

## प्रश्न आहे ग्रॅज्युईटीची रक्कम १४ लाख वरून २० लाख करण्याचा आणि मुद्दा आहे 'कट ऑफ डेट' च्या लहरीपणाचा

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माजी विधान परिषद सदस्य व महाराष्ट्र प्राध्यापक महासंघाचे माजी अध्यक्ष

१. दिनांक १०.१०.२०२४ रोजीच्या एका शासननिर्णयान्वये सेवानिवृत्त शिक्षकांना सेवानिवृत्तीनंतर मिळणाऱ्या उपदानाची (Gratuity) रक्कम रुपये १४ लाख वरून रुपये २० लाख करण्यात आलेली आहे. पण ही उपदानाची रक्कम दिनांक १ सप्टेंबर २०२४ पासून पुढे लागू आहे. अर्थ असा की, १ जानेवारी २०१६ पासून तर १ सप्टेंबर २०२४ पर्यंत निवृत्त झालेल्या शिक्षकांना किंवा कर्मचाऱ्यांना ही उपदानाची रक्कम मिळणार नाही. शासननिर्णयातील ही तरतूद शब्दशः पुढीलप्रमाणे :- "Government has decided to raise the ceiling on the maximum amount of Retirement Gratuity and Death Gratuity from 14.00 lakhs to Rs.20.00 lakhs with effect from 01.09.2024." (हा शासननिर्णय यावर्षीच्या बुलेटीनच्या पृष्ठ १६३ वर प्रसृत करण्यात आलेला आहे)

२. महाराष्ट्राच्या इतिहासात असाच प्रयोग २००९ मध्ये सुद्धा करण्यात आला होता. त्यात शासनाला पूर्ण अपयश आले. त्याचा आढावा प्रथम घेऊ. १ जानेवारी २००६ नंतर पण २१ ऑगस्ट २००९ पूर्वी सेवानिवृत्त झालेल्या विद्यापीठीय व महाविद्यालयीन प्राध्यापकांना सेवानिवृत्ती समयी अदा करावयाच्या ग्रॅज्युईटी संदर्भात मा. सर्वोच्च न्यायालयाने दिनांक ३० जानेवारी २०१३ रोजी एक महत्त्वपूर्ण निर्णय दिलेला आहे. मा.सर्वोच्च न्यायालयाचा हा निर्णय सोबत पृष्ठ १६७ वर प्रसृत केलेला आहे. या निर्णयामध्ये मा.सर्वोच्च न्यायालयाने ग्रॅज्युईटी अदा करण्याबाबत २१ ऑगस्ट २००९ च्या शासननिर्णयाने ठरवून दिलेली १ सप्टेंबर २००९ ही "कट ऑफ डेट" पुढील शब्दात रद्दबादल ठरविलेली होती. "In the result, the appeal is allowed and the impugned order is set aside. The cut-off date, i.e. 01.09.2009 specified in G.R.dated 21.08.2009 is declared unconstitutional and it is held that the employees governed by Government Resolution dated 5.5.2009 are entitled to the benefit of enhanced gratuity, i.e. Rs.7 lacs." याच निर्णयात पुढे असेही नमूद करण्यात आलेले होते की, "As a sequel to the above, we direct that within three months from the date of receipt/production of copy of this order, State Government shall pay to the members of the appellant and other similarly situated employees difference of the gratuity already paid and enhanced gratuity payable in terms of G.R. dated 21.08.2009. The parties are left to bear their own costs."

३. मा. सर्वोच्च न्यायालयाने दिलेल्या उपरोक्त निर्णयाच्या संदर्भात पुढे करावयाच्या कारवाईबाबत विचार करण्यासाठी नागपूर व अमरावती विभागातील १ जानेवारी २००६ नंतर पण २१ ऑगस्ट २००९ पूर्वी सेवानिवृत्त झालेल्या विद्यापीठीय व महाविद्यालयीन प्राध्यापकांची सभा शनिवार, दिनांक ३ ऑगस्ट २०१३ रोजी शिक्षक भवन, अमरावती विद्यापीठ परिसर, अमरावती येथे

दुपारी ४.०० वाजता बोलाविण्यात आली होती. त्या सभेत झालेल्या निर्णयाप्रमाणे प्रधान सचिव उच्च शिक्षण, संचालक उच्च शिक्षण व सहसंचालक उच्च शिक्षण नागपूर व अमरावती विभाग यांना २६ ऑगस्ट २०१३ रोजी नोटीस देण्यात आलेली होती. त्या नोटीसमध्ये "मा. सर्वोच्च न्यायालयाचा निकाल लक्षात आणून देऊन ७ महिन्यापेक्षा जास्त काळ होऊन गेल्यावरही तुम्ही याबाबत योग्य ती कारवाई केलेली नाही. ताबडतोबीने आपण कारवाई न केल्यास न्यायालयामध्ये याबाबत दाद मागितली जाईल." असे सूचित करण्यात आले होते. सभेमध्ये ठरल्याप्रमाणे (१) नागपूर सहसंचालकांच्या क्षेत्रातील ३२ प्राध्यापकांच्या वतीने एक (W.P. No. 5807 of 2013) व (२) अमरावती सहसंचालकांच्या क्षेत्रातील ८१ प्राध्यापकांच्या वतीने दुसरी (W.P. No. 5811 of 2013) अशा दोन याचिका मा. उच्च न्यायालयाच्या नागपूर खंडपीठासमोर दाखल करण्यात आलेल्या होत्या. राहून गेलेल्या व उशिराने कागदपत्र पोचलेल्या १२ प्राध्यापकांच्या वतीने तिसरी (W.P. No. 6471 of 2013) याचिका मागाहून दाखल करण्यात आली होती.

४. अमरावती येथील या शिक्षकांची बैठक झाल्यानंतर एक महिन्याने "In the High Court of Judicature at Bombay Civil Appellate Jurisdiction Writ Petition No.6369 OF 2013 Shivaji University Teachers Association (SUTA), Through Secretary, Dr.R.H. Patil and Ors. ...Petitioners. v/s. The State of Maharashtra, Through the Secretary, Ministry of Higher And Technical Education and Anr. ...Respondents." या प्रकरणात दिनांक ३ सप्टेंबर २०१३ रोजी मा.मुंबई उच्च न्यायालयात निर्णय झालेला होता. त्या निर्णयामध्ये मा.उच्च न्यायालयाच्या मुंबई खंडपीठाने पुढीलप्रमाणे आदेश पारित केलेले होते. :-

"5. Hence, we dispose of this petition, by passing the following order :- (i) We direct the second respondent to scrutinize the cases of the petitioner nos.2 to 142 for grant of benefit in accordance with the Judgment and Order dated 30th January, 2013 of the Apex Court in Civil Appeal No.908 of 2013 ; (ii) We grant time of three months to the second respondent to scrutinize the cases of the aforesaid petitioners. The benefit of the order passed by the Apex Court shall be extended to those who are found to be on par with the Members of the Association of College and University Superannuated Teachers, which was the appellant before the Apex Court ; (iii) We direct the State Government to take a policy decision on the basis of the order of the Apex Court dated 30th January, 2013, within a period of four

weeks from today" (मा.उच्च न्यायालयाचा 'सुटा' प्रकरणातील हा निर्णय सोबत पृष्ठ १७२ वर प्रसृत केलेला आहे)

५. मा.सर्वोच्च न्यायालयात शासनाने पुनर्विलोकन याचिका (Review Petition) दाखल केली. मा.सर्वोच्च न्यायालयाने राज्य शासनाची ही पुनर्विलोकन याचिका दिनांक १३.१०.२०१३ रोजी पुढील शब्दात 'डिसमिस' केली. "The review petition is accordingly dismissed." त्यादिवशी मा.सर्वोच्च न्यायालयात झालेल्या कार्यवाहीचे तपशील "Record of Proceedings" तसेच त्यादिवशी मा.सर्वोच्च न्यायालयाने पारित केलेला आदेश "ORDER" सोबत पृष्ठ १६८ वर प्रसृत केलेले आहे.

