Reserved On : 03/03/2026
Pronounced On : 12/03/2026

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 8475 of 2018
With
R/SPECIAL CIVIL APPLICATION NO. 11602 of 2018
With
R/SPECIAL CIVIL APPLICATION NO. 6776 of 2018
With
R/SPECIAL CIVIL APPLICATION NO. 8476 of 2018
With
R/SPECIAL CIVIL APPLICATION NO. 9015 of 2018
With
R/SPECIAL CIVIL APPLICATION NO. 13772 of 2018
With
R/SPECIAL CIVIL APPLICATION NO. 14343 of 2018
With
R/SPECIAL CIVIL APPLICATION NO. 20116 of 2018

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE MAULIK J.SHELAT

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Approved for Reporting	Yes	No
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CHEVALI SANDEEP SHAMBHULAL
Versus
STATE OF GUJARAT & ORS.

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Appearance:
HUNAIZA H QURESHI(8903) for the Petitioner(s) No. 1
MR. EKRAMA H QURESHI(7000) for the Petitioner(s) No. 1
MS NIDHI VYAS, ASSISTANT GOVERNMENT PLEADER for the Respondent(s) No. 1,2 in R/SCA/8475/2018 & R/SCA/11602/2018

MS DHRUTI PANDYA, ASSISTANT GOVERNMENT PLEADER for the Respondent(s) No. 1,2 in R/SCA/6776/2018, R/SCA/8476/2018 & R/SCA/20116/2018

MS FORUM SHAH, ASSISTANT GOVERNMENT PLEADER for the Respondent(s) No. 1,2 in R/SCA/9015/2018, R/SCA/13772/2018 & R/SCA/14343/2018
NOTICE SERVED BY DS for the Respondent(s) No. 3

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CORAM:**HONOURABLE MR. JUSTICE MAULIK J.SHELAT**

COMMON CAV JUDGMENT

1. **RULE** returnable forthwith. Respective learned AGPs waive service of notice of Rule for and on behalf of the respective respondents in the respective petitions.

1.1 With the consent of the learned advocates for the respective parties, the matters are taken up for hearing.

1.2 Heard Mr. Ekrama Qureshi, learned advocate as also Mr. Y.J.Patel, learned advocate for the respective petitioners and Ms. Nidhi Vyas, Ms. Forum J. Shah, Ms. Dhruti Pandya, learned AGPs for the respondents, in respective petitions, at length.

2. This batch of petitions raises common issues with regard to the recovery of half of salary of the petitioners sought by the respondent, as they have been paid full salary during period of their study leave, and whether the petitioners are entitled to receive full salary during the period of their study leave. Therefore, these petitions are heard together and decided by this common judgment.

THE SHORT FACTS:-

3. The petitioners herein are working as Asst. Professors and / or Lecturers in respective Government Engineering Colleges. The petitioners were required to acquire higher degree so as to

comply with All India Council for Technical Education (hereinafter referred to as '***AICTE***') Guidelines from time to time and to avail the benefits of Career Advancement Scheme, they need Promotional Qualifications. Most of the petitioners, at the time of their appointment, were holding Bachelor Degree in respective engineering branches plus cleared Graduate Aptitude Test in Engineering (***GATE***). The Gujarat Public Service Commission, in its advertisement, prior to their appointment, clearly states that after getting appointment, the candidates will have to acquire Master Degree in respective branches. If the candidate fails to acquire Master Degree within aforesaid time, his / her increment will be stopped.

4. As per the guidelines of the AICTE, the Faculty members can be permitted to pursue further studies for a period of five years under Qualify Improvement Program (hereinafter referred to as '***QIP***') policy on deputation drawing full salary without treating it as break in service.

