IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7060 OF 2023

Army Institute of Technology, ***...Petitioner***
An Engineering College Affiliated to Savitribai Phule Pune University, Dighi Hills, Taluka-Haveli, Dist.Pune-411 015.

V/s.

1. State of Maharashtra

2. Secretary, Higher and Technical Education Department, Government of Maharashtra, Mantralaya Annexe, Mumbai-400 032.

3. General Secretary, Bharatiya Mazdoor Sangh, 185, Shaniwar Peth, Pune-411 030. ***... Respondents***

Mr. Dhananjay J. Bhanage, *for the Petitioner.*

Mr. Kedar B. Dighe, *Additional Government Pleader with Mr. P.G. Sawant, AGP for State-Respondent Nos.1 and 2.*

Mr. Vaibhav Kulkarni *with Mr. Yash Agarwal, Mr. Prathamesh Deshpande, Ms. Disha Rathod and Ms. Shrushti More, for Respondent No.3.*

CORAM: SANDEEP V. MARNE, J.

JUDGMENT RESD. ON : 10 June 2026.

JUDGMENT PRON. ON : 16 JUNE 2026

JUDGMENT:

1) Petitioner is an Engineering College which has filed the present Petition challenging the Award dated 4 April 2018 passed by the Central Government Industrial Tribunal-II, Mumbai **(CGIT-II)** in Reference No. CGIT 2/8 of 2013. The Tribunal has directed the Petitioner to implement 6th Pay Commission pay scales in respect of non-teaching staff w.e.f. 1 January 2006 and pay to them arrears w.e.f. 1 January 2006.

2) Petitioner is a private unaided Engineering College affiliated to the Savitribai Phule Pune University. It conducts degree course of B.E. Electronics and Telecommunication Engineering, Computer Engineering, Mechanical Engineering and Information Technology. The Institute caters exclusively to the wards of Army Personnel. It is administered by its parent body called Army Welfare Education Society **(AWES)** which is registered under the provisions of the Societies Registration Act,1860 and which is under the control of the Board of Governors headed by the serving Chief of the Army Staff. The AWES runs about 12 Professional Institutes and more than 128 Army Public Schools all over India. The policies, salary/wage structure, the manpower, planning and financial control and all other administrative and disciplinary matters of these Institutes are controlled by the Society through its Board of Governors. The Petitioner does not receive any grant from the Governments and the infrastructure for the professional colleges is financed through Regimental Funds of the Army which are not public funds. Petitioner therefore describes itself as a Non-Government non-aided private

Engineering College. The College has approval of All India Council of Technical Education **(AICTE).** The Petitioner had in its employment 63 members of teaching staff and 65 members of non-teaching staff.

3) The Government of India constituted 6th Pay Commission for revision of pay scales of Central Government Employees. The Pay Commission made its recommendations on 24 March 2008. The University Grants Commission **(UGC)** recommended extension of the benefits of the revised pay scales under the 6th Pay Commission Report to the teaching staff of all central universities, deemed universities and universities whose maintenance expenditure is borne by the UGC. The Government of India accepted the recommendations of UGC on 31 December 2008 and formulated a Scheme to revise the pay scales of various teaching staff in the Central Universities and Colleges. The Scheme also stipulated that the same can be extended to universities, colleges and other higher educational institutions coming under the purview of State Legislature. In the event of acceptance of the recommendations by the State Government, the Government of India was to provide financial assistance to State Government to the extent of 80% of additional expenditure involved in the implementation of pay revision. The Government of Maharashtra opted to adopt pay scales of 6th Pay Commission to teaching cadres. Accordingly, G.R. dated 12 August 2009 was adopted by the State Government. However, the said G.R. did not apply to non-teaching Staff. Thus, while the pay scale of teaching staff got revised from 1 January 2006 in accordance with 6th Pay Commission Pay Scales, those of non-teaching staff were not so revised.

4) The Government of Maharashtra passed a detailed order for implementation of revised pay scales for teachers and librarians in Degree and Diploma level Government and Non-Government aided Institutions conducting professional courses vide G.R. dated 20 August 2010. The Petitioner implemented 6th Pay Commission pay scales to both, teaching and non-teaching staff w.e. 1 July 2009.