६. दरम्यानच्या काळात 'नुटा' च्या क्षेत्रातील 125 (81+32+12) प्राध्यापकांनी मा. उच्च न्यायालयाच्या नागपूर खंडपीठासमोर दाखल केलेल्या सन २०१३ च्या याचिका (क्रमांक ५८०७, ५८११ व ६४७१ या तीनही याचिका) दिनांक ११ जुलै २०१४ रोजी एकत्रितरित्या सुनावणीस आल्या. याचिकाकर्त्यांच्यावतीने अॅड. फिरदोस मिर्झा यांनी त्यांची बाजू मा. खंडपीठासमोर मांडली. त्या तीनही याचिकामध्ये मा. उच्च न्यायालयाच्या खंडपीठाने पुढीलप्रमाणे निर्णय दिला. "Since the issue involved in this case stands covered by the judgment in Special Leave Petition (C) No.3700 of 2012, Association of College & University Superannuated Teachers Vs. Union of India and others dated 30.1.2013, the writ petitions are disposed of with a direction to the State of Maharashtra to pay the amount towards difference of the Gratuity to the petitioners in terms of the Government Resolution dated 21.8.2009, within a period of three months from the date of receipt of the order." (उच्च न्यायालयाच्या मा.नागपूर खंडपीठाचा हा निर्णय याच अंकात पृष्ठ १७० वर प्रसृत केला आहे.)

७. आज इतिहासाची पुनरावृत्ती होत आहे. सन २०१३ मध्ये रुपये ५ लाखावरून रुपये ७ लाखावर जाण्याचा प्रश्न होता व 'कट ऑफ डेट' ०१.०९.२००९ होती. आज आता प्रश्न रुपये १४ लाखावरून रुपये २० लाखावर जाण्याचा आहे व 'कट ऑफ डेट' ०१.०९.२०२४ ही आहे.

८. लहरीपणाच्या 'कट ऑफ डेट'ने शिक्षक व कर्मचाऱ्यांचा अनेक प्रकरणात यापूर्वी छळ केल्याचे दिसून येते. विद्यापीठीय व महाविद्यालयीय शिक्षकांना सेवानिवृत्ती वेतन व्यवस्था २१ जुलै १९८३ च्या शासननिर्णयाने लागू करण्यात आली. दिनांक १ ऑक्टोबर १९८२ रोजी किंवा त्यानंतर निवृत्त झालेल्या शिक्षक व शिक्षकेतर कर्मचाऱ्यांना ही व्यवस्था लागू असेल असा स्पष्ट उल्लेख त्या शासननिर्णयामध्ये आहे. १ ऑक्टोबर १९८२ ही 'कट ऑफ डेट' सरळ सरळ भेदभाव करणारी होती. त्या तारखेपूर्वी निवृत्त झालेल्या वयोवृद्ध शिक्षकांना या प्रकरणी खूपच आटापिटा करावा लागला. विधानपरिषद सभागृहामध्ये या प्रश्नावरून बराच संघर्ष झाला. मा.उच्च न्यायालयात सुद्धा या शिक्षकांना संघर्ष करावा लागला व प्रकरण मा.सर्वोच्च न्यायालयापर्यंत जाऊन आले. दिनांक १७ डिसेंबर १९८२ रोजी मा.सर्वोच्च न्यायालयाने डी.एस.नकारा विरुद्ध केंद्रशासन प्रकरणी (AIR 1983 Supreme Court 130) "एका विशिष्ट तारखेनंतरचे व त्या तारखेच्या पूर्वीचे असा निवृत्तिवेतन धारकांमध्ये भेदभाव करता येत नाही" असा निर्णय दिला होता तो नागपूर खंडपीठाने आपल्या निर्णयात तपशिलाने उद्धृत केला. मुंबई उच्च न्यायालयाच्या मा.नागपूर खंडपीठासमोर दाखल झालेल्या W.P.No. 2637 of 1985 याचिकेमध्ये दिनांक २६ फेब्रुवारी १९८७ रोजी झालेल्या निर्णयाने असे आदेशित केले की,

"It can safely be held that the members of the petitioner associations the petitioner no. 2 and 3 as well as the persons who retired after 01.01.1973 are entitled to this pension-cum-gratuity scheme prescription of the cut out date viz. 01.10.1982 being irrational is wholly violative of Article 14 of the Constitution."

सर्वोच्च न्यायालयात शासनाने केलेली SLP त्या न्यायालयाने फेटाळून लावली व ०१.१०.१९८२ या 'कट ऑफ डेट'ने केलेला भेदभाव संपुष्टात आला.

९. 'कट ऑफ डेट'चा आणखी एक पराक्रम : निवडश्रेणीमध्ये ज्यांनी १ जानेवारी १९९६ रोजी पाच वर्षांची सेवा केलेली आहे त्यांना १२०००-१६३०० च्या वेतनश्रेणीत १४९४० वर वेतननिश्चितीचे लाभ देण्याची व्यवस्था १९९६ पासून अस्तित्वात आलेल्या वेतन योजनेमध्ये होती. त्याचा परिणाम असा झाला की, १ जानेवारी १९९६ रोजी ज्यांनी पाच वर्षे पूर्ण केलीत त्यांना १४९४० या वेतनश्रेणीवर आधारित सेवानिवृत्ती वेतन निश्चित करण्यात आले. मात्र एक दिवस अगोदर निवृत्त झालेल्या शिक्षकांना त्या वेतननिश्चिती पासून वंचित ठेवण्यात आले. महाराष्ट्रातील मुंबई उच्च न्यायालयाच्या सर्वच खंडपीठांमध्ये घटक संघटनांनी याचिका दाखल केल्या. याप्रकरणी पहिला निकाल औरंगाबाद खंडपीठापुढे लागला. (140/15) सन २०१० च्या याचिका क्रमांक २६३० मध्ये १ ऑगस्ट २०१२ रोजी मा. औरंगाबाद खंडपीठाने दिलेल्या निर्णयाच्या परिच्छेद ७ मध्ये मा. खंडपीठासमोर निर्णयार्थ काय प्रश्न आहे याचा उहापोह आहे. तो पुढील शब्दात :- "The respondents have, accordingly, extended benefit of wage revision to the petitioners and their pension has also been calculated by revising their earlier wages in revised scale of Rs.12000-18300/ . The only question is whether their pay should have been fixed at Rs.14,940/- as observed in the remarks quoted above, because they had put in five years service in the said grade or selection grade in pre-revised scale of Rs.3700-5700." शेवटी या निर्णयात असे आदेशित केले होते की, "We, therefore, find that the denial by Respondents to fix petitioners' pay at minimum i.e. Rs.14,940/- is arbitrary, unfounded and hence, unsustainable." पुढे निरनिराळ्या खंडपीठांनी तत्सम निर्णय दिले. मा.औरंगाबाद खंडपीठाच्या व मुंबई खंडपीठाच्या निर्णयाविरुद्ध राज्य शासनाने मा.सर्वोच्च न्यायालयात दाखल केलेल्या विशेष अनुमती याचिका तेथे फेटाळल्या गेल्या व अशारितीने ०१.०१.१९९६ च्या 'कट ऑफ डेट'ने केलेला उपद्रव संपुष्टात आला.

१०. अमुक एका तारखेच्या पूर्वी निवृत्त झालेल्या व त्या तारखेनंतर निवृत्त झालेल्या एकाच प्रवर्गातील सेवानिवृत्तांमध्ये निवृत्तीवेतन अदा करतांना 'कट ऑफ डेट' चे निमित्त करून भेदभाव करता येणार नाही. असा भेदभाव करणे हे भारतीय संविधानाच्या कलम १४ चा भंग करणारे कृत्य होय. असा महत्त्वपूर्ण निर्णय मा.सर्वोच्च न्यायालयाने डी.एस.नकारा विरुद्ध केंद्र शासन या प्रकरणामध्ये दिला. ३० वर्षांपूर्वीचा मा.सर्वोच्च न्यायालयाचा हा निर्णय आजही याबाबतीत प्रमाणभूत मानल्या जातो व सेवानिवृत्तांच्या प्रकरणी अंतिम शब्द मानल्या जातो. मुळात या निर्णयातील ही शब्दरचना पुढीलप्रमाणे :-

"The fixation of cut off date as a result of which equals were treated as unequals and for the purpose of entitlement and payment of pension to those who retired by a certain date and those who retired thereafter is wholly arbitrary and did not stand the test of Article-14. 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 pensioners of the same class equally" [D.S.Nakara and others Vs. Union Government of India (ISCC 305/1983)]"

११. भारतीय संविधानामध्ये कलम १४ पुढीलप्रमाणे आहे :-

"Equality before law.—The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."