5. Accordingly, all the petitioners applied for their study leave and same was sanctioned by the respondent. In most of the cases, petitioners were paid full salary during the period of their study leave and some of the cases, half of the salary paid to the respective petitioners. Thereafter, the respondent felt that as per the Gujarat Civil Services (Leave) Rules, 2002, (hereinafter referred to as '***the Rules, 2002***') as also as per Government Resolution dated 03.02.2016, the petitioners are entitled to receive only half salary and thereby, sought recovery

from the respective petitioners, who have received full salary and accordingly, not paid fully salary to other petitioners concerned.

6. By way of these petitions, the respective petitioners have challenged the impugned order of recovery sought by the respondent and for those petitioners who have not been paid fully salary during their study leave, sought relief to receive full salary from the respondent.

SUBMISSIONS OF THE PETITIONERS:-

7. Mr. Ekrama Qureshi, learned advocate and Mr. Y.J.Patel, learned advocate for the respective petitioners have made the following submissions: -

7.1 The impugned order of recovery is arbitrary, unconstitutional and violative of principles of natural justice. None of the petitioners have been granted an opportunity of hearing before issuing impugned order of recovery.

7.2 The Government Resolution dated 03.02.2016 is quashed and set aside by the learned Single Judge of this Court in Special Civil Application Nos.12926 of 2021 & allied matters vide judgment dated 23.09.2022, which is confirmed by the Division Bench in Letters Patent Appeal No.1380 of 2024 & allied matters, vide its order dated 10.09.2024. Consequently, impugned order of recovery passed taking into account the aforesaid G.R., is not sustainable in law.

7.3 Even as per the aforesaid G.R.dated 03.02.2016, nowhere it has been prescribed that during the study leave, Asst. Professors/ Lecturers will get half salary. Furthermore, as per Clause-7 of the aforesaid G.R., the study leave granted for programme under QIP or non QIP stands on similar footing. Accordingly, there was no bifurcation in regard to payment of salary to candidate who opts for QIP or non QIP programme during the study leave period.

7.4 The stance of the respondent on the basis of Government Resolution dated 21.12.2023 that all petitioners have not acquired higher education as per QIP programme, they are not entitled to receive full salary, is erroneous and illegal. The case of the petitioners is not governed by the aforesaid resolution dated 21.12.2023, passed subsequently after effecting recovery. The aforesaid G.R. cannot apply retrospectively.

7.5 The respondent has wrongly relied upon the Rules 77 and 84 by ignoring Rules 77(3)(b) read with Rule 78 and 85 of the Rules, 2002. As per the aforesaid Rule 77(3)(b), in a case of academic subject, any leave granted, such Rules, 2002 would not apply. Likewise, as per Rule 85 employee concerned is entitled to receive study allowance, but undisputedly, it is not paid to any of the petitioners. Furthermore, as per Rule 78, ordinarily twelve months study leave at any one time can be granted, which shall not be exceeded save for exceptional reasons and during his entire service, twenty-four months in all.

Whereas in the present case, the petitioners have been granted two years study leave at one go. Therefore, Rules 2002 would not apply to the case of the petitioners.

7.6 The petitioners have been discriminated by not paying the full salary, rather, the respondent sought recovery from them as the respondent – Commissioner of Technical Education, Gujarat State vide its Office order dated 10.09.2014 while deputing Asst. Professor of concerned Engineering College for ME / M.Tech programme, granted them full salary. Non-granting similar benefits to the petitioners is violative of Article 14 of the Constitution of India and it is also in violation of doctrine of "Equal Pay for Equal Work". As per one of the conditions of granting study leave of respective petitioners, they would be treated as on duty. There is no financial burden caused to respondent during period of study leave as the workload of respective petitioners is divided between other faculty members.

7.7 The service conditions of the petitioners are subject to regulations and guidelines issued by the AICTE from time to time, which would entitle the petitioners to take study leave for Career Advancement, with full pay. The Rules 2002 is a general rule applicable to all government employees of the respondent – State but regulations / guidelines of AICTE are special rules, which override the general rule like Rules, 2002.

