

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI, BENCH AT AURANGABAD
ORIGINAL APPLICATION NO. 108 OF 2014**

DISTRICT : DHULE

1. Dilip s/o Usman Shah)
Occ : Service as (Unskilled Artisan,)
Regional Workshop, Health)
[Transport], Aurangabad.)
R/o: C-47-11, Shivaji Nagar,)
Cidco, Aurangabad.)
2. Nitin s/o Ramnath Pawar,)
Occ : Service [as above],)
R/o: H. No. P-2/2/2,)
Ram Nagar, Aurangabad.)
3. Anil s/o Mukund Ogale,)
Occ : Service [as above],)
Kasliwal Tarangan, Mitmita,)
Aurangabad.)
4. Nilkant s/o Madhukar Patil,)
Occ : Service [as above],)
R/o: Mayur Park, E-1, Harsul Road,))
Aurangabad.)
5. Rahul s/o Devidas Deshmukh)
Occ : Service [as above],)
R/o: Mayur Park, Shivaji Colony,)
Harsul, Aurangabad.)

6. Balu s/o Rajaram Patil,)
 Occ : Service [as above],)
 R/o: E-Shivaji Nagar, Garkheda)
 Parisar, Cidco N-11, Aurangabad.)
7. Raju s/o Manganlal Karware,)
 Occ : Service as Semi-skilled)
 Artisan, Regional Workshop Health)
 [Transport], Aurangabad,)
 R/o: Teesgaon, Mhada Colony,)
 Behind A.S Clubd, Aurangabad.)...**APPLICANTS**

VERSUS

1. The State of Maharashtra,)
 (Copy to be served on C.P.O.)
 Maharashtra Administrative)
 Tribunal Bench at Aurangabad.)
2. The Secretary,)
 Finance Department,)
 M.S., Mantralaya, Mumbai 400 032.)
3. The Secretary,)
 General Administration Department,))
 M.S, Mantralaya, Mumbai 400 032.)
4. The Secretary,)
 Public Health Department,)
 M.S., Mantraaya, Mumbai 400 032.)
5. The Director,)
 Health Services, M.S,)
 Mumbai 400 001.)

6. The Deputy Director,)
 Health Services [Transport],)
 Pune.)..**RESPONDENTS**

Shri A.S Deshmukh, learned Advocate for the Applicant.

Mrs Priya R. Bharaswadkar, learned Presenting Officer for the Respondents

**CORAM : Shri Rajiv Agarwal, (Vice-Chairman)
 Shri B.P Patil (Member) (J)**

DATE : 08.03. 2017

PER : Shri Rajiv Agarwal, (Vice-Chairman)

ORDER

1. Heard Shri A.S Deshmukh, learned Advocate for the Applicant and Mrs Priya R. Bharaswadkar, learned Presenting Officer (P.O) for the Respondents.

2. This Original Application has been filed by the Applicants who are working in the Transport Wing of the Public Health Department as Unskilled and Semi-Skilled Artisans and who claimed that they are entitled to be given pay in the Pay Band /Scale to Group 'C' employees.

3. Learned Counsel for the Applicants argued that the Recruitment rules for unskilled, semi-skilled and other

employees of the Transport Wing of the Public Health Department has been notified on 27.3.2002. (These rules in Marathi are at Annexure 'A' and are called 'Recruitment rules of 2002', hereinafter). Rule 8 of the Recruitment Rules of 2002 deals with the appointment of unskilled workers in Group 'D'. Such workers are required to have the following qualifications, viz.

- (i) S.S.C
- (ii) I.T.I Certificate in the relevant trade recognized by the National Council of Technical and Vocational Training (NCTVT) or equivalent qualification recognized by the Government.