5) In the above background, Respondent No.3-Union raised a dispute before the Central Labour Commissioner, Pune demanding implementation of 6th Pay Commission pay scales w.e.f. 1 January 2006. Since settlement failed, the dispute came to be referred by the Central Government to CGIT-II vide order dated 28 February 2013. The Union filed Statement of Claim, which was resisted by the Petitioner by filing Written Statement. The parties led evidence in support of their respective claims. By Award dated 4 April 2018, the CGIT-II has answered the Reference in the affirmative and has declared that the action of the Management in not implementing recommendations of 6th Pay Commission to non-teaching staff is not justified. The Tribunal has accordingly directed implementation of 6th Pay Commission to non-teaching staff w.e.f. 1 January 2006 with direction to pay arrears. Petitioner is aggrieved by the Award dated 4 April 2018 and has filed the present Petition.

6) By order dated 7 December 2018, this Court issued notices to Respondents and stayed implementation of impugned Award subject to

the condition of Petitioner depositing an amount of Rs.25,00,000/- in this Court. Accordingly, Petitioner has deposited an amount of Rs.25,00,000/- in the Court on 4 January 2019. Respondent No.3-Union has filed Affidavit in reply opposing the petition and Affidavit has also been filed on behalf of Respondent Nos.1 and 2. Since pleadings in the petition are complete, the same is taken up for final disposal.

7) Mr. Bhanage, the learned counsel appearing for the Petitioner submits that the CGIT-II has erred in directing implementation of 6th Pay Commission scales to non-teaching staff of the Petitioner-College from 1 January 2006. That Petitioner is a private unaided self-financing Institution and cannot be directed by Courts or Tribunals to implement particular pay scales from a particular date. That though not obliged, the Petitioner has still implemented the 6th Pay Commission scales to teaching and non-teaching employees from 1 July 2009. That Petitioner cannot be forced to give retrospective operation to the revision of pay scales. That though the Notification dated 7 October 2009 issued under Section 8 of the Maharashtra Universities Act, 1994 (*now Maharashtra Universities Act, 2016)* does not apply to the Petitioner-College, it being a private unaided institution, Petitioner has still implemented the Pay Commission recommendations both for teaching and non-teaching staff w.e.f. 1 July 2009. He submits that the CGIT has misread the ratio of the judgment of the Apex Court in ***Secretary, Mahatma Gandhi Mission and Another Versus. Bhartiya Kamgar Sena and Ors.***[1] which does not deal with the issue of retrospective implementation of Pay Commission recommendations from 1 January

1 (2017) 4 SCC 449

2006. He relies upon judgment of the Apex Court in ***Mrs. Satimbla Sharma Versus. Saint Paul's Senior Secondary School and ors.,***[2] in support of his contention that mandamus to ensure pay parity cannot be issued against unaided private schools in absence of any statutory provision. He also relies on judgment of this Court in the case of ***Sunanda Pandharinath Adhav (Mrs.) & Ors. Versus. State of Maharashtra & Ors.***[3] in support of his contention that the principle of 'Equal Pay for Equal Work' does not apply to unaided schools. He also relies upon judgment of this Court, Bench at Aurangabad in ***Shri. Sanjay Rangnath Patare & Ors. Versus. The State of Maharashtra & Ors.***[4] in support of his contention that unaided institution cannot be directed to pay arrears from 1 January 2006 by putting financial burden on them.

8) Mr. Bhanage further submits that by implementing the 6th Pay Commission pay scales retrospectively from 1 January 2006 would put a huge financial burden on the Petitioner which it would not be able to bear. That Petitioner is a self-financing College which does not receive any aid. That Petitioner is also not in a position to recover additional fees from students in respect of the relevant period to meet the additional burden. On above broad submissions, Mr. Bhanage would pray for setting aside of the impugned Award.

9) The petition is opposed by Mr. Kulkarni, the learned counsel appearing for Respondent No.3-Union. He submits that the issue of impermissibility to discriminate between teaching and non-teaching

2 AIR 2011 SC 2926

3 2001 (1) BomCR 809

4 Writ Petition No. 8390 of 2015 decided on 3/12/2018

staff in relation to their pay is already well settled by judgment of the Apex Court in ***Secretary, Mahatma Gandhi Mission*** (supra). That once decision is taken to implement 6th Pay Commission scales, applicability of the same must be from 1 January 2006 and not from 1 July 2009. That the issue is no more *res-integra* and is covered by the judgment of Division Bench of this Court in ***D.Y. Patil College of Engineering, Pune & Anr. Versus. All India Council for Technical Education, New Delhi & Ors.***[5] in which the Petitioner who is a unaided private institution affiliated to Pune University has been directed to implement the Pay Commission recommendations in terms of G.R. dated 7 October 2009. He also relies on judgment of this Court in ***Arudkar Dhananjay Gopalrao & Ors. Versus. The State of Maharashtra & Ors,***[6] and ***Vinayak Laxmanrao Gadhekar Versus. The State of Maharashtra & Ors***[7]. He prays for dismissal of the petition.

