

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE VIVEK JAIN

WRIT PETITION NO. 2543 OF 2025.

**PRANTIYA SHASKIYA MAHAVIDYALAYEEN PRADHYAPAK SANGH BHOPAL,
AND OTHERS**

VS.

**THE STATE OF MADHYA PRADESH, THROUGH: ITS CHIEF SECRETARY AND
OTHERS**

Appearance:

Ms. Shobha Menon - Senior Advocate assisted by Shri Rahul Choubey - Advocate
for the petitioners.

Shri Girish Kekre - Government Advocate for the respondents/State

(ORDER)

**(Reserved on : 08/07/2025)
(Pronounced on : 24/07/2025)**

The present petition has been filed challenging the order dated 03.01.2025 (Annexure P/15) whereby the Professors promoted on the post of Professor having given the annual grade pay of Rs. 10,000/- i.e. the pay scale of 37400-67000+AGP 10,000/- by accepting their demand for grant of AGP of Rs. 10,000/- as par with AGP of Rs. 10,000/- being drawn by direct recruited Professors and the disparity/anomaly in the pay scale of direct recruitee Professors vis-a-vis promotee Professors has been delayed by the State Government.

2. The grievance of the petitioner which was initially projected by way of this petition was that though the long standing demand of promotee professors to get the AGP of Rs. 10,000/- in the pay scale of Rs. 37400-67000/- has been

accepted by the State Government but the order has been made effective from 23.12.2024.

3. During the course of this petition various orders have been passed from time to time and in compliance to the said orders the respondents have passed modified orders from time to time.

4. The State has brought on record an order dated 03.03.2025 (Annexure R/1) whereby it was stated that final decision is in process and it will take around one month's time to arrive at final conclusion. Thereafter, the State Government has filed another application for taking subsequent events on record (L.A. No. 5884/2025) and by way of the said application an order Annexure D/1 dated 01.04.2025 has been brought on record whereby the State Government has accepted the arrears to be paid to the promotee Professors in three annual equal installments and to pay the retired Professors in lump sum in single installment. The main contention or grievance of the petitioners in view of the order dated 01.04.2025 is that regarding to clause III and Clause-IV of the said order dated 01.04.2025 whereby it has been decided that the promotee Professors will not get benefit of F.R. 22-A(1) and FR-22-D and further that the arrears will be paid in three equal annual installments.

5. Thereafter, the State has issued another order placed on record as Annexure D-2 with affidavit filed on 29.04.2025 whereby the State Government has modified the payment schedule and it is now provided that first installment would be paid by December-2025, and next two installments in July-2026 and July-2027.

6. Now the surviving grievance is in respect to orders Annexure D/1 and D/2 whereby the payment schedule has been fixed to be paid to serving Professors in three installments and the last installment would be paid in July

2027 and second grievance is as to denial of benefit of FR 22-A (1) and FR 22-D to the promotee Professors.

7. It is vehemently argued by learned senior counsel for the petitioners that the timelines as prescribed in the aforesaid orders by the respondents are discriminatory and unreasonable. The respondents could not have acted in negation of order dated 20.08.2013 passed in W.P. No. 17382/2012 whereby this Court held that promotee Professors working in Universities and Colleges in the State of M.P. are entitled to get AGP of Rs. 10,000/-per month from the date the scheme of pay revision has come in force in pursuance to the UGC scale in view of 6th pay commission recommendation. It is argued that the reduction of AGP of Rs. 10000/- to Rs. 9000/- in respect of promotee/designated Professors is bad in law and is impermissible to have sustained judicial scrutiny.

8. The learned counsel for the petitioner has argued that the State Government having withdrawn the batch of writ appeals led by W.A. No. 1523/2013, nothing remained between the petitioners and AGP of Rs. 10,000/- and the State cannot put riders and attach strings on the said benefits which rightfully accrued to the petitioners.

9. The learned senior counsel further argued that the provisions of FR 22-A (1) and FR22-D also cannot be denied to the petitioners because the said benefits accrued to the petitioners on promotion which the petitioners can claim at par with all other employees of the State Government who are subjected to provisions of Fundamental Rules, and therefore, the action of the State Government in depriving the petitioners from benefit of FR 22-A (1) and FR 22-D is utterly illegal and irrational and not based on any logical differentiation except to satisfy the ego of direct recruitee Professors who any how want to keep the promotee Professors below them in pay scale and pay. Therefore, it is argued that the illegal and arbitrary conditions attached by way

of orders Annexure D-1 and D-2 i.e. depriving the petitioners of benefit of FR 22-A (i) and FR 22-D be set-aside and so also the schedule of payment of arrears be also modified appropriately so that most of the promotee Professors who are nearing retirement or have already retired will get the arrears expeditiously.

10. Per contra, counsel for the State has argued vehemently and by way of additional reply dated 07.07.2025 have placed various contentions on record raising questions about parity of promotee and direct recruitee Professors. It is further contended that since the post of Assistant Professors having received senior and selection pay scale are already in class I post, therefore, the petitioners are out of purview of FR 22-D, and that so far as FR 22-A is concerned, it will not apply on promotion, but on “appointment on substantive basis”, that cannot be promotion.