Learned Counsel for the Applicants argued that the unskilled and semi-skilled artisans in Transport Wing of the Public Health Department discharge duties of technical nature and the qualification for appointment is Certificate from I.T.I. The duties and responsibilities of the Applicants are similar to duties and responsibilities of Technical Staff working in Workshops and Laboratories of Technical Institutions like Government Polytechnics, who are given pay scales of Group 'C' post. After the Sixth Pay Commission submitted its report, the State Government has appointed Pay Revision Committee, 2008, also known as Hakim Committee. This Committee in its report stated that no new appointment in Group 'D' post (except on compassionate basis) should be made and all Group 'D' employees holding requisite educational qualification may be given appropriate

training to absorb them in Group 'C' posts. Though, the Government did not accept recommendation of not making fresh appointment in Group 'D', the other recommendation regarding providing training to those Group 'D' employees who have requisite educational qualification with a view to absorb them in Group 'C' post was accepted and it was stated that General Administration Department (G.A.D) will take further action in this regard. However, no action has been taken in this matter. In the present Original Application also, G.A.D has chosen not to file any reply. Learned Counsel for the Applicants stated that the matter was subsequently considered by the Pay Anomaly Committee (Bakshi Committee), which has rejected the case of the Applicants on the ground that the Recruitment Rules of 2002 provide for minimum educational qualifications for the post of unskilled and semi-skilled artisans much in excess of work requirements. Learned Counsel for the Applicants argued that this decision is irrational and unjust. The duties assigned to the Applicants are technical in nature, and are comparable to the duties assigned to Fitter, Turners etc. working in Workshops attached to Polytechnics.

4. Learned Presenting Officer (P.O) argued on behalf of the Respondents that the Applicants are assigned duties like keeping motor vehicles clean, keeping the instruments clean and counting them, loading and unloading of trucks, changing of tyres or changing engine oil etc. These works can hardly be called technical. These are duties of unskilled

workers. For semi-skilled workers also, changing the wheel bearing, overhauling of certain motor parts, differentiation of different spare parts etc. are the duties prescribed. These duties are not comparable to the duties assigned to Class-III workers in Government Polytechnics/Government Engineering Colleges [Annexure C, page 45 of the Paper Book], who are entrusted with repairs and maintenance of instruments in Laboratories/Workshops. They are also required to assist students in Practical Classes. Learned Presenting Officer contended that for seeking equal pay for equal work, duties and responsibilities of two posts should be similar and comparable. In the present case, there is vast disparity between the duties and responsibilities of the Applicants and those working in Group 'C' technical posts in Government Polytechnics/Engineering Colleges. Mere educational qualification cannot be invoked to claim parity in wages.

5. We find that the Applicants are basing their claim for pay of Class-III technical employees based on Hakim Committee recommendations and they have challenged rejection of their demand by Bakshi Committee. This Original Application was earlier dismissed by this Tribunal by order dated 28.4.2014. The present Applicants had filed Writ Petition no 6973/2014 before the Aurangabad Bench of Hon'ble High Court and by order dated 8.9.2015 the matter was remanded to this Tribunal for hearing by a Division Bench, as the order dated 28.4.2014 was heard by a Single

Bench. Another reason for remitting the matter back to the Tribunal was that the submission of the Applicants that in several other departments of State, similarly placed employees are receiving higher pay scale, was not considered by this Tribunal. Hakim Committee has recommended upgradation of unskilled and semi-skilled employees working in Group 'D' and that decision has not been implemented.

6. Let us examine the recommendations of Hakim Committee first. The Committee in para 3.3 of its report has given recommendations about Group 'D' posts. The relevant recommendations is in para 3.3.3, which applies to Group 'D' employees holding qualification for Group 'C' posts. The Applicants have Certificate of I.T.I which may make them eligible for appointment to some Group 'C' posts in the Government. The Applicants are stating that Committee has recommended, inter-alia, that those Group 'D' employee, who cannot be accommodated in Group 'C' should be given training for upgrading their skills. The State Government has issued G.R dated 27.2.2009 regarding recommendations of the Hakim Committee. The recommendation no. 3.3.3 and the decision of the Government is reproduced below:-

अ.कं.	राज्य वेतन सुधारणा समिती, २००८ च्या अहवालातील		शासनाने घेतलेला निर्णय
	परिच्छेद क्रमांक	शिफारशी	
अ) सेवेतील कर्मचा-यांच्या बाबतीत शिफारशी-			
५	३.३.३	सहाय्या केंद्रीय वेतन आयोगाच्या शिफारशीनुसार गट -ड मधील कर्मचा-यांच्या गट -क मधील श्रेणीवर्धनासाठी त्यांना कुशल कारागीरांचे प्रशिक्षण	यापुढे गट-ड मध्ये (गट-क मधील पदावर नियुक्तीसाठी योग्य