7.8 Since this Court has already quashed the aforesaid G.R.dated 03.02.2016 and as such, reference of the respective petitioners was made by learned Single Judge in the aforesaid decision, accordingly, they are entitled to receive full salary and impugned order of recovery passed by the respondent requires to be quashed and set aside.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS:-

8. Learned Asst. Government Pleaders appearing in the respective petitions have made the following submissions: -

8.1 The claim of the petitioners is not sustainable in law, inasmuch as, as per Resolution dated 03.02.2016 read with Resolution dated 21.12.2023, none of the petitioners had taken the admission in higher studies, i.e., M.E. / M.Tech., under QIP category.

8.2 The petitioners had taken admission under sponsored category unlike obtained admission under QIP category as per the procedure laid down by the AICTE. In these circumstances, as per the aforesaid Resolution read with the Rules, 2002, all petitioners are entitled to receive only half salary.

8.3 As per Government Resolution dated 21.12.2023, the Commissioner of Technical Education is empowered to grant full time deputation to the Professors selected in the Institution

under QIP as per guidelines issued by AICTE from time to time. Whereas for rest of the Professors, to avail benefits of Career Advancement Scheme, it can be granted study leave as per the Rules, 2002 subject to certain conditions.

8.4 The Professors, who got admission for higher studies under QIP quota as per procedure laid down by the AICTE, are entitled to receive full salary during the period of study leave. The rest of the Professors, who got admission in other Institute / College, which would not fall under QIP center, as approved by AICTE for QIP programme, are not entitled to receive full salary. Since all petitioners got admission in other than QIP centers, they are not entitled to receive full salary.

8.5 Making the above submissions, request is made to reject the present writ petitions.

9. No other and further submissions are made by the learned advocates appearing for the respective parties.

ANALYSIS:-

10. Having heard the learned advocates for the respective parties and after going through their pleadings and documents made available on record, it appears that all the petitioners have been appointed by the respondent as Asst. Professors / Lecturers in Government Engineering Colleges, who are holding basic degree of engineering in respective branches plus cleared

GATE. As per service conditions and AICTE norms, petitioners require to acquire master degree, otherwise, they would not get increment. Accordingly, they had availed for study leave to get admission in higher study, which was granted by the respondent. It further appears that some of the petitioners have been paid full salary and for others, half salaries have been paid to them during the period of their study leave. Thus, respondents have decided to effect recovery of half of the salary from the respective petitioners who received full salary. Consequently, the impugned order of recovery came to be passed.

IMPUGNED ORDER OF RECOVERY VIOLATES PRINCIPLES OF NATURAL JUSTICE:-

11. It is undisputed that before passing impugned order of recovery, no opportunity of hearing has been granted to the petitioners. The impugned order is, on face of it, violative of principles of natural justice and only on this basis, it is required to be quashed and set aside.

NON-APPLICABILITY OF GOVERNMENT RESOLUTION DATED 21.12.2023 TO THE CASE OF THE PETITIONERS: -

12. It can be seen from the impugned order that aforesaid Government Resolution dated 03.02.2016 was taken note of while effecting recovery. The said Resolution has already been quashed and set aside by the Coordinate Bench of this Court

vide judgment dated 23.09.2022 passed in SCA No.12926 of 2021 & allied matters, as also confirmed by the Division Bench vide its order dated 10.09.2024 passed in LPA No.1380 of 2024 & allied matters.