याचा सरळ अर्थ असा आहे की, समान परिस्थितीमध्ये असलेल्या नागरिकांना समान वागणूक द्यावी लागेल व त्याची समानरितीने अंमलबजावणी करावी लागेल. दिनांक ०१.०१.२०१६ नंतर सेवानिवृत्त झालेल्या शिक्षकांचे उपरोक्त शासननिर्णयाने दोन गट पाडले आहेत. पहिला गट म्हणजे ०१.०९.२०२४ पूर्वी निवृत्त झालेल्या शिक्षकांचा व दुसरा गट म्हणजे त्या तारखेनंतर निवृत्त झालेल्या किंवा होत असलेल्या शिक्षकांचा. समान लोकांचे असे दोन गट पाडण्याची शासनाची कृती ही घटनाबाह्य होय हे लक्षात ठेवले पाहिजे.

# IN THE SUPREME COURT OF INDIA

## CIVIL APPELLATE JURISDICTION

### CIVIL APPEAL No.908 OF 2013 : (Arising out of SLP(C)No.3700 OF 2012)

Association of College & University Superannuated Teachers .....Appellant VERSUS Union of India and others .....Respondents

## ORDER

Leave granted.

Whether decision of the Government of Maharashtra to pay the enhanced retirement/death gratuity to the employees including the teachers of aided Educational Institutions, Non-Agricultural Universities, affiliated Non-Government Colleges and Agricultural Universities with effect from 1.9.2009 is discriminatory and violative of Articles 14 and 16 of the Constitution is the question which arises for consideration in this appeal filed against order dated 26.9.2011 passed by the **Division Bench of the Bombay High Court** vide which the writ petition filed by the appellant for issue of a mandamus to the respondents to give effect to Government Resolution dated 21.08.2009 with effect from 1.1.2006 and pay **difference in the amount of gratuity calculated as per the ceiling of Rs.7 lacs was dismissed.**

On the recommendations of the Sixth Pay Commission, the State Government decided to raise the ceiling of the retirement gratuity and death **gratuity from Rs.3.5 lacs to Rs.5 lacs** with effect from 01.01.2006. This was reflected in Government Resolution dated 05.05.2009. After three and half months, Government Resolution dated 21.8.2009 was issued and ceiling of retirement gratuity and death **gratuity was further raised from Rs.5 lacs to Rs.7 lacs** but the same was made effective from **1.9.2009.**

The appellant, which has been espousing the cause of retired College and University Teachers of Maharashtra, represented to the State Government for change of the date specified in Government Resolution dated 21.8.2009 from 1.9.2009 to 1.1.2006 but failed to elicit any response from the latter. **Thereupon, the appellant filed writ petition, which, as mentioned above, was dismissed by the High Court.**

The Division Bench of the High Court distinguished the judgments of this Court in D.S. Nakara v. Union of India (1983) 1 SCC 305, U.P. Raghavendra Acharya v. State of Karnataka (2006) 9 SCC 630, Union of India v. SPS Vains (Retd.) AIR 2008 SC (Supp) 598 and Atmaram G. Mohite v. State of Maharashtra 2004 (2) Mh.L.J. 729 by observing that those cases related to discrimination in grant of pension and not of raising the ceiling of gratuity. **The Division Bench further observed** that the Government's decision to raise the ceiling of gratuity had no nexus with the recommendations of the Pay Commission and **it was within the domain of the State Government to specify the particular date for determining the eligibility of the employees to get enhanced gratuity.**

We have heard learned counsel for the parties. Government Resolutions dated 5.5.2009 and 21.8.2009, which have bearing on the appellant's plea read as under:

#### “GOVERNMENT OF MAHARASHTRA

##### Finance Department

**Government Resolution No.PEN-1009/31/SER-4  
Mantralaya Mumbai-400032, dated 5th May 2009**

**Read:-** 1) Government Resolution, Finance, Department No.PEN 1005/115/Ser-4.

2) Government Resolution, Finance, Department No.Vepur 1209/C.R.20/Ser-9. Dated 27th February 2009

#### RESOLUTION

As per the recommendation of sixth pay commission,

Government is decided to raise the ceiling on the maximum amount of Retirement Gratuity and Death **Gratuity from Rs.3.50 lakhs to Rs.5 Lakhs with effect from 1st January 2006.**

2. Government is also pleased to direct that above decision should, mutatis mutandis, apply to those employees of recognized and aided Educational Institutions, Non-Agricultural Universities and affiliated Non-Government Colleges and Agricultural Universities to whom the pension scheme (Maharashtra Civil Services (Pension) Rules, 1982) is made applicable.

3. In exercise of the powers conferred by the proviso to Section 248 of the Maharashtra Zilla Parishads and Panchayat Samities act, 1961 (Man. V of 1962) and of all the other powers enabling it in that behalf, Government is further pleased to decide that the above decision apply to the pensioners of Zilla Parishads.

4. This Government Resolution is available on the web site of Government of Maharashtra i.e. “www.maharashtra.gov.in” and its computer code number is 20090506122612001.

#### GOVERNMENT OF MAHARASHTRA

##### Finance Department

**Government Resolution No.PEN-1009/69/SER-4  
Mantralaya Mumbai-400032, dated 21st August, 2009.**

**Read:-** 1) Government Resolution, Finance, Department No.PEN 1005/115/Ser-4.

2) Government Resolution, Finance, Department No.PEN-1009/31 /SER-4, dated 5th May, 2009

#### RESOLUTION

Government has decided to raise the ceiling on the maximum amount of Retirement Gratuity and Death **Gratuity from Rs.5.00 lakhs to Rs.7.00 Lakhs with effect from 1st September, 2009.**

2. Government is also pleased to direct that above decision should, mutatis mutandis, apply to those employees of recognized and aided Educational Institutions, Non-Agricultural Universities and affiliated Non-Government, Colleges and Agricultural Universities to whom the pension scheme (Maharashtra Civil Services (Pension) Rules, 1982) is made applicable.

3. In exercise of the powers conferred by the proviso to Section 248 of the Maharashtra Zilla Parishads and Panchayat Samities act, 1961 (Mah. V of 1962) and of all the other powers enabling it in that behalf, Government is further pleased to decide that the above decision apply to the pensioners of Zilla Parishads.

4. This Government Resolution is available on the web site of Government of Maharashtra i.e. “www.maharashtra.gov.in” and its computer code number is 20090506122612001.”

