revised pay scales and pensionary benefits were extended from 01.01.1996. **Thus, the contention of the State that the revision in favour of State and University Teachers would create anomaly between the petitioners, pensioners and other pensioners of private schools and colleges was rejected as untenable as it is an unfortunate attempt to equate two unequal groups namely the pensioners not governed by the guidelines and directions of the UGC and Government of India and the pensioners like the present petitioners, who have been all along given benefits on the basis of the UGCs recommendation in line with Government of India instructions and guidelines.** It was held that they formed an independent class by themselves and therefore in their case, **if the UGC guidelines and GOIs resolutions are not followed, then, rather it would create anomaly and would result in depriving them of their right to receive revision in pension, based upon their original scale which was selection scale.**

**33.** As regards the decision in *Jagadish Prasad Sharma (supra)*, suffice to note that it is not the case of the petitioners that UGCs regulations and schemes are automatically, binding on the State Governments. But, if the scheme is adopted by the State, it cannot deny the benefit flowing from the scheme by creating an artificial divide amongst the petitioners who form a class.

**34.** The petitions are therefore *allowed*. The impugned order dated 24.07.2015, issued by the 1st respondent-State Government is hereby quashed and set-aside. **The 1st respondent State Government is hereby directed to pay the petitioners the revision of pension on the basis of pay scales introduced by the Government order dated 24.12.2009 w.e.f., 01.01.2006, along with arrears of pension on that basis w.e.f., 01.01.2006 and continue to pay future pension accordingly.**

In order to distribute the additional burden, the State may pay the arrears in 4 equal installments of 4 months each, starting from 1st June, 2019.

Ordered Accordingly.

SD/-  
JUDGE

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