	<p>देणारा कार्यक्रम अशा कर्मचा-यांनी धारण केलेली शैक्षणिक अर्हता व त्यांची कार्यकुशलता यांचे स्तर विचारात घेवून आखण्यात यावा. दरम्यानच्या कालावधीत विहित शैक्षणिक अर्हताधारक गट -ड मधील कर्मचा-यांना शक्य तितक्या लवकर गट-क मधील कनिष्ठ लिपिक पदावर (किंवा इतर समतुल्य पदावर) सामावून घेण्यात यावे. असे करताना आवश्यकतेनुसार एका विभागातून दुस-या विभागात नियुक्तीचाही विचार करण्यात यावा. गट-ड मधील कर्मचा-यांना कनिष्ठ लिपिक किंवा समतुल्य पदावर अथवा योग्य प्रशिक्षणानंतर कुशल कारागीर सहायक या पदावर समावेशनापर्यंत गट-ड मध्ये व -१ एक या वेतन बँडमध्येच ठेवण्यात यावे व विहित शैक्षणिक अर्हता धारण केल्यानंतर अथवा योग्य प्रशिक्षणानंतर त्यांना कनिष्ठ लिपिक किंवा कुशल कारागीर सहायक या गट-क मधील पदावर सामावून घेण्यात यावे. यापुढे गट -ड मध्ये (गट-क मधील पदावर नियुक्तीसाठी योग्य नसलेल्या उमेदवारांच्या अनुकंपा तत्वावरील नियुक्तीखेरीज) कर्मचा-यांची नवीन नियुक्ती करण्यात येऊ नये.</p> <p>अनुकंपा तत्वावर गट-ड मध्ये नियुक्त केलेल्या कर्मचा-यांना -१ एस या वेतन बँडमध्ये ठेवण्यात यावे व गट-क मध्ये पदोन्नतीसाठी विहित अर्हता प्राप्त करण्याचे त्यांना सुचविण्यात यावे.</p>	<p>नसलेल्या उमेदवारांच्या अनुकंपा तत्वावरील नियुक्ती-खेरीज) कर्मचा-यांची नवीन नियुक्ती करण्यात येऊ नये ही शिफारस अमान्य करण्यात आली.</p> <p>या परिच्छेदातील इतर शिफारशीबाबत विभागामार्फत स्वतंत्रपणे कार्यवाही करण्यात येईल.</p>
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It can be seen that this is a composite recommendation. It recommends that training programme for skill upgradation of Group 'D' employees may be organized to accommodate them in Group 'C' posts. There were other recommendations like not making any fresh appointment in Group 'D' posts (except on compassionate basis). The State Government has not accepted the recommendation that no fresh appointment should be made in Group 'D' post. The State Government was well within its powers to accept or reject recommendations of the Hakim Committee. The Applicants are claiming relief that G.A.D has not organized any training programme for their skill upgradation. So they should be

given promotion to group 'C' posts. In para 7(x), the Applicants have made the following averments:

“.....the Hakim Committee in fact had gone ahead and recommended absorption of employees like present applicants working in Group 'D' cadres of unskilled and semi-skilled Artisans in Group 'C' cadre if necessary by creating a new cadre of “ कुशल कारागीर सहाय्यक ”. It is needless to state and stress here that by making the said specific recommendation the Hakim Committee in principle had accepted the demand of the employees like applicants urging for grant of higher/revised pay scales, on the basis of their technical qualifications, equivalent to the ones granted to employees occupying similar technical posts in lower cadres in other Departments of the State Government for which same technical qualification was required.”