The reason why 1.1.2006 was fixed in G.R. dated 5.5.2009 for grant of enhanced gratuity to the employees was that the recommendations of the Sixth Pay Commission had been made effective from that date. **However, the respondents did not offer any tangible explanation before the High Court for fixing 01.09.2009 as the cut-off date for grant of benefit of further**

**enhancement in gratuity from Rs.5 lacs to Rs.7 lacs.** The Division Bench of the High Court did notice that two different cut-off dates had been specified in the Government Resolutions but did not make any effort to ascertain the rationale or intelligible differentia for the decision of the State Government not to grant further enhancement in gratuity w.e.f. 1.1.2006 **and negated the appellant's claim on the hypothesis that the Government has the power to fix the particular date for grant of gratuity.**

In our view, in the absence of any rationale for fixing 01.09.2009 as the cut-off date for grant of enhanced gratuity to the employees, the decision of the Government is liable to be declared as discriminatory and violative of Articles 14 and 16 of the Constitution and the High Court committed an error by refusing relief to the appellant by distinguishing the judgments of this Court without any real distinction. **Like pension, gratuity is one of the retiral benefits payable to an employee. Therefore, the ratio of the judgments of this Court in which it was held that the cut off date fixed by the State/public employer for grant of higher pension is discriminatory has direct bearing on the appellant's claim.** In R.L. Marwaha v. Union of India, (1987) 4 SCC 31, this Court considered whether the services rendered by the appellant in Indian Council of Agricultural Research should be added to the service under the Central Government for the

purpose of grant of pensionary benefits. He filed writ petition under Article 32 of the Constitution questioning the date specified in office memorandum dated 29.8.1984 for counting of the service in the autonomous bodies. After considering the rival contentions, this Court held:

“There is no dispute that such a person gets the benefit of the service put in by him under the Central Government for purposes of his pension. But another pensioner who has put in service under the Central Government during the same period will not get similar concession if he has retired prior to the date of the Government Order if para 7 of that order is applied to him. The result will be that whereas in the first case there is pensionary liability of the Central Government in the second case it does not exist although the period of service under the Central Government is the same. This discrimination arises on account of the Government Order. **There is no justification for denying the benefit of the Government Order to those who had retired prior to the date on which the Government Order was issued.** The respondents have not furnished any acceptable reason in support of their case, except saying that the petitioner was not entitled to the benefit of the Government Order because the order says that it would not be applicable to those who had retired prior to the date on which it was issued. In the absence of any explanation which is worthy of consideration it has to be held **that the classification of the pensioners who were working in the government/autonomous bodies into two classes merely on the basis of the date of retirement as unconstitutional as it bears no nexus to the object to be achieved by the order.**

**We do not also find much substance in the plea that this concession being a new one it can only be prospective in operation and cannot be extended to employees who have already retired.** It is true that it is prospective in operation in the sense that the extra benefit can be claimed only after August 29, 1984 that is the date of issue of the Government Order. But it certainly looks backward and takes into consideration the past event that is the period of service under the Central Government for purposes of computing qualifying service because such additional service can only be the service rendered prior to the date of issue of the Government Order. By doing so the Government Order will not become an order having retrospective effect. It still continues to be prospective in operation. Whoever has rendered service during any past period would be entitled to claim the additional financial benefit of that service if he is alive on August 29, 1984 under the Government Order but with effect from August 29, 1984.”

In T.S.Thiruvengadam v. Secretary to Government of India (1993) 2 SCC 174, this Court considered the question whether the service of the appellant under the Central Government should be added to his service in the public undertaking in which he was subsequently absorbed for the purpose of grant of pensionary benefits. After noticing the object of Memorandum dated June 16, 1967 issued by the Government, this Court observed:

“We do not, also, find substance in the contention that the revised benefits being new it could only be prospective in operation and cannot be extended to employees who were absorbed earlier. It is no doubt correct that the memorandum dated June 16, 1967 is prospective which only means that the benefits therein can be claimed only after June 16, 1967. The memorandum, however, takes into consideration the past event that is the period of service under the Central Government for the purposes of giving pro rata pension. **Whoever has rendered pensionable service prior to coming into force of the memorandum would be entitled to claim the benefits under the said memorandum.** Restricting the benefits only to those who were absorbed in public undertakings after June 16, 1967 would be arbitrary and hit by Articles 14 and 16 of the Constitution.”

Likewise, in M.C.Dhingra v. Union of India (1996) 7 SCC 564, **the cut off date fixed for grant of pensionary benefits to the employees was held to be discriminatory and unconstitutional.**

In V. Kasturi v. Managing Director, SBI, Bombay (1998) 8 SCC 30, this Court examined various facets of

## SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

REVIEW PETITION (C) NO.1659 OF 2013 IN  
CIVIL APPEAL NO.908 OF 2013

State of Maharashtra and another...Petitioner(s) **VERSUS**  
Association of College and University Superannuated Teachers  
(Maharashtra) and others ...Respondent(s)

(with appln(s) for c/delay in filing review petition and office report)

**DATE: 23/10/2013**

This Petition was circulated today.

**CORAM:**

**HON'BLE MR. JUSTICE G.S. SINGHVI**  
**HON'BLE MR. JUSTICE FAKIR MOHAMED**  
**IBRAHIM KALIFULLA**

By Circulation

UPON perusing papers the Court made the following

**ORDER**

Delay condoned. The review petition is dismissed.  
(Parveen Kr. Chawla) (Phoolan Wati Arora)

Court Master Court Master

**(Signed Order is placed on the file)**

## IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION : REVIEW PETITION (C)  
NO.1659 OF 2013 IN : CIVIL APPEAL NO.908 OF 2013

State of Maharashtra and another...Petitioner(s)  
**VERSUS** Association of College and University  
Superannuated Teachers (Maharashtra) and others  
...Respondent(s)

**ORDER**

1. Delay condoned.
2. This is a petition for review of order dated 30.01.2013 whereby the appeal filed by respondent no.1 was allowed and cut-off date, i.e., 01.09.2009 specified in G.R. dated 21.08.2009 was declared unconstitutional.
3. We have perused the Review Petition and record of the special leave petition and are convinced that the order of which review has been sought does not suffer from any error apparent warranting its reconsideration.
4. The review petition is accordingly dismissed.

G.S. SINGHVI J.

FAKIR MOHAMED IBRAHIM KALIFULLA.J.  
NEW DELHI OCTOBER 23, 2013

CHAMBER MATTER : SECTION IX

discrimination in the matter of grant of higher pensionary benefits to the employees, referred to large number of precedents and carved out two categories of employees, one of which was held entitled to higher retiral benefits and the other was held not entitled to such benefit. The proposition laid down in that case is extracted below:

“From the aforesaid resume of relevant decisions of this Court spread over the years to which our attention was invited by learned counsel for the respective parties, the following legal position clearly gets projected.

#### Category I

**If the person retiring is eligible for pension at the time of his retirement and if he survives till the time of 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 case would cover this category of cases.**

#### Category II

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 the 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 v. Capt. Biplabendra Chanda and Govt. of T.N. v. K. Jayaraman 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 the 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 the coming into operation of the new scheme would disentitle him from getting such a new benefit.”

**The appellant's case falls in Category I identified in the judgment of V. Kasturi's case because the retiring/retired teachers of Colleges and Universities were already getting gratuity and they were granted the benefit of higher gratuity in terms of Government Resolution dated 5.5.2009.** Thus, there is no justification, legal or otherwise, to deny them benefit of higher gratuity with effect from 01.01.2006.

In the result, the appeal is allowed and the impugned order is set aside. **The cut-off date, i.e. 01.09.2009 specified in G.R.dated 21.08.2009 is declared unconstitutional** and it is held that the employees governed by Government Resolution dated 5.5.2009 are entitled to the benefit of enhanced gratuity, i.e. Rs.7 lacs.

As a sequel to the above, we direct that within three months from the date of receipt/production of copy of this order, **State Government shall pay to the members of the appellant and other similarly situated employees difference of the gratuity already paid and enhanced gratuity payable in terms of G.R. dated 21.08.2009.** The parties are left to bear their own costs.

G. S.SINGHVI J.

FAKKIR MOHAMED IBRAHIM KALIFULLA J.  
NEW DELHI; JANUARY 30, 2013.

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प्रश्न आहे ग्रॅज्युईटीची रक्कम १४ लाख वरून २० लाख करण्याचा आणि मुद्दा आहे 'कट ऑफ डेट'च्या लहरीपणाचा

## १ जानेवारी २०१६ नंतर व १ सप्टेंबर २०२४ पूर्वी निवृत्त झालेल्या सेवानिवृत्तांची बैठक

दिनांक १० ऑक्टोबर २०२४ रोजी महाराष्ट्र शासनाच्या वित्त विभागाने जो शासननिर्णय निर्गमित केला त्यामुळे ग्रॅज्युईटी देण्याबाबतच्या 'कट ऑफ डेट'चा घेतलेला निर्णय हा मा.उच्च न्यायालयाने व सर्वोच्च न्यायालयाने स्थापित केलेल्या कायद्याच्या अंतिम स्थितीच्या विरुद्ध आहे. महाराष्ट्रात यापूर्वी सुद्धा सन २००९ मध्ये शासनाने अशाच प्रकारचा भेदभाव करणारा शासननिर्णय काढला होता.