11. Heard.

12. So far as the objection of learned counsel for the respondent-State regarding there being difference between promotee and direct recruitee Professors is concerned, this court refrains from entering into said controversy because once State Government itself accepted the AGP of Rs. 10000/- in compliance of order passed by a coordinate Bench of this Court in W.P. No. 17382/2012 and having withdrawn writ appeals against the said order, the State Government cannot be allowed to argue afresh that the promotee Professors are not entitled to the benefit of AGP of Rs. 10,000/-. It is really surprising that how the State Government could in the additional reply filed on 07.07.2025 come out with such a plea which is contrary to the own orders of the State Government passed whereby AGP of Rs. 10000/- has been accepted for promotee Professors. Therefore, the act of the State Government in making such averments touching the merits of the entitlement of promotee/ designated

Professors to AGP of Rs. 10000/- is highly deprecable and is hereby deprecated by this Court.

FR 22-D :

13. So far as the entitlement of the promotee Professors to benefit of FR 22-D is concerned, undisputedly as per M.P. Education Service (Collegiate Branch) Recruitment Rules-1990, the post of Assistant Professor having received selection grade is a Class-I post and therefore, promotion of an Assistant Professor having received senior grade/selection grade would amount to promotion from Class-I to superior Class-I post. As per first proviso of FR 22-D, the following is provided:-

“Provided that the provisions of this rule, shall not apply where a Government servant holding a Class-I post in a substantive, temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity to a higher post which is also a Class-I post.”

14. In view of the above in the case of promotion since the members of petitioners association have been promoted from Class-I to superior Class-I post, therefore, denial of FR 22-D to them is fully legal, valid and proper.

FR 22-A (1) :

15. So far as the applicability of FR 22-A (1) is concerned, this provision applies where the person is substantively promoted to a post which he has previously substantively held or officiated in. It will apply in the case of substantively or officiating in the same post or permanent or temporary post in the same time scale or a permanent post other than identical time scale or temporary post on identical time scale, such post being on the same time scale as permanent post. If such eventuality happens than his initial pay shall not be less than the pay prescribed as per Rules which he draws on last such occasion

and he shall count for increments the period which he drew that pay scale on such last and previous occasions.

16. As per the aforesaid provision, it is clear that as per FR 22-a, the Assistant Professor promoted as Professors are entitled to get benefit of FR 22-(a) (i) (ii) which provides for pay protection and fixation in the promotional post.

17. However, so far as the applicability of FR 22-A is concerned, only that applicability has been curtailed by orders Annexure D-1 and D-2 and not the applicability of substantive FR 22. FR 22-A would have applied only if the petitioners had officiated in the promotional post which is not the case.

18. Though the State Government in the additional reply has contended that the promotion does not entail “appointment” and therefore, FR 22 (a) will not apply, the said defence taken in the affidavit is totally misconceived because firstly the petitioners have been appointed by way of promotion. Under the scheme of Fundamental Rules, appointment can even either by direct recruitment or by promotion. Therefore, promote Professors cannot be deprived of the benefit of FR 22(a). The stand of the State is contrary to its own general circular of the Finance Department dated 25.7.1987. In the additional reply as already noted above, certain mischievous pleadings have been made which are beyond the case of the State Government in the impugned order which has already been deprecated above. The Finance Department circular dated 25.7.1987 reads as under :-

पदोन्नति होने पर वेतन निर्धारण के लिये विकल्प प्रस्तुत करने की अनुमति

राज्य शासन के समक्ष ऐसे प्रकरण उपस्थित हुए हैं, जिनमें उच्च पद पर पदोन्नति होने पर मूल नियम 22 की, के अधीन वेतन निर्धारण की प्रक्रिया अपनाई जाने पर निचले पद पर वेतन वृद्धि प्राप्त करने के पश्चात् किसी कनिष्ठ कर्मचारी की उच्च पद पर पदोन्नति होने से उसी संवर्ग में उसके वरिष्ठ एवं उसी पद पर पूर्व से पदोन्नत कर्मचारी के वेतन में विसंगति उत्पन्न होती है जिसे कनिष्ठ

से पूर्व पदोन्नत होने पर भी, अपने से कनिष्ठ व्यक्ति से किसी भी समय निम्न पद पर कम वेतन प्राप्त नहीं किया था।

2/ राज्य शासन ने विचारोपरात यह निर्णय लिया है, कि उपर्युक्त विसंगति दूर करने के लिये शासकीय सेवकों की पदोन्नति होने पर उनके पदोन्नति के पद के वेतन निर्धारण के लिये उन्हें निम्न प्रकार विकल्प दिया जावे :-

(क) या तो निचले पद के वेतनमान में वेतनवृद्धि प्राप्त कर लेने के बाद आगे कोई पुनरीक्षण किये सीधे ही मूल नियम 22 डी के अंतर्गत उच्च पद में उसका प्रारंभिक वेतन निर्धारित कर दिया जाय: अथवा

