

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**ORIGINAL APPLICATION NO 487 OF 2020**

**DISTRICT : MUMBAI/NAGPUR**

1. Dr Rajesh W. Raut, )  
Occ : Assistant Professor, )  
C/o: The Institute of Science, )  
15, Madam Cama Road, )  
Mumbai. )
2. Dr Sunil Dadarao Punwatkar, )  
Librarian, )  
C/o: Vasanttrao Naik Government )  
Institute of Arts and Social Science )  
Nagpur. )
3. Dr Milli Baby, )  
Occ : Assistant Professor, )  
C/o: Vasanttrao Naik Government )  
Institute of Arts and Social Science, )  
Nagpur. )
4. Dr Haidry Feroz Haider R. Hussain )  
Occ: Assistant Professor, )  
C/o: V.N Government Institute of )  
Arts and Social Sciences, )  
Near R.B.I Sq. Civil Lines, )  
Nagpur. )
5. Dr Ramdas Sitaram Lihitkar )  
Occ : Librarian, )  
C/o: Institute of Science, Nagpur. )...**Applicant**

**Versus**

1. The State of Maharashtra )  
Through its Principal Secretary, )  
Higher and Technical Education )  
Department, Mantralaya, )  
Mumbai 400 032. )
2. Director of Education, )  
Directorate of Higher Education, )  
Maharashtra, Pune 411 001. )...**Respondents**

Shri Yashodeep Deshmukh with Ms Vaidehi Deshmukh and Ms Sonali Pawar, learned advocate for the Applicants.

Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents.

**CORAM : Justice Mridula Bhatkar (Chairperson)**  
**Mrs Medha Gadgil (Member) (A)**

**DATE : 03.12.2021**

**PER : Justice Mridula Bhatkar (Chairperson)**

**J U D G M E N T**

1. The applicants have filed the present Original Application to hold and declare that they are entitled for being considered for grant of Career Advancement Scheme (CAS) benefits along with arrears of pay and allowances from the respective dates it became due.

2. Learned counsel for the applicants submits that the services of the applicants and others similarly situated were regularized by

G.R dated 23.3.2016. The applicants have mooted the proposal for grant of Career Advancement Scheme (CAS) thereafter in the year 2016 itself. However, the said proposal was not considered till today. Therefore, the applicants are constrained to move this Tribunal.

3. Learned counsel for the applicants submits that some of the similarly situated persons were given the benefits of (CAS) as they approached the Tribunal. Had the said benefits were given to the present applicants, then they would have got these benefits much earlier in the year 2017 or 2019. Learned counsel for the applicants further relied on the G.R dated 25.2.2017 of the Respondent-State issued by Shri Swadheen Kshatriya, Chief Secretary, Government of Maharashtra, wherein all the Departments were directed to take action as per directions given by the Maharashtra Administrative Tribunal and the legal position expounded by the Hon'ble Supreme Court. He further submitted that till today no action is being taken by the Respondent-State of giving the benefits of (CAS) to the applicants. Learned counsel for the applicants prayed that order regarding interest on the delayed payment of arrears be imposed on the Respondents.

4. Learned counsel for the applicants relied on the decision of the **Maharashtra Administrative Tribunal, Aurangabad Bench dated 9.7.2021 in Bharatsing Vitthalsing Patil Vs. The State of Maharashtra & Ors, O.A 71/2020** and decision of the **Hon'ble Bombay High Court dated 16.4.2015 in Mrs Padma Manwani Vs. State of Maharashtra & Ors, Writ Petition No. 3785/2009.**

5. Learned C.P.O on behalf of the Respondent-State has submitted that the proposal of all the applicants is under active consideration and the Respondent-State requires four months'

time to finalize the same. However, by order dated 11.2.2021, the learned C.P.O has already made a statement that the proposal of all these applicants is under active consideration.

6. We have gone through the affidavit in reply dated 10<sup>th</sup> February, 2021 filed by Dr Yuvraj S. Malge, Regional Joint Director in the office of Higher Education, Mumbai Region, Mumbai. It is pointed out that the services of Shri Dr Khomane, Shri Kashid and Smt Pankaja Waghmare were regularized by the Respondents as per G.R dated 5<sup>th</sup> April, 2017, 9<sup>th</sup> August 2017 and 26<sup>th</sup> September 2019 respectively. The present applicants were also regularized by the same G.R and it appears that there has been an inordinate delay in granting them the benefits of Career Advancement Scheme (CAS).

7. We have gone through both the judgments relied on by the learned counsel for the applicants. The Hon'ble Bombay High Court in the case of Mrs Padma Manwani, W.P 3785/2009 has directed the Respondents to pay interest @ 9%, and the Aurangabad Bench of the Tribunal in O.A 71/2020 has directed the Respondents to pay interest @ 8%. However, the amounts which were due in both the matters were with regard to salary, pensionary benefits, gratuity etc. However, in the present case, it is not about salary or pensionary benefits or gratuity etc, but it is regarding grant of benefits under the Career Advancement Scheme (CAS). Though, the said benefits under (CAS) to which the applicants are entitled to receive is a part of salary, there is no pressing urgency in this matter like receiving the salary, pension or gratuity. Therefore, the present case stands on a different footing.

8. However, we cannot ignore the grievance and agony of the applicants which is expressed by the learned counsel for the applicants about the delay of more than four years in considering the proposal of the applicants by the Respondent-State, especially in the light of the directions given by the State of Maharashtra in the Circular dated 28.2.2017, wherein the ratio laid down by the Hon'ble Supreme Court in the case of **STATE OF U.P Vs. ARVIND KUMAR SRIVASTAV 2015 (1) SCC 347**, are specifically mentioned. We quote the said directions for ready reference.

*“Normal rule is that when a particular set of employee is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.”*

So also the directions given by the Tribunal are also incorporated in the said Circular issued by the Chief Secretary, Government of Maharashtra. In view of the said Circular, all the departments are expected to take action accordingly.

9. We, therefore, expect that the Respondent-State shall act as per the said Circular dated 28.2.2017, which is issued as per the directions given by the Tribunal and the Hon'ble Supreme Court. The Circular is policy decision of the State Government which is binding on all the Departments of the State. It is very expensive and cumbersome to the employee to litigate the matter before any Judicial Forum when the person is eligible and legally entitled to any benefit or has any rightful claim.

10. In view of the above, we dispose of the Original Application with direction to the Respondents to consider the case of the applicants for grant of benefits of Career Advancement Scheme (CAS) on or before 31.1.2022. Copy of this order be communicated to the Principal Secretary, Higher and Technical Education, Government of Maharashtra.

**Sd/-**  
**(Medha Gadgil)**  
**Member (A)**

**Sd/-**  
**(Mridula Bhatkar, J.)**  
**Chairperson**

**Place : Mumbai**  
**Date : 03.12.2021**  
**Dictation taken by : A.K. Nair.**