



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 3771 OF 2009

Anant s/o. Madhavrao Deshmukh  
Age: 59 years, Occu: Service,  
R/o c/o. M. K. Khose Kulswamini Niwas,  
Near Jadhav Hospital, Hanuman Mandir,  
Road, Shahunagar, Beed- 431 112.

...Petitioner

***VERSUS***

1. The State of Maharashtra  
Through its secretary,  
Department of Higher & Technical Education,  
Mantralaya Mumbai.

2. The Director,  
Directorate of Education (Higher Education),  
Central Building, Maharashtra State,  
Pune-411 001.

3. The Joint Director,  
Higher & Technical Education,  
Aurangabad Division,  
Railway Station Road, Aurangabad.

4. The Principal,  
MSP Mandal's Balbhim College, Beed  
Dist. Beed.

5. Shri. Sharda Bhuvan Education  
Society's Institute of Technology  
and Management Building,  
VIP Road Yashwant College Campus,  
Nanded, Tal. & Dist. Nanded,  
through its Secretary.

...Respondents

...

Mr. A. A. Nimbalkar, Advocate for the Petitioner.

Mr. K. B. Jadhavar, AGP for Respondents-State.

**CORAM** : KISHORE C. SANT &  
SUSHIL M. GHODESWAR, JJ.

**RESERVED ON** : 7<sup>th</sup> MAY 2026.

**PRONOUNCED ON** : 12<sup>th</sup> JUNE 2026.

**JUDGMENT :-[PER- KISHORE C. SANT, J.]**

1. Heard Mr. Nimbalkar, the learned Advocate for the petitioner and Mr. Jadhavar, the learned AGP for Respondent Nos. 1 to 4/State.
2. The present petitioner is a retired lecturer. Respondent No.1 is the State Government. Respondent No.2 is the Director of Higher Education, Pune. Respondent No.3 is the Joint Director, Higher & Technical Education, Aurangabad Division, Aurangabad and Respondent No.4 is the Principal of Balbhim College, Beed, where the petitioner had initially joined as part-time lecturer in English on 20.07.1973. Respondent No.5 is the newly added respondent where the petitioner worked from 1976 onwards.

3. By way of present writ petition, the petitioner is challenging Clause (3) and (4) of the Government decision/letter dated 29.10.1983 being discriminatory and violative of Article 14 of the Constitution of India. He has also challenged the order/letter passed by the Respondent No.3-the Joint Director, Higher & Technical Education, Aurangabad Division, Aurangabad dated 20.02.2009.

4. The Government decision/letter dated 29.10.1983 protects the services of the teachers, who were declared as surplus in the school and were absorbed in the same management in some different school or college. By clause (3), such protection is limited only to the teachers who are absorbed in the same management. Clause (4) gives the benefits only to those teachers who were absorbed in the senior college of the same management in the pay-scale of Rs.700-1600. It is the case of the petitioner that, because of these two clauses, the petitioner is not given any protection of the Government decision dated 29.10.1983.

5. The facts in short giving rise to the present writ petition are as below:

. Initially, the State of Maharashtra decided to implement the uniform pattern of education i.e. 10+2+3 in 1975. Prior to that the said pattern was 11+4. Class XI was thus attached to schools. In some cases, classes XI and XII came to be attached with the college making the course of XI and XII together and thereafter, graduation, whereas in some cases, XI and XII came to be attached to school. In the present case, the petitioner was working with Respondent No.4. Since the Class XI was required to be detached, the petitioner became surplus. He thereafter joined Respondent No.5 college on 06.12.1976. He made the representations in view of Government decision of 1983, stating that he should be given the protection of continuity of service which was not granted to him. It is on this basis, the petitioner made several representations and ultimately has approached this Court challenging the order/letter dated 20.02.2009 passed by Respondent No.3.

6. By way of impugned order, the respondent No.3 informed that the services of the petitioner were under two different management and therefore the pay cannot be protected.