(ख) पदोन्नति पर (पहली बार) उसका वेतन मूल नियम 22-ए (1) में दिये गए तरीके से निर्धारित कर दिया जाए और दूसरी बार निचले पद के वेतनमान में वेतनवृद्धि प्राप्त करने के बाद उसी तारीख को उसका वेतन मूल नियम 22-डी के प्रावधानों के अंतर्गत पुनः निर्धारित कर दिया जाये।

यदि वेतन उपर्युक्त (ख) के अधीन निर्धारित किया जाता है तो शासकीय सेवक को आगामी वेतनवृद्धि दूसरी बार वेतन निर्धारण की तारीख से 12, माह की अर्हकारी सेवा पूर्ण करने की तारीख को ही मिलेगी।

3/ पदोन्नति आदेशों में ही विभाग द्वारा यह उल्लेख किया जावेगा कि शासकीय सेवक द्वारा विकल्प पदोन्नति आदेश प्राप्ति की तारीख में एक माह के अंदर दिया जायेगा। एक बार दिया गया विकल्प अंतिम होगा।

4- इस संबंध में यह भी स्पष्ट किया जाता है कि

(1) यह विकल्प विभाग में संवर्गीय सामान्य पदोन्नति के मामलों में ही मान्य होगा। संवर्ग के बाहर अथवा बाह्य सेवा में प्रतिनियुक्त होने की स्थिति में यह विकल्प अनुज्ञेय नहीं होगा।

(2) तदर्थ पदोन्नति के मामलों में विकल्प की पात्रता नहीं होगी। लेकिन तदर्थ पदोन्नति को नियमित किये जाने की स्थिति में नियमितकरण आदेश जारी किये जाने की तिथि से एक माह के अंदर विकल्प देने की अनुमति दी जायेगी।

(3) जिन मामलों में इस ज्ञापन के अनुसार विकल्प के आधार पर निर्धारण किया जावेगा। वहां मूल नियम 22-डी (2) के प्रावधान के अनुसार मूल नियम 22 के परन्तुक का लाभ अनुज्ञेय नहीं होगा।

5/ उपरोक्त सुविधाओं के उपलब्ध होने के बाद भी किसी शासकीय सेवक द्वारा पदोन्नति से इंकार करने की स्थिति में, एक वर्ष के लिये पदोन्नत संबंधित शासकीय सेवक को वंचित कर दिया जायेगा।

6/ यह आदेश इस ज्ञापन के जारी होने की तारीख से लागू होंगे।

(म.प्र. शासन वित्त विभाग, क्रमांक बी-388/684/87/नि-1/चार, दिनांक 25-7-1987)

19. However, for no valid reasons as noted above in the preceding paragraph of this order, the petitioners have wrongly been held disentitled for benefit of FR 22 (a) (i), which is contrary to State policy. It is clarified that they will be entitled to get the benefit of substantive portion of FR 22 (a) which the State Government cannot curtail for the petitioners being contrary to Finance Department circular.

Time Schedule -

20. So far as the time schedule is concerned, initially the State Government agreed to pay the serving professors in three equal annual installments and now time schedule for the same has been prescribed as first installment to be paid in December-2025, second to be paid in July-2026 and last to be paid in July-2027. It has been contended that it involves huge financial burden on the State Exchequer and therefore, the State is not in a position to honour the liability of grant of AGP Rs. 10000/- to promotee Professors before these dates.

21. It is true that the matter entails huge financial burden on the State Exchequer. However, it is the State which is to be blamed in the matter because this court as far as back in 2013 had settled the legal issue but the State Government took 12 years thereafter to comply the said order. Therefore, the promotee Professors cannot be deprived of rightful fruits of the litigation only for the reason that the State has been lingering on with the matter since last 12 years. Therefore, it is directed that the State may pay the promotee Professors within three equal installments but the said three installments be paid latest by

31 December-2026 and the first installment be paid within 4 months from today. Consequently, the petition is disposed of as under:-

1. The condition attached in the orders Annexure D-1 and D-2 for not granting the benefit of FR22-D to the petitioners/ members of the petitioners is upheld.
2. It is held that substantive portion of the FR 22 (a) (i) (ii) would continue to apply to the promoted Professors in terms of Finance Department circular dated 25.7.1987, but FR 22-A shall not apply.
3. The time lines as prescribed in the orders Annexure D-1 and D-2 stand modified to the extent that all the Professors who have retired as on at the date of this order shall be paid their full arrears in lump sum within four months from today and serving professors shall be paid first installment within four months from today and final installment shall be paid latest by 31.12.2026 and not beyond that.
4. In case the time lines are not adhered to, the Professors shall be entitled to interest @6% p.a. from date of expiry of timelines, till date of actual payment.

22. In the above terms, petition is **disposed of**.

(VIVEK JAIN)
JUDGE

MISHRA