



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

WRIT PETITION NO.8326 OF 2021

Vaishali Balasaheb Sakore .. Petitioner
Versus
State of Maharashtra & Ors. .. Respondents

Mr.Mihir Desai, Senior Advocate a/w Mr.S.P. Sarnath for the petitioner.
Mrs.P.N.Diwan, AGP for the respondent nos.1 to 3-State.
Mr.Rajendra Anbhule for the respondent no.4.

**CORAM : R.D. DHANUKA AND
R.N.LADDHA, JJ.**

DATE : 23rd December 2021

P.C.:-

1. By this petition filed under Article 226 of the Constitution of India, the petitioner seeks writ of Certiorari for quashing and setting aside the letters dated 16th January 2019, 4th April 2019, 23rd June 2021 and 18th October 2021 issued by the respondents placing the petitioner in a scale lower than that which is being paid to the petitioner.

2. The petitioner was appointed as an Assistant Programmer on a post created by the respondent no.4 University on 10th October 1994 and was subsequently appointed to the post of Section Officer (Desk Top Publishing-FTP) which was a post in class II, sanctioned by the State Government and fully aided post on 5th June 2006. The services of the petitioner as Section Officer (General) were confirmed with effect from 5th October 2008 vide letter dated 22nd October 2008.

3. The respondent no.4 University has now sought to recover amount from the payment due to the petitioner for last 14 years on the basis of non-fixation of salary.



4. We have perused the affidavit-in-reply filed by the University which indicates that even according to the University, the earlier services of the petitioner as an Assistant Programmer, which was a full time post in time scale of pay sanctioned by the respondent-university needs to be considered for the purpose of protection of pay and all other pensionary benefits.

5. Learned counsel for the University states that an action of recovery was initiated by the University at the behest of the State Government. No affidavit-in-reply is filed by the State Government. The respondent nos.1 to 3-State is directed to file affidavit-in-reply within three weeks from today with a copy to be served upon the petitioner's advocate simultaneously. Rejoinder, if any, shall be filed within one week thereafter.

6. In so far as the affidavit-in-reply filed by the University is concerned, the petitioner is at liberty to file affidavit-in-rejoinder to the said affidavit-in-reply within three weeks from today with a copy to be served upon the respondents' advocate.

7. In our prima facie view that the petitioner has made out a case for grant of ad-interim stay from recovering any amount from the payment due to the petitioner till next date. Parties to act on the authenticated copy of this order.

8. Place the matter on board on 17th January 2022.

R.N.LADDHA, J

R.D. DHANUKA, J.