7. Mr. Nimbalkar, the learned Advocate for the petitioner, vehemently argued that the Government initially, came up with the circular dated 16.05.1975 wherein, it was made clear that the protection of service conditions and approved scales in respect of teaching staff in colleges as it stood on 07.02.1975 consequent on introduction of new educational pattern would be protected. The appendix-C stated that the managements of colleges in the State should not appoint any additional staff in the University Grants Commission (UGC) pay scales from standards XI and XII. Resolution dated 11.06.1976 bearing Resolution No.HSC/1076/419-XX-XXI was as regards the surplus lecturers at collegiate level. It was expected to absorb the teaching staff as far as possible. Certain arrangements were made. The status quo was to be maintained in respect of teaching staff who were in continuous service and who were appointed in colleges on or before 07.02.1975 in clear vacancies, and they should be continued to be paid their salary and allowances in their respective scales. Secondly, it was directed that while allotting the work at the college level, preference was to be given to the five categories of teaching staff as per the uniform guidelines. The

teachers, who cannot be provided work at collegiate level, were allotted work in the junior college classes. Thirdly, the teachers who were appointed on or after 08.02.1975, was to be terminated if they cannot be allotted any work either at the collegiate level or at the junior college level. The fresh candidate persons in their place will not be permissible. In the appendix, it was directed that the teachers who were in service on or before 07.02.1975 and were also in continuous service upto the end of the academic year 1975-76 in a college or colleges under the same management, but had not completed two years continuous service upto the end of 1975-76 as per guidelines would also be protected. The fully surplus teachers in category (i) and who were junior-most in that category were given an option to declare, whether they are given to be appointed in some other colleges in State where full work-load at the collegiate level can be given and in case, such employees will not go for some other college in the State, but is willing to work in the junior college classes attached to his college. On the clear understanding that if he is so appointed to teach the junior college classes, he will not be entitled to the revised UGC scale till he teaching junior college classes. If

after absorbing the surplus teacher, any vacancies remain at the collegiate level, teachers should be absorbed in those vacancies even any one category. It was further prescribed that when vacancies arises at the collegiate level any time in future, such teachers should be absorbed in those vacancies in the order of their seniority list.

8. Mr. Nimbalkar, learned Advocate for the petitioner further submits that the petitioner was appointed even prior to 1975 and had completed two years of service, and therefore, he was entitled to pay protection. The subsequent Government Resolution dated 27.04.1981 also stated that the lecturers who were in service on 07.02.1975 in clear vacancies should be held eligible for protection in the matter of their status as well as eligible to revise UGC recommended pay scale of college lecturers viz.700-1600 and all benefits accrued from such protection. He thus submits that since there were no vacancies with the respondent No.5, the petitioner had no option but to join some other institution i.e. Respondent No.6 and it is for that reason, now he is not given any benefit which are made available by G.R. dated 11.06.1976 and

27.04.1981. He relied upon the circulars and the Government Resolutions for that purpose. He submits that, by communication/letter dated 29.10.1983 a different stand is taken and it is introduced that the person who gave resignation on their own from 07.02.1975 to June 1976 and who were appointed after break in some other institution would not be entitled to the protection given by G.R. dated 27.04.1981. He submits that when G.R. dated 27.04.1981 does not make any such exception, assigning such reason in the letter dated 29.10.1983 is contrary to the policy.

9. The petitioner was required to approach this Court as he was not given benefits of continuation of service. This Court in WP/350/2009 directed the respondents to decide the representation dated 03.11.2008 and now by way of letter dated 20.02.2009, it was informed that the petitioner was not granted benefit only because his service was in two different colleges and not under the same management. He thus submits that the said action is totally arbitrary and deserved to be quashed and set aside.

10. It is specific case that the petitioner was appointed on 20.07.1973 as a part-time lecturer in English subject on salary of Rs.1500/- per month. By order dated 21.02.1974, he was made full time teacher and promoted as Teacher in English subject for the pay-scale of Rs.250-400 from 01.02.1974. Thereafter, by another communication dated 07.10.1974, his promotion was approved. It is thereafter on 07.02.1975, the new pattern of education i.e. 10+2+3 was introduced and the petitioner became surplus. The petitioner without any fault on his part is made to suffer. He thus submits that the petition deserves to be allowed.