२. तो शासननिर्णय मा.मुंबई उच्च न्यायालयाने रद्दबातल ठरविला, मा.नागपूर खंडपीठाने रद्दबातल ठरविला व त्याबाबत राज्यशासनाची विशेष अनुमती याचिका (SLP) मा.सर्वोच्च न्यायालयाने फेटाळून लावली होती. त्या निर्णयाविरुद्ध मा.सर्वोच्च न्यायालयामध्ये दाखल केलेली पुनर्विलोकन याचिका सुद्धा मा.सर्वोच्च न्यायालयाने डिसमिस केली होती.

३. या सर्व घटनाक्रमाचा तपशीलवार विचार करण्यासाठी १ जानेवारी २०१६ नंतर व १ सप्टेंबर २०२४ पूर्वी निवृत्त झालेल्या सेवानिवृत्तांची बैठक बोलाविण्यात आलेली असून या बैठकीचे तपशील सोबतच्या तक्त्यात नमूद केलेले आहेत. सर्व संबंधितांनी उपस्थित रहावे ही विनंती.

- डॉ.प्रवीण रघुवंशी, अध्यक्ष 'नुता'

तक्ता

सभेचे ठिकाण : श्री शिवाजी कला व वाणिज्य महाविद्यालय, अमरावती

सभेचा दिवस व दिनांक : रविवार, दिनांक २८ सप्टेंबर, २०२५

सभेची वेळ : दुपारी २.०० वाजता

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH : NAGPUR.  
WRIT PETITION NO.6471 OF 2013**

**PETITIONERS:-** (1) Shri Jagdeorao Banduji Bahekar, Aged about 68 years, Occ: Pensioner, R/o Jijamata M Nagar, Buldhana 443 001. (2) Shri Chandrashekar Kashinath Damle, Aged about 63 years, Occ: Pensioner, R/o C/305 Rutarant Apartment, S. No.41, Near Bharati Vidya Bhavan School, Kothrud, Pune 411029. (3) Shri Jugalkishor Purshottamdasji Taori, Aged about 67 years, Occ: Pensioner, R/o CoOpHousing Colony, Dhamangaon Rly. (4) Sau. Saroj Ramesh Bang, Aged about 67 years, Occ: Pensioner, R/o B.B.C. Near Old Income Tax Office, Gorakshan Road, Adarsh Colony, Akola. (5) Mrs. Manorama M. Nayyar, Aged about 65 years, Occ: Pensioner, R/o Gore Apartment, Behind Akashwani, Shastrinagar, Akola. (6) Mrs. Alka K. Kale, Aged about 68 years, Occ: Pensioner, R/o 10, Hare Rama Hare Krishna Society, In front of Utsav Mangal Karlay, Jathar Peth, Akola. (7) Shri Suresh Purushottamdas Murarka, Aged about 65 years, Occ: Pensioner, R/o Ganesh Vihar N2, Near jagadale Layout, Amravati. (8) Shri Pralhad Shankar Narkhede, Aged about 66 years, Occ: Pensioner, R/o 21, Visawa Colony, Amravati 444602. (9) Seema Nandkumar Dagaonkar, Aged about 66 years, Occ: Pensioner, R/o Mrs. P. Pandit, B202, Madhoor Mangal, Phase1, Near Vanvihar Colony, Behind Bhosla Military Ground, Kamgar Nagar Road, Nashik. (10) Vadlatala Jayarami Reddy, Aged about 65 years, occ: Pensioner, R/o 401, Shriwas Appt., Street No.8, Tarnaka, Sikandarabad500017. (11) Shri Prabhakar Shankarrao Batewar, Aged about 64 years, Occ: Pensioner, R/o Shiwaji Ward, Umarched, Distt. Yeotmal. (12) Shri Prakash Daulatrao Deshmukh, Aged about 66 years, occ: Retired, R/o 1, Prem Niketan Apt. Laddha Plot, Old Biyani Chowk, Camp, Amravati. **VERSUS RESPONDENTS:-**(1) The State of Maharashtra through it's Chief Secretary, Mantralaya, Mumbai32. (2) The Principal Secretary Higher and Technical Education Government of Maharashtra, Mantralaya, Mumbai32. (3) The Director of Higher Education, Administrative Building, Shivaji Nagar, Pune. (4) The Joint Director of Higher Education, Amravati Division, Amravati.

*Shri Firdos Mirza Advocate for the petitioners. Ms. Tajwar Khan, Asstt. Government Pleader for respondents.*

**WITH**

**WRIT PETITION NO.5807 OF 2013**

**PETITIONERS:-** (1) Arvind Bhagwant Surdas, Aged about 67 years, Occ: Pensioner, R/o Shriniwas Colony, Ramnagar, Wardha442001. (2) Narendra Dagdu Khadse, Aged about 66 years, Occ: Pensioner, R/o Kelkarwadi, Near Madhao Sahniwas, Wardha. (3) Purushottam Motiram Khotale, Aged about 67 years, Occ: Pensioner, R/o 10/A, Vidyanagar, Nagpur Road, Behind Rajpal's Petrol Pump, Wardha442001. (4) Namdeo Waman Bhole, Aged about 67 years, Occ: Pensioner, R/o Sarva Seva Sangh Layout, Maganwadi, Rajkala Talkies Road, Wardha442001. (5) Sudhakar Jagannath Morey, Aged about 67 years, Occ: Pensioner, R/o 103Kalidas Apt., Bhagwagar Layout, Dharampath Nagpur. (6) Kalidas Tryambak Joshi, Aged about 66 years, Occ: Pensioner, R/o Chorde Layout, Dhantoli, Katol, Distt. Nagpur. (7) Surendra Dashrath Nakade, Aged about 64 years, Occ: Pensioner, R/o "Varsha", Charde Layout, Katol, At PO Katol, Distt. Nagpur441302. (8) Mohonlal Sewaram Rathi, Aged about 65 years, Occ: Pensioner, R/o 'Ashirwad' Rathi Layout, At PO Katol, Distt. Nagpur441302. (9) Vijay Vithalrao Dhawad, Aged about 64 years, Occ: Pensioner, R/o Amrut, Bungalow 10, Rathi Layout, At PO Katol, Distt. Nagpur. (10) Suresh Prabhakar Choudhari, Aged about 67 years, Occ: Pensioner, R/o 7, Charde Layout, At Po. Katol, Distt. Nagpur. (11) Prakash Balkisan Heda, Aged about 65 years, occ: Pensioner, R/o G504, Rohan Nilay, Near Spicer College, Aundh, Pune411007. (12) Mrs. Chhaya R. Kulkarni, Aged about 64 years, Occ: Pensioner, R/o 1st Floor, Gokul Flats, Behind Vazalwar Lawns (Old Ajit Bakery), Dharampath, Nagpur. (13) Ku. Sunanda M. Mohabey, Aged about 66 years, Occ: Pensioner, R/o 35, Durga Nagar, Tumsar441912. (14) Mukund Laxmikant Tagadpalliwar, Aged about 66 years, Occ: Pensioner, R/o MatruChhaya, 36/37, New Sai Baba Colony, Tumsar, Distt. Bhandara - 440024. (15) Tanaji Krushnarao Khalatkar, Aged about 68 years, Occ: Pensioner, R/o Plot No.34, Radhey, Dattatray Nagar, Near Mahakalkar Hall, Nagpur440024. (16) Baburao Lolbaji Jibhakate, Aged about 65 years, Occ: Pensioner, R/o N36, Behind Gajanan Mandir, Reshimbag, Nagpur 440009. (17) Yograj Baliram Dangore, Aged about 65 years, Occ: Pensioner, R/o 24, Suyog, Chitnis Nagar, Near Water Tank, Tajbag (Big), Umred Road, Nagpur. (18) Govinda Tejaram Sawarkar, Aged about 65 years, Occ: Pensioner, r/o 76/C, Tapovan Complex, Somalwada Nagpur - 440025. (19) Dr. Subhash Narayan Pinjarkar, Aged about 67 years, Occ: Pensioner, R/o A3, Kanchan Villa, 918, Khare Town, Dharampath, Nagpur. (20) Manohar Balaji Kalode, Aged about 66 years, Occ: Pensioner, R/o B3/12, NIT Colony, Atrey Layout, Pratap Nagar, Nagpur440022. (21) Vinaykumar Kunjbiharilal Mohabey, Aged about 64 years, Occ: Pensioner, R/o 201, B. B. Towers, 58/B, Shankar Nagar, Nagpur.

