

6  
(1)

I & II

WP 9054.2010+1



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 9054 OF 2010

I

Association of College and  
University Superannuated  
Teachers (Maharashtra)

PETITIONER

**VERSUS**

The State of Maharashtra  
through its Secretary,  
Higher and Technical Education  
Department, Mantralaya,  
Mumbai and ors.

RESPONDENTS

AND

WRIT PETITION NO. 2868 OF 2011

II

Association of College and  
University Superannuated  
Teachers (Maharashtra)

PETITIONER

**VERSUS**

The State of Maharashtra  
through its Secretary,  
Higher and Technical Education  
Department, Mantralaya,  
Mumbai and ors.

RESPONDENTS

.....

Mr. S.V. Adwant, Advocate for the Petitioner.  
Mr. K.S. Patil, A.G.P. for the Respondent-State.  
Mr. Alok Sharma, Assistant Solicitor General for the  
respondent no.3-UGC.

.....

CORAM : B.R. GAVAI AND  
M.T. JOSHI, JJ.  
DATED : 22<sup>ND</sup> AUGUST, 2011

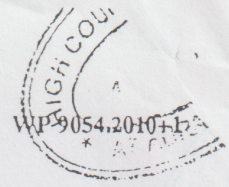
**ORAL ORDER:**

1. Rule. Rule made returnable forthwith.

Heard by consent.

(7)

(2)



2. By way of the present Petitions, the petitioners impugn the communication addressed by the respondent Government dated 10.3.2008 and 18.3.2010, thereby seeking to recover the amount of stagnation increment from the pension account of the members of the petitioner-association, whose names are given in the Exhibit "F".

3. The members of the petitioner-association were employees of colleges and universities. The respondent-State had given the benefits on account of stagnation of the services to the members of the petitioner-association vide Government resolution dated 25.1.1999. However, it appears that subsequently, it was realised by the State Government that the members of the petitioner-association were not entitled to stagnation allowance and as such the impugned communications were issued, thereby seeking to recover the amount from the pension account of the members of petitioner-association.

4. By now, it is a settled position of law that recovery from the salary/pension of an employee



cannot be made, if the amount in excess was paid to such an employee for the reasons not attributed to such an employee. It is not the case of the respondents that the stagnation amount was paid to the members of the petitioner-association on account of any mis-representation made by such members.

5. In that view of the matter, in view of the law laid down by the Apex Court in *Syed Abdul Qadir and ors. Vs. State of Bihar and ors. 2009* reported in (2009) 3 Supreme Court Cases 475, both the Petitions deserve to be allowed.

6. The impugned communication dated 10.3.2008 and 18.3.2010 are therefore quashed and set aside. It is held that the respondents are not entitled to recover the amount from the pension of the petitioners. Insofar as the amount which is already recovered from the pension of the members of the petitioner-association, it is directed that such amount shall be returned to the employees from whom it is deducted within a period of three (3) months from today alongwith the interest at the rate of 12% per annum.

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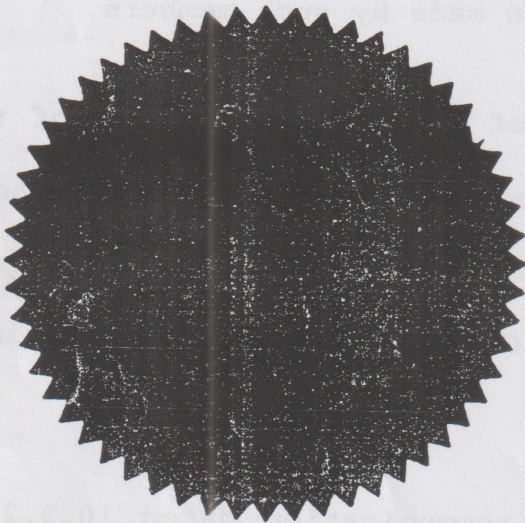
(4)

WP 9054.2010+1

7. Rule is made absolute in the aforesaid terms, however, with no order as to costs.

sd/-

for Dy. Jg



True Copy

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Assistant Registrar  
High Court of Judicature at Bombay  
Bench at Aurangabad

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2/19

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28/11/11

II  
Contempt

II Contempt  
Stagnant  
Contempt

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
BENCH AT AURANGABAD**

CONTEMPT PETITION NO.519 OF 2011  
IN  
WRIT PETITION NO.2868 OF 2011

Association of College and University  
Superannuated Teachers  
(Maharashtra), Aurangabad through  
its President and Convenor

..Petitioner

Versus

The State of Maharashtra and ors.

..Respondents

Mr S.V.Adwant, Advocate for petitioner  
Mr V.H.Dighe, A.G.P.for respondent-State

**CORAM : K.U. CHANDIWAL, J.**

**DATE : 21<sup>st</sup> December 2011**

**PER COURT**

Learned Counsel to remove office objections within a week.  
Thereafter issue notice to the respondents, returnable 3<sup>rd</sup> February 2012.  
Learned Assistant Government Pleader waives notice for State.

**( K.U. CHANDIWAL, J. )**

(vvr/519.11cp)

Stagnant increments I

ITEM NO.9

COURT NO.8

SECTION IX

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G SPetition(s) for Special Leave to Appeal (Civil)...../2012  
CC 8399-8400/2012(From the judgement and order dated 22/08/2011 in WP  
No.9054/2010,WP No.2868/2011 of The HIGH COURT OF BOMBAY AT  
AURANGABAD)

STATE OF MAHARASHTRA AND ORS

Petitioner(s)

VERSUS

ASSN.OF COLEGE &amp; UNIVERSITY SUP.TEACHERS

Respondent(s)

(With appln(s) for c/delay in filing SLP and office report)

Date: 09/05/2012 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. DATTU  
HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASADFor Petitioner(s) Ms. Aparajita Singh, Adv.  
Ms. Asha Gopalan Nair, Adv.For Respondent(s) Mr. Chinmoy Khaladkar, Adv.  
Mr. Amol N. Suryawanshi, Adv.UPON hearing counsel the Court made the following  
O R D E R

Delay condoned.

Dismissed.

(NAVEEN KUMAR)  
COURT MASTER(SHARDA KAPOOR)  
COURT MASTER