11. Learned AGP vehemently argued that the petitioner does not fulfill any of the criterias laid down in the Government Resolution dated 27.04.1981 and 29.10.1983. He is not entitled to get any benefit. The main condition for protection of service is that the teacher should be in service on or before 07.02.1975 and in continuous service for two years upto the end of academic year 1975-76 in a college or colleges under the same management. In the present case, the petitioner was issued one month termination notice terminating the service from 29.07.1974

which was thereafter extended till 30.09.1976. Thereafter, the petitioner applied pursuant to the advertisement issued by one Marathwada Shikshan Prasarak Mangal, Shivaji College Parbhani for his appointment as lecturer. The petitioner was selected pursuant to the said selection process and joined the college from 06.12.1976. Since the petitioner joined the college under a different management, he was not entitled to get the benefit of Government Resolution dated 27.04.1981. The learned AGP thus submits that as per the policy of 1981 itself, a teacher would not be entitled to protection if he is not in continuous service and secondly, if he has joined the service under a different management.

12. The chronology of events, as reflected from the record, clearly shows that on 20.07.1973, the petitioner was appointed as part-time teacher purely on temporary basis. On 21.02.1974, he was appointed as full time teacher. However, the said appointment was also on purely on temporary basis. On 07.10.1974, his promotion was sanctioned. First resolution came to be issued on 07.02.1975 introducing the higher secondary pattern. In the said G.R., there was no provision about

protection of the teachers etc. It was stated in clause-VII that status quo be maintained with regard to pay scales and service conditions of lecturers teaching higher secondary standards XI and XII located in the colleges. On 16.05.1975, circular came to be issued granting protection to service conditions and approved scale in respect of teaching staff in colleges as it stood on 07.02.1975. The appendix-C to the said circular prescribed that, the protection of service conditions and approved college scale of lecturers has been granted in respect of teaching staff as it stood on 07.02.1975. It was further directed to the management not to appoint any additional staff in the UGC pay scale for standard XI and XII.

13. By resolution dated 11.06.1976 it was prescribed that the college teachers who were in service on or before 07.02.1976 and were in continuous service upto the end of academic year 1975-76 in colleges under the same management, but had not completed two years of continuous service upto the end of academic year 1975-76, would be governed accordingly. Thus, for the first time, the policy dated 11.06.1976 made it made clear that a person has to be in continuous

service for two years and should be absorbed in the same management. In the present case it is clearly seen that the petitioner was not working under the same management after his services came to an end in the earlier college.

14. So far as argument that the communication dated 29.10.1983 is contrary to the Government Resolutions and circulars etc. is concerned, this Court does not find the submission to be correct. Clauses 3 and 4 of G.R. dated 29.10.1983 are not newly introduced, but are based on the earlier policy of the Government as stated in earlier resolution. In the present case, there is no dispute that initially, the petitioner was working in Respondent No.4 college and later on he joined in a different college i.e. Respondent No.5 under a different management. Clause 7-A of the Resolution dated 07.02.1975 to the effect that the status quo be maintained with regard to the pay scales and service conditions of the lecturers teaching higher secondary standard XI and XII attached to colleges cannot be read in isolation.

15. The petitioner sought to rely upon the judgment in the case of *Vasant Ramchandra Deshpande Vs. State of Maharashtra and Ors.* [2005

(1) *Mh.L.J. 1119*]. In the said case, the petitioner had joined the service in a college and in the year 1981-82, he was declared surplus. Being a surplus teacher, the Deputy Director had sent him to another college, and it is in that view, pay protection was directed to be granted in accordance with the policy.

16. In the present case, facts are different. The petitioner himself joined another college on his own. He joined another college i.e. Shivaji College Parbhani on 06.12.1976. In the said college, he worked till 31.03.2009.

17. This Court does not find any force in the argument that the petitioner falls in category (3) as per G.R. dated 11.06.1976. This Court thus finds that there is no merit in the writ petition and the writ petition deserves to be dismissed. The same is hereby dismissed with no order as to costs.

18. Rule stands discharged.

[SUSHIL M. GHODESWAR, J.]

[KISHORE C. SANT, J.]