10) Mr. Dighe, the learned Additional Government Pleader appearing for Respondent Nos.1 and 2 takes me through the Affidavit in reply of the Joint Director, Directorate of Technical Education in support of his contention that State Government cannot be saddled with any liability in respect of the arrears to pay to the non-teaching staff of the Petitioner-College.

11) Rival contentions urged on behalf of the parties now fall for my consideration.

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5 2018 SCC Online Bom 2473

6 Writ Petition No. 2092 of 2001 decided on 5 October 2006

7 Writ Petition No. 11259 of 2017 decided on 28 August 2019

12) The Petitioner is aggrieved by the impugned Award, which directs it to pay to the non-teaching staff arrears of 6th Central Pay Commission scales w.e.f. 1 January 2006. The Petitioner is not *per-se* averse to implementation of 6th Central Pay Commission scales in respect of the non-teaching staff and has actually implemented the same w.e.f. 1 July 2009. However, it questions the Award of CGIT on the ground that it cannot be forced to give retrospective effect for its decision to apply revised pay scales from 1 January 2006. Mr. Bhanage has sought to criticize the impugned Award mainly in relation to the findings recorded in para-15 thereof wherein the Tribunal has relied upon judgment of the Apex Court in ***Secretary, Mahatma Gandhi Mission***. The Tribunal has held in paras-15 and 16 of the Award as under:

> 15. In view of decision in case of Secretary Mahatma Gandhi Mission & Anr. V/S. Bhraatiya Kamghar Sena & Ors. Civil Appeal No. 115-116 of 2017 arising out of SLP-26523-26524 of 2012, it has been observed that non-extension of benefits of pay commission to the employees of un-aided educational institution which otherwise function under the control & supervision of State Govt, would be dereliction of the constitution mandate and violation of article 14 in para 87 of the judgment it has been observed that so far as non-teaching staff are concerned, the appellant have no excuse for making such submissions because the earlier round of litigation non-teaching employees of the appellant, succeeded both before th High Court & this court in obtaining the appropriate directions to the appellant and other authorities to revise the pay scales of the employees in tune with 5th Pay Commission.
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> 16. In view of this, it appears that the management has already implemented and started paying benefits of 6th Pay Commission to non-teaching staff since from 1.6.09. Since admittedly the institution is affiliated to Pune University and rules & regulations of the State Govt. of Maharashtra are applicable to the institution then it is for the institution to work out the remittances and find out the ways and means to meet the financial liability arising out of the obligation to pay the revised pay scales. Even otherwise second party union has come out

with the case that the funds are being given to the society from adjutant general branch Army HQ, New Delhi.

13) I have gone through the judgment of the Apex Court in ***Secretary, Mahatma Gandhi Mission***. After acceptance of recommendations of 6th Central Pay Commission and formulation of the Scheme by Government of India, the State of Maharashtra issued G.R. dated 12 August 2009 formulating its own Scheme for revision of pay scales of all teachers and all equivalent cadres of Universities and Colleges and other higher institutions. However, the State Government did not direct revision of pay scales of non-teaching staff of the educational institutions. On 7 October 2009, the Government of Maharashtra made Maharashtra Non-Agricultural University and Affiliated Colleges Standard Code (Terms and Conditions of Servise of Non-teaching employees) Rules, 2009. However the Rules did not apply to non-teaching employees of unaided non-government colleges. The AICTE also made Regulations dated 5 March 2010, but those Regulations also did not apply to non-teaching staff employed in Technical Institutions, though such technical institutions are run with the approval and superintendence of AICTE. In the light of this position, Writ Petitions were filed by the non-teaching staff of the unaided engineering colleges claiming revised pay scales recommendations of 6th Central Pay Commission to non-teaching staff. In ***Secretary, Mahatma Gandhi Mission,*** it has been held that there was no valid justification for excluding the non-teaching employees of the unaided educational institutions while extending the benefit of the revised pay scales to the non-teaching employees of the aided educational institutions. Such a

classification was found to be violative of Article 14 of the Constitution of India. The Apex Court accordingly upheld the judgment of Division Bench of this Court which directed implementation of 6th Central Pay Commission recommendations to non-teaching staff. In the present case, the Petitioner has extended the benefits of 6th Central Pay Commission scales to its non-teaching staff and in that sense the action of the Petitioner-Management appears to be in consonance with the ratio of the judgment in ***Secretary, Mahatma Gandhi Mission***. The only issue is about grant of retrospective effect to application of payscales.