12.1 In the said decision in para-24, the Coordinate Bench has taken note of these petitions, by referring the fact that the respondent authorities have started recovery from present petitioners concerned. It has been held that aforesaid Resolution dated 03.02.2016 runs contrary to the provisions of AICTE Act, 1987 and guidelines framed thereunder. It is settled law that provisions of AICTE Act, 1987 and guidelines framed thereunder would have to be followed over any inconsistent Resolution passed by the State. It has been further held in said decision that provisions of the Rules, 2002 would not be applicable to the petitioners concerned who are eligible for pursuing further studies as per QIP policy of AICTE as they would be granted study leave with salary on deputation for duration of course. It has been so held that the Rules, 2002 would be applicable in normal circumstances and it cannot override provisions of Central Act, i.e., AICTE Act, 1987, if they are not consistent with the same. Thus, in view of the aforesaid position, the basis of recovery sought to be effected by the respondent would fall; rather, it would not stand anymore so far as present petitioners are concerned.

13. The respondent is placing heavy reliance upon

Government Resolution dated 21.12.2023, undisputedly, which was issued after passing of impugned order of recovery and /or non-granting of full salary to some of the petitioners as the impugned order of recovery came to be passed in the year 2018. Such stance of the respondent is not legally sustainable, inasmuch as the aforesaid Resolution cannot be applied retrospectively in absence of anything in this regard expressly observed in the said resolution. Furthermore, the petitioners cannot be put to disadvantageous situation.

13.1 The respondent is now trying to distinguish the cases of the petitioners than other Professors who got admission in QPI center as selected under QIP quota as per AICTE guidelines. According to the respondent, as per aforesaid Resolution dated 21.12.2023, the Professors who applied for higher studies and out of all, those Professors who have been selected under QIP category, only those Professors are entitled to receive full salary. Whereas, the rest of Professors who applied for higher study would be governed by the Rules, 2002.

13.1.1 This distinction is not at all applicable so far as case of the present petitioners is concerned, inasmuch as their case would not be governed by the said Resolution dated 21.12.2023; rather it would be governed by the Resolution dated 03.02.2016 under which petitioners' study leave sanctioned by the respondent.

13.1.2 The said Resolution dated 03.02.2016 would not remotely suggest any such distinction which is sought to be carved out by the respondent. It nowhere suggested in the said Resolution that full salary will not be paid to the Professors who are going for higher studies other than QIP centers approved by the AICTE under QIP programme. The clause 7 of said Resolution is relevant and its fair translation reads as under: -

> ***"7. Study leave will be granted only for admission into IIT/NIT/QIP Centers/GTU/NBA Accredited PG Programms / Centers of Excellence / Recognized University and other Institutions for the purpose of pursuing higher studies of quality M.E./M.Tech/Ph.D."***

13.1.3 As can be seen from the said Clause 7, the study leave can be granted only in cases where Professor concerned gets admission in the Institution referred in the clause, which includes QIP centers. It is not the case of respondent that any of the petitioners got admission in other institution than mentioned in aforesaid Clause 7. Thus, stance of the respondent by placing reliance upon aforesaid Resolution dated 21.12.2023 is not only arbitrary but contrary to its own resolution dated 03.02.2016, albeit quashed by this Court.

NON-APPLICABILITY OF THE RULES, 2002*:-*

14. It would be apt to refer to the relevant provisions of the QIP policy, the AICTE Act, 1987 as also Rules, 2002, which read as under:-

: Quality Improvement Programme policy of All India Council for Technical Education :

"INTRODUCTION

The Government of India launched the Quality improvement Programme in the year 1970. One of the main objectives of the programme is to upgrade the expertise and capabilities of the faculty members of the degree level institutions in the country. The programme is now being implemented and monitored by All India Council for Technical Education. In "Quality Improvement Programme" only sponsored teachers are eligible for admission to both Master's & Doctoral Degree Programmes, with the aim to enable the teachers to acquire Master's & Doctoral degrees and imbibe in them a culture of research and better teaching educational capabilities by exposing them to the environment of the institutes of study.

There are three main activities under QIP serving the faculty of degree level Engineering, Pharmacy & Polytechnic Institutions:

(i) Providing opportunities to faculty members of the degree-level engineering institutions to improve their qualification by offering admissions to Master's and Ph.D. degree Programme.