(22) Nana Namdeorao Patil, Aged about 66 years, Occ: Pensioner, C/o Jain Layout Plot No.18, WadiKhurd, NearSutgirmi Jalgon Jamod, Distt. Buldhana4434402. (23) Shankar Gosai Wasade, Aged about 67 years, Occ: Pensioner, R/o Ward No.15 (Chandrapur Road), Mul, Distt. Chandrapur. (24) Yuvaraj Daulatrao Chalkhor, Aged about 67 years, Occ: Pensioner, R/o At Post, Th. Narkhed, Distt. Nagpur. (25) Vasant Motiraji Umalkar, Aged about 67 years, Occ: Pensioner, R/o Ward No.9, Near SBI, Narkhed - 441304, Distt. Nagpur. (26) Vasant Waktuji Patankar, Aged about 67 years, Occ: Pensioner, R/o Sharda Colony, Brahmaaputi441206, Distt. Chandrapur. (27) Narendrasingh Jagannathsingh Chawhan, Aged about 65 years, occ: Pensioner, R/o Sharda Colony, Brahmaapuri441206, Distt. Chandrapur. (28) Prakash Damodar Joshi, Aged about 65 years, Occ: Pensioner, R/o Dr. Zakir Hussain Ward, in front Water Works, Ballarpur442701, Distt. Chandrapur. (29) Yogesh Girijashankar Dixit, Aged about 67 years, occ: Pensioner, R/o Jatpura Gate, Dixit Wada, Chandrapur - 42402, Distt. Chandrapur. (30) Sugriv Daduji Dudhmochan, Aged about 67 years, occ: Pensioner, R/o "Ashirwad Camp Area, Gadchiroli0442605. (31) Sudhakar Baburao Chaudhari, Aged about 65 years, Occ: Pensioner, R/o Camp Area, Gadchiroli (MS) - 442605. (32) Gopal Laxmanrao Bhojar, Aged about 66 years, Occ: Pensioner, C/o R. S. Chaudhary, Ward No.2, Pandhurna Chowk, Ghatole Lane, Warud444906, Distt. **VERSUS RESPONDENTS:-** (1) The State of Maharashtra through it's Chief Secretary, Mantralaya, Mumbai 32. (2) The Principal Secretary Higher and Technical Education Government of Maharashtra, Mantralaya, Mumbai32. (3) The Director of Higher Education, Administrative Building, Shivaji Nagar, Pune. (4) The Joint Director of Higher Education, Nagpur.

*Shri Firdos Mirza Advocate for the petitioners. Ms. Tajwar Khan, Asstt. Government Pleader for respondents.*

**WITH**

**WRIT PETITION NO.5811 OF 2013**

**PETITIONERS:-** (1) Pramod Manikrao Kale, Aged about 64 years, Occ: Pensioner, R/o Dilkhush Heritage, In front of Govt. Circuit house, Camp, Amravati444602. (2) Suresh Sheshrao Deshmukh, Aged 64 years, Occ: Pensioner, R/o Top0e Nagar, Camp, Amravati. (3) Janardan Shamrao Dharamkar, Aged about 66 years, Occ: Pensioner, R/o "Sarthak" Ichamani Ganesh Mandir, Friends Colony, VMV Road, Amravati444604. (4) Manohar Govindrao Deshmukh, Aged about 65 years, Occ: Pensioner, R/o Ward No.1, Khabiya Layout, Behind State Bank of India, Nerparsopant, Distt. Yavatmal. (5) Bhagawan Dwarkadas Toshniwal, Aged about 65 years, occ: Pensioner, C/o Sai Krupa Hospital, AkolaHingoli Highway, Washim444505. (6) Rajkumar Jagansingh Bais, Aged about 64 years, Occ: Pensioner, R/o Bajrang Plot, Near Sitarambaba Mandir, Amravati. (7) Vijay Ajabarao Deshmukh, Aged about 65 years, Occ: Pensioner, R/o Tilak Ward Moti Nagar, Pusad, Distt. Yavatmal. (8) Ramesh Sadashiorao Gorantiwar, Aged about 64 years, Occ: Pensioner, R/o Professor's Colony, Motinagar, Pusad, Distt. Yavatjao. (9) Bhawan Motising Chavan, Aged about 66 years, Occ: Pensioner, R/o Jay Nagar Ward No.1, Pusad, Distt. Yavatmal. (10) Dr. Uttam Govind Rudrawar, Aged about 67 years, occ: Pensioner, R/o 'Shabdashri' Motinagar, Pusad, Distt. Yavatmal - 445204. (11) Sheshrao Rajaramji Tikhile, Aged about 67 years, Occ: Pensioner, R/o Professor Colony, Opp. Cotton Market, Paratwada, Distt. Amravati444805. (12) Ramdas Madhavrao Sherekar, Aged about 65 years, Occ: Pensioner, R/o Professor Colony, Opp. Cotton Market, Paratwada, Distt. Amravati444805. (13) Namdeo Harichandra Hedao, Aged about 65 years, occ: Pensioner, R/o Vivekanand Colony, Near Finley Mill, Paratwada, Distt. Amravati444805. (14) Smt. Aruna Gajananrao Deshmukh, Aged about 65 years, Occ: Pensioner, R/o Mahalakshmi Township, Deomali Narayanpur, Post Achalpur, Distt. Amravati. (15) Ramesh Gunwantrao Tayade, Aged about 65 years, Occ: Pensioner, R/o Vivekanand Colony, Court Road, Paratwada, Distt. Amravati444805. (16) Surendra Namdeorao Diwekar, Aged about 64 years, Occ: Pensioner, R/o Professor Colony, Opp. Cotton Market, Deomali, Paratwada, Dist. Amravati444805. (17) Pramod Vishwanathrao Saodekar, Aged about 65 years, Occ: Pensioner, R/o Near Railway Station, Achalpur Camp (Paratwada)444805. (18) Sahebrao Sitaram Shejao, Aged about 64 years, Occ: Pensioner, R/o Akkar Gruha Nirman Sanstha, Near Vidyut Nagar, Amravati444604. (19) Syed Mahfooz Ali, Aged about 67 years, Occ: Pensioner, R/o Near Aone Kirana, Corporation Plots, Paradise Colony, Walgao Road, Amravati. (20) Shirram Shamrao Khapre, Aged about 67 years, Occ: Pensioner, R/o "Mangalya Namah", Hanuman Chowk, At PO & Tq. Chandur Bazar, Distt. Amravati. (21) Bhagawandas Abirchand Nawandar, Aged about 66 years, Occ: Pensioner, R/o Mangalmurti Layout, Mahesh Nagar, Badnera Road, Saturna, Amravati444607. (22) Suhas Bharatrao Pande, Aged about 67 years, Occ: Pensioner, R/o 39, Krishnarpan Colony,