7. We have very carefully perused paras 3.3.1, 3.3.2 and 3.3.3 of Hakim Committee report. We are unable to find any basis of the conclusion drawn by the Applicants that Hakim Committee has made 'specific recommendation' to grant equal pay to all employees, having similar qualifications in all the departments of the Government. This conclusion is farfetched and totally unwarranted on plain reading of Hakim Committee report. What the Committee recommended was for almost abolition of all Group 'D' posts. Other recommendations would have

followed if this basic and far reaching recommendation was accepted by the State Government. However, State Government did not accept this recommendation and Group 'D' posts continue to exist in large numbers in the Government. Group 'D' employees may hold qualifications, which may entitle them to be appointed in Group 'C' posts. However, identification of such posts and to match them with Group 'D' persons is not a very simple task. In fact, the present system of such persons applying for Group 'C' posts, as and when vacancies arise in any department can be said to be working satisfactorily. In any case by not taking any further action on that basis, we are not convinced that the Applicants are prejudiced. The other recommendation of the Hakeem Committee was to hold training of Group 'D' employees with a view of their skill upgradation. As the Applicants have I.T.I certificate, presumably, they are not covered under that part of the recommendation as they already have higher skills. The claim of the Applicants that the Hakeem Committee had made any specific recommendation to grant higher pay scale equivalent to those granted to other employees is without any foundation and it is rejected. The Applicants could not have been granted any relief on the basis of Hakeem Committee recommendations in this regard.

8. The Applicants' claim that they are eligible to get pay scale of Class-III posts, was referred to Pay Anomaly Committee (Bakshi Committee). The Committee has

summarized the demand of the Applicants and its decision on their demands as follows:-

“ शासन अधिसूचना, सार्वजनिक आरोग्य विभाग क्र.आरटीआर १०९६/प्र.क्र.१२५/सेवा-१, दि. २७ मार्च, २००२ अन्वये विहित केलेल्या सेवाप्रवेश नियामांनुसार कनिष्ठ तांत्रिक सहाय्यक/वीजतंत्री या संवर्गात नामनिर्देशनाने नियुक्तीसाठी माध्यमिक शालांत परीक्षा उत्तीर्ण आणि औद्योगिक प्रशिक्षण संस्थेचे प्रशिक्षण प्रमाणपत्र ही शैक्षणिक अर्हता विहित केली आहे. ही किमान शैक्षणिक अर्हता असलेल्या वीजतंत्री व तत्सम तांत्रिक संवर्गांना वेतनबॅंड पीबी-१:रु. ५२००-२०२०० अधिक रु.२४०० ग्रेड वेतन ही वेतनसंरचना मंजूर केली आहे. याच तत्वानुसार कनिष्ठ तांत्रिक सहाय्यक/वीजतंत्री या संवर्गांना वेतनबॅंड पीबी-१:रु. ५२००-२०२०० अधिक रु.२४०० ग्रेड वेतन ही वेतनसंरचना मंजूर करण्याची शिफारस करण्यात येत आहे.

वरील आदेशांद्वारे विहित केलेल्या सेवाप्रवेश नियामांनुसार कुशल कारागीर व अकुशल कारागीर या संवर्गात नामनिर्देशनाने नियुक्तीसाठीदेखील माध्यमिक शालांत परीक्षा उत्तीर्ण आणि औद्योगिक प्रशिक्षण संस्थेचे प्रशिक्षण प्रमाणपत्र ही शैक्षणिक अर्हता विहित केली आहे. अर्ध कुशल कारागीर संवर्गात नामनिर्देशनाने नियुक्ती केली जात नाही असे सेवाप्रवेश नियामांनुसार दिसून येते. मात्र या संवर्गात अकुशल कारागीर संवर्गातून पदोन्नती दिली जाते म्हणजेच या संवर्गाची शैक्षणिक अर्हतादेखील उर्वरित दोन संवर्गांप्रमाणेच आहे.

शैक्षणिक अर्हता विचारात घेऊन कातारी (टर्नर) / सांधाता (वेल्डर) / जोडारी (फिटर) या संवर्गांप्रमाणे अकुशल कारागीर संवर्गास रु.२४०० ग्रेड वेतन तर पुढील पदोन्नतीच्या अर्ध कुशल कारागीर व कुशल कारागीर संवर्गांना अनुक्रमे रु.२५०० व रु.२८०० ग्रेड वेतनाची मागणी आहे.