(ii) Organizing Short Term Courses at the Major QIP Centers for serving teachers.

(iii) Curriculum Development (CD) Cell activities which help to improve class room teaching and learning.

There are total 106 QIP Centers in the country under three main verticals.

Sl. No.	*Category*	*Number of Centre*
1	*QIP Engineering*	*83*
2	*QIP Pharmacy*	*13*
3	*QIP Polytechnic*	*10*

MASTER'S AND DOCTORAL DEGREE PROGRAMMES

Opportunities are provided for faculty members of AICTE recognized degree level institutions to improve their qualification, by offering admissions in Masters and Ph.D. degree programmes.

Eligibilities:
1. Full time regular/ permanent faculty members of AICTE recognized Degree Level Colleges are eligible to apply.

2. The candidate should posses

For Master's Degree Programme

One year teaching experience at graduate level

A Bachelor's degree in the appropriate branch

For Ph.D. Degree Programme

Three year teaching experience at graduate level

A Master's degree in the appropriate branch

3. The candidate is selected and admitted, should be on deputation and his/her normal salary and allowances are to be paid by the parent institutions.

4. The candidate selected for admission under QIP will have to execute an undertaking to serve his/her parent institution for a minimum period of three years after completion of the programme."

: THE ALL INDIA COUNCIL FOR TECHNICAL EDUCATION ACT, 1987:

"CHAPTER III

POWERS AND FUNCTIONS OF THE COUNCIL

10. Functions of the Council-It shall be the duty of the Council to take all such steps as it may think fit for ensuring coordinated and integrated development of technical education and maintenance of standards and for the purposes of performing its functions under this Act, the Council may-

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(h) formulate schemes for the initial and in-service training of teachers and identify institutions or centres and set up new centres for offering staff development programmes including continuing education of teachers;

(i) lay down norms and standards for courses, curricula, physical and instructional facilities, staff pattern, staff qualifications, quality instructions, assessment and examinations;

(j) fix norms and guidelines for charging tuition and other fees;"

: GUIDELINES FOR STUDY LEAVE FOR THE FACULTY IN AICTE APPROVED INSTITUTIONS :

Guidelines for grant of Study leave to Teachers and other academic staff entering into service without M. Tech./Ph. D or other higher qualification in Degree/ Diploma level Technical Institutions are given below.

i) Study leave may be granted with Pay to the appointees such as Assistant Professor/Assistant Librarian/Assistant Director of Physical Education (Degree level) or in equivalent cadre (Diploma level), to pursue for study (M.E/M.Tech./ Ph. D) or research in the discipline directly related to his/her work.

(ii) The number of years to be put in after entry should be a minimum of three years in regular service including the probation period, keeping in mind the availability of teachers in the discipline and the vacant positions.

(iii) The paid period of study leave should be two/three years for Master Doctorial level respectively. Two years may be given in the first instance, extendable by one more year for Ph. D program, if there is satisfactory progress report by the Research Guide. Care should be taken to see that the regular academic work is not disturbed while granting study leave.

Explanation: in computing the length of service, the time during which a person was on probation or engaged as a research assistant may be reckoned provided:

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(vi) Study leave may be granted not more than twice during one's career. The maximum study leave admissible during the entire service should not exceed five years."

: Gujarat Civil Service (Leave) Rules, 2002 :

*"**57. Half Pay Leave** : (1) (a) Government employee shall be entitled to Half Pay Leave at the rate of ten days for each half year's service. This shall be credited in advance to the leave account of the Government employee on first January and first July of every calendar year.*

(b) If a Government employee is appointed during the half year, Half pay leave shall be credited to his leave account at the rate of 5/3 days for each completed calendar month of service. The Half pay leave at the credit of the Government employee on the close of the half year shall be carried forward to the next half year,

(c) All credit in the leave account shall be made for complete days, the fraction being rounded of to the nearest day.