14) The issue of giving retrospective effect for application of revised pay scales from 1 January 2006 came up for consideration before the Division Bench of this Court in ***D.Y. Patil College of Engineering, Pune*** (supra)**.** The Petitioner before the Division Bench was a non-aided private institution imparting education as per permission granted by AICTE and by virtue of affiliation to Savitribai Phule Pune University. The Petitioner before the Division Bench was not in receipt of any grant from the State Government. The Petitioner before the Division Bench was not *per-se* aggrieved by direction for implementation of 5th and 6th Pay Commission pay scales. However, it got aggrieved by G.R. dated 4 October 2000 which directed it to implement 5th Pay Commission pay scales w.e.f. 1 January 1996 citing the reason of paucity of time. The Division Bench took note of ratio of the judgment of the Apex Court in ***Secretary, Mahatma Gandhi Mission*** as well as judgment of Division Bench in ***Sunanda Pandharinath Adhav*** (supra) and rejected the petitions filed by the Management and directed payment of arrears to

teaching and non-teaching staff in terms of G.R. dated 20 October 2000 and 7 October 2009. The Division Bench held in para-9 of the judgment as under:

> 9. When we have carefully peruse the resolution passed by the State Government for implementation of the revised pay-scales as per 5th pay commission to the non-teaching post of the non-government aided polytechnic, pharmacy institution, engineering colleges and similar institutions, it is apparently clear that the State Government had issued the said resolution after taking into account the recommendations of the Central Government regarding the 5th pay-scale pursuant to the State Revision of Pay-scale 1997 Committee formed under the Chairmanship of Mr. D.M. Suthankar to recommend the revised pay-scale to the State Government and other employees. The recommendations of the said committee were to revise the pay-scales applicable to the teaching and non-teaching staff of the government polytechnic and in the engineering institutes with effect from 1.1.1996. On due consideration of the recommendations made by the said committee, the State Government took a decision to implement the revised pay-scales to the non-teaching staff of the non-government aided engineering and other institutes. In the said Government Resolution it is made it amply clear that it had decided to implement the revised pay-scale in terms of the enclosures appended to the said circular to the non-teaching staff of the non-government aided, polytechnics, pharmacy institute, engineering colleges and similar institutions in the State of Maharashtra. The revised pay-scales were given effect from 1.1.1996. The said Government Resolution also provided for the manner in which the arrears accruing to an employee would be credited. We have also perused the notification issued by the Higher and Technical Education Department on 7.10.2009 which is placed by the petitioner as annexure "Q" to the petition. The said notification is issued in the backdrop of the provisions of the Maharashtra University Act, 1994 as well as the directions issued by the Hon'ble High Court in various writ Petitions ensuring that the students are imparted quality education and the institutions imparting such education are duty bound to provide the necessary infrastructure. The State Government by the said notification framed the Maharashtra Non-agricultural University and affiliated Colleges Code [Revised Pay of Non-teaching Employees (Rules) 2009] the rules came into effect from 1.1.2006 and sub Rule 2 of the Rules of 2009 framed by the State Government on 7.10.2009 made it applicable to the non-teaching staff of 12 non-agricultural universities and to the full time non-teaching staff of the said universities. This includes the Pune university. Perusal of the said rules would also reveal that the State Government was very clear in its terms to grant the benefit of revision of the pay-scale to the

non-teaching employees in terms of the recommendations of the 5th pay with effect from 1.1.2006 and no discretion was left to the respective institutions affiliated to the 12 non-agricultural universities to vary date of its implementation.