कोणत्याही संवर्गाची वेतनसंरचना केवळ शैक्षणिक अर्हता या एकमेव निकषाच्या आधारे विहित केली जात नाही. तसेच कोणत्याही संवर्गाची शैक्षणिक अर्हता ही त्या संवर्गाच्या कर्तव्ये व जबाबदा-यांनुरूप विहित केली जाते. विचाराधीन संवर्गाच्या कर्तव्ये व जबाबदा-या विचारात घेता या संवर्गाची शैक्षणिक अर्हता ही किमान आवश्यक अर्हतेपक्षा उच्च स्तराची विहित केली आहे असे समितीचे मत आहे. वर नमूद शैक्षणिक अर्हता ही किमान अर्हता आवश्यक असलेले आणि रु. २४०० ग्रेड वेतन (असुधारित वेतनश्रेणी रु.४०००-६०००) मंजूर केलेल्या संवर्गाच्या (उदा. कातारी/सांधाता/जोडारी/वीजतंत्री इ.) कर्तव्ये व जबाबदा-या निश्चितच जास्त आहेत. त्यामुळे केवळ शैक्षणिक अर्हतेच्या आधारे उच्च ग्रेड वेतनाची मागणी समर्थनीय ठरत नाही.”

The Committee has concluded that the educational qualification prescribed for unskilled and semi-skilled workers in Transport Wing of the Public Health Department are far in excess to the work requirement. Let us examine whether this decision of the Committee is irrational or unjust, as claimed by the Applicants. The duties of unskilled workers are given in Annexure 'B' of Recruitment Rules of 2002. Some of the more onerous duties are as follows:-

- “(६) कामासाठी लागणा-या हत्यारांची स्वच्छता व मोजमाप वेळेच्या वेळी करणे.
 (१५) इंजिन ऑईल/ गेअर ऑईल (ग्रिसिंग/रिचअरींग बॉक्स मधील ऑईल/ ब्रेक ऑईल/ व्हिल बेअरिंग ग्रीस बदली करणे.
 (१७) कार्यशाळेत येणा-या वाहनांची तपासणी करण्यात मदत करणे.
 (२०) उपकृशल कारागीरास विहित केलेल्या दुरुस्त करणे. उदा. फेन बेल्ट बदली करणे, रेडियेटर/ वॉटर पंप/ बॅटरी/गीअर बॉक्स/डिफरेन्शियल/अॅक्सल, फ्रंट अॅक्सल, टायर, ब्रेकड्रम हवा, रोड स्पिंग इ. जडसंच वाहनापासून वेगळे करणे, उतरविणे व चढवणे इ.”

It is quite clear that none of these duties or other duties mentioned in Annexure 'B' for unskilled workers, can by any stretch of imagination, be called technical in nature requiring certificate course from I.T.I. Duties assigned to semi-skilled workers are just that, i.e. semi-skilled duties, which also do not require any technical qualifications. In this context, the decision of Bakshi Committee was logical and proper.

9. Let us now compare the duties of the Applicants (who are unskilled or semi-skilled workers) with the duties assigned to Class-III technical workers in Government Polytechnics/Engineering colleges as prescribed by G.R

dated 1.6.2012 which is at Annexure 'C'. These duties are as follows:-

कर्तव्ये व जबाबदा-या

१. प्रयोगशाळा/ कर्मशाळेतील यंत्रसामुग्रीची व उपकरणांची नियमित दुरुस्ती व देखभाल करणे.
२. यंत्रसामुग्री व उपकरणांची सुरक्षिततेबाबत दक्षता घेणे.
३. विद्यार्थ्यांना प्रात्यक्षिके पुर्ण करण्यास मार्गदर्शन करणे, प्रात्यक्षिके पुर्ण करून घेणे. प्रात्यक्षिकाचा अहवाल कार्यदेशकास/ प्रभारकास सादर करणे.
४. आवश्यकतेनुसार संस्था व संस्था परिसरातील देखभाल व दुरुस्तीची कामे करणे.
५. संस्थेमध्ये राबविले जाणारे इतर उपक्रमे जसे, महसुल निर्मिती, सार्वजनिक कार्यक्रम इ. मध्ये वरिष्ठांच्या निर्देशानुसार जबाबदारी पार पाडणे.
६. अद्ययावत यंत्रसामुग्रीसाठी वरिष्ठांच्या सुचनेनुसार वेळोवेळी प्रशिक्षण पुर्ण करणे.
७. परिक्षेच्या कामकाजात वरिष्ठांच्या निदेशानुसार काम करणे.
८. वरिष्ठांनी वेळोवेळी नेमुन दिलेली कामे करणे.