(2) (a) The credit for the half year in which a Government employee is due for retirement from service or resigns shall be afforded only at the rate of 5/3 days per completed calendar month in the half year upto the date of retirement or resignation. If the leave availed of is more than the credit so due to him, necessary adjustment shall be made in respect of leave salary overdrawn, if any;

(b) When a Government employee is removed or dismissed

from the service or dies while in service, credit of Half pay leave shall be allowed at the rate of 5/ 3 days per completed calendar month in the half year in which he was removed or dismissed from service or dies while in service. When the quantum of Half pay leave is in excess of the leave enjoyed, the over payment of leave salary shall be recovered.

77. Conditions for grant of study leave: *(1) Subject to the conditions specified in this Chapter, study leave may be granted to a Government employee with due regard to the exigencies of public service to enable him to undergo, in or out of India, a special course of study consisting of higher studies or specialised training in a professional or a technical subject having a direct and close connection with the sphere of his duty.*

(2) Study leave may also be granted -

(a) for a course of training or study tour in which a Government employee may not attend a regular academic or semi-academic course if the course of training or the study tour is certified to be of definite advantage to Government from the point of view of public interest and is related to sphere of duties of the Government employee;

(b) for the purpose of studies connected with the frame work or background of public administration subject to the conditions that

(i) the particular study or study tour should be approved by the authority competent to grant leave,

(ii) the Government employee should be required to submit, on his return, a full report on the work done by him while on study leave; and

(c) for the studies which may not be closely or directly connected with the work of a Government employee, but which are capable of widening his knowledge in a manner likely to improve his abilities as a Government employee and to equip him better to collaborate with those employed in other branches of the public service.

(3) Study leave shall not be granted unless

(a) It is certified by the authority competent to grant leave that the proposed course of study or training shall be of

definite advantage from the point of view of public interest;

(b) It is for prosecution of studies in subjects <u>other than academic</u> or literary subjects; and

(c) The Department of Economic Affairs of the Ministry of Finance, Government of India agrees to the release of foreign exchange involved in the grant of study leave, if such leave is out of India.

(4) Study leave out of India shall not be granted for the prosecution of studies in subjects for which adequate facilities exist in India or under any of the schemes administered by the Department of Economic Affairs of the Ministry of Finance or by the Ministry of Education, Government of India.

(5) Study leave shall not ordinarily be granted to a Government employee

(a) who has rendered less than five years' service under the Government; or

(b) who does not hold a gazetted post under the Government; or

(c) who is due to retire, or has the option to retire, from the Government service within the years of the date on which he is expected to return to duty after the expiry of the leave.

(6) Study leave shall not be granted to a Government employee with such frequency as to remove him from contact with his regular work or to cause cadre disbursed owing to his absence on leave.

***78 Maximum period of study leave**: The maximum period of study leave, which may be granted to a Government employee, shall be - (a) ordinarily twelve months at any one time which shall not be exceeded save for exceptional reasons; and (b) during his entire service, twenty-four months in all (inclusive of study leave granted under any other rules). Note The limit of twenty four months of absence includes the period of vacation.*

***84. Leave salary during study leave** (1) During study leave, a Government employee shall draw leave salary equal to the amount admissible during half pay leave.*

(2) The rate of exchange prescribed by the Union Government for the conversion of leave salary (other than admissible during the first one hundred twenty days of earned leave) shall apply to the leave salary during study leave."

85. Conditions for grant of study allowance :
(1) A study allowance shall be granted to a Government employee who has been granted study leave for the period spent in prosecuting a definite course of study at a recognised institution or in any definite tour of inspection of any special class of work, as well as for the period covered by any examination at the end of the course of study.