Badnera Road, Amravati. (23) Anilsingh Jaipalsingh Dixit, Aged about 64 years, occ: Pensioner, R/o 10, Rana Nagar, Behind Vinayka Market, Congress Nagar Road, Amravati444602. (24) Suresh Vitthalrao Gudadhe, Aged about 64 years, Occ: Pensioner, R/o 10, "Vitthalashish", Rajendra Colony, Amravati - 444606. (25) Ramdas Sheshraoji Nimbhorkar, Aged about 67 years, Occ: Pensioner, R/o Prerana Colony, Radha Nagar, Post Shivaji Nagar, Amravati. (26) Bhaskar Dadarao Deshmukh, aged about 64 years, occ: Pensioner, R/o Near Nagalkar hospital, Lakshminarayan Nagar, Sudarshan Building Chowk, Amravati - 444607. (27) Ram Bapurao Tawde, Aged about 67 years, Occ: Pensioner, R/o NatuWadi, Darwha, Distt. Yavatmal. (28) Sitaram Mahadeorao Battalwar, Aged about 67 years, Occ: Pensioner, R/o Vrundavan, NatuWadi, Darwha, Distt. Yavatmal. (29) Pandurag Purushottam Pande, Aged about 64 years, Occ: Pensioner, R/o Shivaji Nagar, Ner Parsopant, Distt. Yavatmal443102. (30) Ramesh Champatrao Katole, Aged about 67 years, Occ: Pensioner, R/o R. C. Katole Professor Colony, Bypass Road, Karanja (Lad) - 444105, Dt. Washim. (31) Ramnarayan Tolaram Rathi, Aged about 65 years, Occ: Pensioner, R/o 28, Toshniwal Layout, Akola444004. (32) Prafullachandra Nagardas Vyas, Aged about 65 years, Occ: Pensioner, R/o Ashlesha Apartments, Adarsh Colony, Akola444004. (33) Rameshwar Pannalal Mundada, Aged about 66 years, Occ: Pensioner, R/o 35, Toshniwal Layout, Amravati Road, Akola4440001. (34) Vijaykumar Shyamlal Nema, Aged about 67 years, Occ: Pensioner, R/o 28B, Toshniwal Layout, Murtizapur Road, Akola (M.S.) 444004. (35) Nandakishor Kanhaiyalal Rathi, Aged about 65 years, Occ: Pensioner, R/o Mayur Colony, Near Tukaram Hospital, Malkapur Road, Akola. (36) Kailash Badrinarayan Sharma, Aged about 67 years, Occ: Pensioner, R/o Kholeenwar Road, Akola444001. (37) Dilip Vitthalrao Rajwade, aged about 66 years, Occ: Pensioner, R/o Behind SBI Colony No.1, Jatharpeth, Akola444605. (38) Mrs. Vijaya Baburao Rajkurkar, Aged about 65 years, Occ: Pensioner, R/o 17, Saptshringi, Near Krishnarpan Apptt. Om Hsg. Society, Gorakshan Road, Akola. (39) Vijay Anant Gokhale, Aged about 67 years, Occ: Pensioner, R/o "Anant", Kirti Nagar, Gorakshan Road, Akola4. (40) Dilip Ratanlal Dongaonkar, Aged about 64 years, occ: Pensioner, R/o "Gaurav", Near Lote Hospital, Amankhan Plot, Shastrinagar, Akola. (41) Dr. Shrikant Bapurao Hotey, Aged about 67 years, Occ: Pensioner, R/o Professor Colony, Akhada Ward, Pandharkawada, Distt. Yavatmal445302. (42) Madhav Chintaman Hate, Aged about 65 years, occ: Pensioner, R/o Avanti Apartment, A1, Khare Town, Dharampeth, Nagpur. (43) Late Prof. Shyamsunder Nathmal Agrawal, Aged about 68 years, Occ: Pensioner, C/o Smt. Shakuntala Shyamsunder Agrawal, "Krushnavilla", Near Lakshmi Narayan Mandir, Behind Four Bungalow, Gorkshan Road, Akola. (44) Ajabroo Deorao Raut, Aged about 66 years, occ: Pensioner, R/o "Sarthak", Opp. Lohit Xerox, Near Madhuri Cold Drinks, Khedkar Nagar, Akola444001. (45) Pandhari Shriram Watane, Aged about 66 years, Occ: Pensioner, R/o Khedakar Nagar, Near Sbi Colony No. 45, Akola. (46) Dr. Ramesh Gopalrao Dongre, Aged about 66 years, Occ: Pensioner, R/o Flat No.403, Rajlaxmi Apptt., Kokan ExplanPenok Garden, Kothrud Road, Pune18. (47) Ratanlal Bansilal Kalantri, Aged about 67 years, Occ: Pensioner, R/o House No.L30, VHB Colony, Gorakshan Road, Akola444004. (48) Shrikant Kunjbiharilal Sharma, Aged about 64 years, Occ: Pensioner, R/o "Ram Raksha" L42, VHB Colony, Gorakshan Road, Akola444004. (49) Krishnarao Pandurangji Paropate, Aged about 65 years, occ: Pensioner, R/o Snehdip Building, Mereshwar Colony, Akola05. (50) Hansraj Govind Phatak, Aged about 67 years, Occ: Pensioner, R/o 102, Gajanan Vihar, Satav Chowk, Jatharpeth, Akola. (51) Dr. Kashinath Sitaram Kule, Aged about 65 years, Occ: Pensioner, R/o 72, Civil Colony, Deulgao Raja, Distt. Buldhana. (52) Devidas Ambadas Etape, Aged about 66 years, occ: Pensioner, R/o Flat No.A1, First Floor, Ma Vaishnavi Park - 5, Gaddam Plot, Akola444001. (53) Ramdas Namdeorao Kale, Aged about 67 years, occ: Pensioner, R/o Near Professor Colony, Ranpise Nagar, Main Road, Akola444001. (54) Ramesh Maniramji Avinash, Aged about 65 years, Occ: Pensioner, R/o Deshpande Layout, Paratwada444805. (55) Murlidhar Vishwasrao Gawande, Aged about 65 years, Occ: Pensioner, R/o National Colony, Near Ajinkya Colony, VMV Road, Amravati444604. (56) Subhash Champatrao Daware, Aged about 65 years, occ: Pensioner, R/o Vijay Colony, Near Rangoli Lawn, VMV Road, Amravati444604. (57) Narayandas Radhakistanji Rathi, Aged about 65 years, occ: Pensioner, R/o monalisa Apptt., Shrikrushna Peth, Amravati444601. (58) E. Venugopal E. Reddy, aged about 65 years, Occ: Pensioner, C/o Kavita E. Reddy, Flat No.202A, A1 Building, Life Park Corinthian Club, Mohammad Wadi, Pune411060. (59) Anant Shriram Atrawalkar, Aged about 67 years, Occ: Pensioner, R/o 25, Jijau Nagar, Behind Sandeep Mangalam, Yavatmal. (60) Chandrakant Balwantrao Deshpande, aged about 67 years, occ: Pensioner, R/o Near Gupta Bldg., Sankat Mochan Road, Tilaakwadi, Yavatmal. (61) Shyamsundar Shankarlal Kabra, Aged about 65 years, occ: Pensioner, R/o Ashirwad, Near Sai Mandir Shinde Nagar, Yavatmal. (62) Late Ramashankar Anganuprasad Mishra (Deceased) through L. R. Smt. Madhubala Wd/o Ramshankar Mishra, R/o TambakheLayOut, SankatMochanRoad, Yavatmal. (63) Kisan Rukhamaji Jadhao, Aged about 67 years, occ: Pensioner, R/o "Vatsagulmm", 35, Gurukunj Colony, Amravati 444604. (64) Vijay Govindrao Kant, Aged about 67 years, Occ: Pensioner, R/o Gopal Nagar, Paratwada, Distt. Amravati. (65) Ashok Vyankateshrao Bhagawat, Aged about 65 years, Occ: Pensioner, R/o Behind Datta Mandir, Shastrichowk, Dhamangao Railway, Distt. Amravati444709. (66) Shyamsunder Radhvalabb