The main and most important differences in the duties assigned under G.R dated 1.6.2012 are the following:-

- (i) They are required to repair and maintain all instruments in the Laboratory/Workshop.
- (ii) They are required to help students in these colleges in practical classes.

These duties and responsibilities are obviously of much higher order and the Applicants cannot claim parity with them in pay. The Applicants have also placed a copy of advertisement inviting application for the post of Craft

Instructors in I.T.Is. The qualification for that post is Diploma in Engineering or I.T.I Certificate plus four years of experience in appropriate trade. Obviously experience as helper or unskilled/semi-skilled worker will not be covered. There is no basis to claim parity in wages with Craft Instructors in I.T.Is.

10. The Applicants have placed on record a copy of advertisement dated 28.3.2013 issued by Konkan Krishi Vidyapeth, Dapoli, for various technical posts in Group 'C', which have Pay Band of Rs. 5200-20200 with grade pay of Rs. 1900, 2000, 2400 etc. for different trades. In fact, some of the posts like Engine Operator, कर्षित्रचालक, grade pay is Rs. 1900 & 2000, while for Electrician; it is Rs. 2400, which is same as for Electrician in State Government. The Applicants are demanding grade pay of Rs. 2400/- for unskilled and Rs. 2500/- for semi-skilled workers, while on many posts lesser grade pay is approved in this University. This hardly supports the case of the Applicants. In any case, University posts are not under the Government and are not covered by the Pay Commissions.

11. In para 7(iv) of the Original Application, there is some mention of Indian Ordinance Factories. Some details are given on page 83 in Annexure 'F'. The pay of unskilled worker as well as semi-skilled worker is shown as Rs. 5200-20000 + grade pay of Rs. 1800/-. Semi-skilled workers are required to have SSC + ITI Certificate. In any case, unless

the duties of these workers are known, it cannot be concluded that their duties and responsibilities are comparable to those of the Applicants.

12. In conclusion, we find that Hakeem Committee had not made any recommendation to grant higher pay scale to all Group 'D' employees holding qualification which may make them eligible for appointment to Group 'C' posts. The Applicants are eligible for promotion to higher posts as per Recruitment Rules of 2002. They can also apply for higher posts in Group 'C' in their own organization or in other departments, whenever there are vacancies. The Hakeem Committee has not recommended wholesale upgradation of Group 'D' post to Group 'C' post. It has only recommended that Group 'D' employees may be helped in skill upgradation. That part of the recommendation does not apply to the Applicants, who are already having qualification of ITI Certificates. We do not find that the decision of Bakshi Committee suffers from any infirmity. The Applicants claim that they are entitled to equal work for equal pay and are entitled to pay scale given to technical personnel like Fitter, Turner, Welders etc. in Government Polytechnics and Government Engineering Colleges is not found to be valid. In Krishi Vidyapeth, Dapoli, there are various categories of technical employees and they are getting different grade pay. The duties and responsibilities of those posts have no similarities with those of the Applicants. The semi-skilled and unskilled workers in Indian ordnance Factories of

Government of India are getting grade pay of Rs. 1800/- only and we have no means to compare the duties and responsibilities with those of the present Applicants. We do not find that the Applicants have made out any case of interference in the matter of pay fixation of the Applicants by this Tribunal. Hon'ble Supreme Court in a catena of judgments held that the work of pay fixation should be left to expert bodies like Pay Commission or Pay Revision / Anomaly Committees. In the present case, Bakshi Committee has rejected the claim of the Applicants and we are unable to find any shortcoming in that order.

13. Having regard to the aforesaid facts and circumstances of the case, this Original Application is dismissed with no order as to costs.

**B.P. PATIL
(MEMBER. J)**

**RAJIV AGARWAL
(VICE-CHAIRMAN)**

**Date : 08.03.2017
Place : Aurangabad
Dictation taken by : A.K Nair**