10. In the backdrop of the entire scheme formulated by the State Government in terms of the Government Resolution dated 20-8-2010 making the revision of pay-scales of the teachers and equivalent cadre in the degree/diploma level technical education in terms of the AICTE Scheme (6th pay commission) and the Maharashtra Non-agricultural University and Affiliated Colleges Code [Revised Pay of Non-teaching Employees (Rules) 2009] applicable to the nonteaching staff of the non-agricultural University, it is not open for the petitioner to canvass the submission that the liability of the recommendations of the pay commission be not imposed on them with a retrospective effect. The nonteaching employees of the petitioner No. 1-institution had approached the Grievance Committee seeking arrears accruing to them on account of the recommendations of the 6th pay commission which were made applicable by the State Government from 1-1-2006 and being aggrieved by the inaction on the part of the petitioner No. 1 to pay them the arrears. On such a grievance being raised the management council of the Pune University passed resolution accepting the orders passed by the Grievance Committee and directed payment of the arrears of the 5th pay revision and also the 6th pay revision. Being aggrieved, the petitioners have approached this Court by filing Writ Petition No. 3065 of 2016 assailing the resolution of the Management Council of the University dated 4-8-2015 and the recommendations made by the Grievance Committee dated 11-6-2015. The Division Bench of this Court on 13-11-2017 was pleased to admit the Writ Petition but in light of the judgment delivered by the Aurangabad Bench in Writ Petition No. 3528 of 2001 dated 27-1-2015 *Rangnath s/o Vishnu Raskar* v. *State of Maharashtra*, 2015 MhLJ Online 93 (supra) was pleased to reject the prayer of any interim protection. The petitioners have therefore, prayed before us that even this petition should be admitted. **We however, do not find any justification for doing so since we are of the clear opinion that the petitioner Nos. 1 and 2 which are controlled by the AICTE, a statutory body and when this body has taken a decision to implement the revision of pay-scales as per recommendations of 5th and 6th pay commission and the State Government having accepted the recommendations have directed implementation of the pay revision from 1-1-1996, it is not open for the petitioner to canvass before us that they were gracious enough to implement the recommendations of the pay revision but are unable to give it a retrospective effect.** The petitioners who are bound by the norms and regulations framed by the AICTE to ensure the proper norms and

> standards to be maintained in the technical institution are bound by the mandate issued by the State Government directing even the non-aided institutions to make the revision of pay-scale applicable from retrospective date. The petitioner cannot run away from the said responsibility only on the count of a financial crunch being posed as an excuse and this is the only a defence which Shri Anturkar seeks to invoke in order to discharge the petitioners of their burden to pay the arrears according on accept of pay Revision. **We do not find that financial crunch can be used as a shield to refrain the petitioners from discharging its obligation in terms of the Government Resolution and the Rules of 2009.**
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> *(emphasis and underlining added)*

15) Thus, the issue of applicability of pay scales of 6th Pay Commission to non-teaching staff from 1 January 2006 is squarely covered by the judgment of Division Bench of this Court in ***D.Y. Patil College of Engineering, Pune***. Even otherwise,the Apex Court has ruled in ***Secretary, Mahatma Gandhi Mission*** that there cannot be any discrimination between non-teaching employees of unaided educational institutions and non-teaching employees of aided educational institutions. I therefore do not see any difficulty why Pay Commission recommendations cannot be made applicable to non-teaching staff of unaided educational institutions from 1 January 2006.

16) Since the Award of the CGIT-II appears to be in consonance with the ratio of the judgment of the Apex Court in ***Secretary, Mahatma Gandhi Mission*** and of Division Bench of this Court in ***D.Y. Patil College of Engineering, Pune,*** it is not necessary to discuss the ratio of the judgments in ***Arudkar Dhananjay Gopalrao*** (supra), ***Vinayak Laxmanrao Gadhekar*** (supra) and ***Shri. Sanjay Rangnath Patare*** (supra).

17) I therefore do not find any valid reason to interfere in the impugned Award of the CGIT-II. Writ Petition is devoid of merits. It is accordingly **dismissed** with no order as to costs.

18) Respondent No.3-Union shall be at liberty to withdraw the entire deposited amount alongwith accrued interest and intimate the details of withdrawn amount to the Petitioner who shall proceed to pay the balance amount to the non-teaching staff within 8 weeks of intimation of withdrawn amount received from Respondent No.3.

[SANDEEP V. MARNE, J.]

19) After the judgment is pronounced, the learned counsel appearing for the Petitioner seeks stay on withdrawal of the deposited amount by Respondent No.3-Union for a period of 8 weeks. The request is opposed by the learned counsel appearing for Respondent No.3. With a view to provide an opportunity to the Petitioner to test the correctness of the judgment, Respondent No.3-Union shall withdraw the deposited amount as per paragraph 18 of the judgment after a period of 8 weeks.

NEETA SHAILESH SAWANT
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[SANDEEP V. MARNE, J.]