Kalantri, Aged about 65 years, occ: Pensioner, R/o 33, Bhagchand Nagar, Dhamangao Railway, Distt. Amravati444709. (67) Late Kamalnayan Zumarlal Karva, (Deceased), Through L.R. Smt. Shobha Wd/o Kamalnayan Karva, aged about 62, R/o 101, Vinayak Appt. Sai Nagar, Amravati. (68) Subhash Nathlal Nagrecha, Aged about 67 years, Occ: Pensioner, R/o Teacher's Colony, New Town Badnera (Rly), Distt. Amravati444701. (69) Prabhakar Vitthal Rane, Aged about 65 years, Occ: Pensioner, R/o 'Ratandeep', Vidyaniketan Colony, Court Road, Paratwada, Distt. Amravati. (70) Mrs. Vijaya Baburao Rajurkar, Aged about 65 years, Occ: Pensioner, R/o 17, Saptashringi, Om Housing Society, Near Krishnarpan Apartment, Gorakshan Road, Akola. (71) Arun Dattatraya Chodudhari, Aged about 64 years, Occ: Pensioner, R/o Near Railway Station, Chandur Rly., Distt. Amravati444904. (72) Baburao Mahadeorao Sonone, Aged about 63 years, occ: Pensioner, R/o Near Forest Depot, Dharni, Distt. Amravati. (73) Sumati R. Risbud, Aged about 64 years, Occ: Pensioner, C/o Risbud & Company, Chartered Account, Karmyong Apartment, Balraj Marg, Dhantoli, Nagpur. (74) Prakash Daulatya Deshmukh, Aged about 66 years, Occ: Pensioner, R/o 1, Prem Niketan Ladha Plot, Old Biyani Chowk, Camp, Amravati. (75) Ashok B. Gujarati, Aged about 66 years, occ: Pensioner, R/o B40, F1 Dilshad Colony, Dilli110095. (76) Dinanath Parvatrao Gaikwad, Aged about 67 years, occ: Pensioner, R/o Adarsh Colony, Station Vibhag, Murtijapur, Distt. Akola. (77) Jadish Ramgopal Pande, Aged about 67 years, Occ: Pensioner, R/o RATJA, New Sikchi Mill, Goenka Nagar, Murtijapur, Distt. Akola444107. (78) Haridas Akaramji Toley, Aged about 66 years, Occ: Pensioner, R/o Sangludkar Nagar, Banosa, Daryapur, Distt. Amravati. (79) Ashokroy Goverdhandas Doshi, Aged about 66 years, Occ: Pensioner, R/o Arviwala's Building, Ambapeth, Amravati. (80) Komalsing Narsing Patil, Aged about 64 years, occ: Pensioner, R/o 17, Mahatma Fule Nagar, Near Rathi Nagar, Shegaon Naka, Amravati. (81) Devidas Ajabroo Gedam, aged about 64 years, Occ: Pensioner, R/o "Indrayani", Yeshwant Colony, Morshi444905, Distt. Amravati. **VERSUS RESPONDENTS:-** (1) The State of Maharashtra through it's Chief Secretary, Mantralaya, Mumbai32. (2) The Principal Secretary Higher and Technical Education Government of Maharashtra, Mantralaya, Mumbai32. (3) The Director of Higher Education, Administrative Building, Shivaji Nagar, Pune. (4) The Joint Director of Higher Education, Amravati.

*Shri Firdos Mirza Advocate for the petitioners. Ms. Tajwar Khan, Asstt. Government Pleader for respondents.*

#### CORAM:

**SMT.VASANTI A. NAIK AND**

**V.K. JADHAV, JJ.**

**DATED: 11TH JULY, 2014.**

#### ORAL JUDGMENT

**(Per Smt. Vasanti A. Naik, J)**

Rule. Rule made returnable forthwith. The petitions are heard finally with the consent of the parties.

The learned Counsel for the parties state that the issue involved in this case stands covered in favour of the petitioners by the judgment of the Hon'ble Supreme Court in *Special Leave Petition (C) No. 3700 of 2012, Association of College & University Superannuated Teachers Vs. Union of India and others* dated 30.1.2013.

Since the issue involved in this case stands covered by the judgment in *Special Leave Petition (C) No.3700 of 2012, Association of College & University Superannuated Teachers Vs. Union of India and others* dated 30.1.2013, the writ petitions are disposed of with a direction to the State of Maharashtra to pay the amount towards difference of the Gratuity to the petitioners in terms of the Government Resolution dated 21.8.2009, within a period of three months from the date of receipt of the order.

In the facts of the case, there would be no order as to costs.

Rule is made absolute in the aforesaid terms.

**JUDGE**

**JUDGE**

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

**WRIT PETITION NO.6369 OF 2013**

**SHIVAJI UNIVERSITY TEACHERS ASSOCIATION (SUTA),** Through Secretary, Dr.R.H. Patil and Ors. ...PETITIONERS.  
**VERSUS**

The State of Maharashtra, Through the Secretary, Ministry of Higher And Technical Education and Anr. ...RESPONDENTS.  
Mr.C.G.Gavnekar, for the petitioner. : Ms.S.S. Bhende, AGP, for the respondents.

**CORAM:**

**A. S. OKA & REVATI MOHITE DERE, JJ. : SEPTEMBER 3, 2013.**

**P.C. :-** 1. Heard learned counsel appearing for the petitioners and the learned AGP for the respondents. The Petitioner nos.2 to 142 retired from the employment of the Shivaji University by superannuation during the period from 1st January, 2006 to 1st January, 2009. The petitioners are claiming a benefit of higher amount of gratuity on the basis of the Judgment and Order dated 30th January, 2013 passed by the Apex Court in *Association of College and University Superannuated Teachers v/s. Union of India and Ors (Civil Appeal No.908 of 2013)*. In the case before the Apex Court, the challenge was to the order of this Court rejecting a Writ Petition under Article 226 of the Constitution of India. In the said Writ Petition, the challenge was to the Government Resolution dated 21st August, 2009 by which the State Government decided to raise the ceiling on the maximum amount of Retirement Gratuity and Death Gratuity from Rs.5 lacs to Rs.7 lacs with effect from 1st September, 2009. The Apex Court interfered with the decision of this Court and allowed the Appeal. The operative part of the order of the Apex Court reads thus :-

*“In the result, the appeal is allowed and the impugned order is set aside. The cut-off date, i.e.01.09.2009 specified in G.R. dated 21.08.2009 is declared unconstitutional and it is held that the employees governed by Government Resolution dated 5.5.2009 are entitled to the benefit of enhanced gratuity, i.e. Rs.7 lacs. As a sequel to the above, we direct that within three months from the date of receipt/ production of copy of this order, State Government shall pay to the members of the appellant and other similarly situated employees difference of the gratuity already paid and enhanced gratuity payable in terms of G.R. dated 21.08.2009. The parties are left to bear their own costs.”*

2. The Petitioner nos. 2 to 142 have superannuated prior to 1st September, 2009 but after 1st January, 2006. Naturally, the State Government will have to extend the benefit of the Judgment and Order of the Apex Court to the said petitioners. Infact the respondents were under an obligation to extend the benefit of the Judgment and Order

dated 30th January, 2013 to the employees who have been similarly situated on par with the employees represented by the appellant Association before the Apex Court. Infact the petitioners ought not to have been forced to approach this Court by filing a fresh writ petition.

3. As a matter of fact, for giving effect to the Judgment dated 30th January, 2013 passed by the Apex Court, the State ought to have issued a fresh Government Resolution.

4. Hence, while disposing of this petition, we propose to issue a direction to the State Government to take appropriate decision for giving effect to the Judgment of the Apex Court, so that similarly placed teachers need not be forced to approach the High Court.

**5. Hence, we dispose of this petition, by passing the following order :-**

(i) We direct the second respondent to scrutinize the cases of the petitioner nos.2 to 142 for grant of benefit in accordance with the Judgment and Order dated 30th January, 2013 of the Apex Court in Civil Appeal No.908 of 2013 ;

(ii) We grant time of three months to the second respondent to scrutinize the cases of the aforesaid petitioners. The benefit of the order passed by the Apex Court shall be extended to those who are found to be on par with the Members of the Association of College and University Superannuated Teachers, which was the appellant before the Apex Court ;

(iii) We direct the State Government to take a policy decision on the basis of the order of the Apex Court dated 30th January, 2013, within a period of four weeks from today ;

(iv) Though we have disposed the above petition with the aforesaid directions, for reporting compliance, the petition shall be placed on the Daily Board on 14th October, 2013 under the caption of ‘Directions’

**(REVATI MOHITE DERE,J.) (A.S. OKA,J.)**

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