(2) Where a Government employee has been permitted to receive and retain, in addition to his leave salary, any scholarship or stipend that may be awarded to him from a Government or non-Government source, or any other remuneration in respect of any part-time employment,

(a) no study allowance shall be admissible in case the net amount of such scholarship or stipend or remuneration (arrived at by deducting the cost of fees, if any, paid by the Government employee, from the value of scholarship or stipend or remuneration) exceeds the amount of study allowance otherwise admissible,

(b) in case the net amount of scholarship or stipend or remuneration is less than the study allowance otherwise admissible, the difference between the value of the net scholarship or stipend or any other remuneration in respect of any part-time employment and the study allowance may be granted by the authority competent to grant leave.

(3) Study allowance shall not be granted for any period during which a Government employee interrupts his course of study to suit his own convenience : Provided that the authority competent to grant leave or the Head of Mission may authorise the grant of study allowance for a period not exceeding fourteen days at a time during such interruption if it was due to sickness.

(4) The period for which study allowance may be granted shall not exceed twenty four months in all.

(5) Study allowance shall also be allowed for the entire period of vacation during the course of study subject to the conditions that -

> *(a) the Government employee attends during vacation any special course of study or practical training under the direction of the Government or the authority competent to grant leave, as the case may be; or*
>
> *(b) in the absence of any such direction, he produces satisfactory evidence before the Head of Mission or the authority competent to grant leave, as the case may be, that he has continued his studies during the vacation*
> *Provided that in respect of vacation falling at the end of the course of study it shall be allowed for a maximum period of 14 days. Note : The period of vacation during which study allowance is drawn shall be taken into account in calculating the maximum period of twenty four months for which study allowance is admissible."*

15. As can be seen and it is not disputed by the respondent that to avail increment and as a matter of course, the petitioners were required to acquire Master Degree as per AICTE norms being one of the conditions of appointment. As per aforesaid guidelines issued by AICTE to grant of study leave is concerned, it nowhere suggests that it should be granted with half pay; rather it speaks of granting of study leave with pay.

15.1 The respondent is banking upon the Rules, 2002, more particularly Rules 77 & 84, to advance its argument that petitioners are entitled only for half pay. The respondent conveniently forgot to take into account the Rule 77(3)(b) read with the Rule 85. As per the said the Rules, 2002, it would apply to all government employees who are also entitled to get study allowance which is not granted to petitioner as pursuing higher studies being academician.

15.2 The Rules, 2002 being general rule, cannot override the provisions of Central Act, like AICTE Act, 1987 and in a case of conflict, the provisions of Central Act would prevail over the Rules framed by the State. [***See**:- **State of T.N. and another v. Adhiyaman Educational & Research Institute and others** reported in **(1995) 4 Supreme Court Cases 104]***

15.3 According to my view, the Rules, 2002 would not be applicable to the case of petitioners who availed study leave as per the Resolution dated 03.02.2016 and granted in pursuance to the regulations / guidelines issued by the AICTE, to acquire Master Degree by Professors.

CONCLUSION:-

16. In view of the foregoing observations, discussions and reasons, I am of the view that impugned orders passed in respective matters are unsustainable in law and thereby, deserve to be quashed and set aside. Accordingly, the impugned orders are hereby quashed and set aside.

16.1 It is hereby held that the respondent is not entitled to recover any amount from the petitioners; rather it is hereby held that all the petitioners are entitled to receive full salary during the period of their study leave.

16.2 Thus, it is directed to respondent to pay concerned the petitioners the full salaries during the period of their study

leave. The arrears of differential amount of salary of respective petitioners for the period of their study leave shall be calculated and paid to the respective petitioners on or before 31st May, 2026, failing which, the said arrears amount shall be paid with 6% p. a. interest from 1st June, 2026 till its realization.

17. In view of the foregoing conclusions, the present writ petitions are allowed. Rule is made absolute to the aforesaid extent. Direct service is permitted.

(MAULIK J.SHELAT,J)

Lalji Desai

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: LALJI DESAI(HC01558), PRIVATE SECRETARY, at High Court of Gujarat on 12/03/2026 12:26:44