

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

**ORIGINAL APPLICATIONS NO 315, 316, 317, 318 AND
319 OF 2013**

DISTRICT : PUNE

1) ORIGINAL APPLICATION NO 315 OF 2013

1. Shri Hemant K. Gangapurkar)
 2. Shri Sharad B. Kohchade)
 3. Shri Pramod A. Deshmukh)
 4. Shri Jayant K. Talpe)
 5. Shri Ganesh W. Kulkarni)
 6. Shri Prashant K. Khandale)
 7. Shri Ashok N. Shinde)
- All are working as C.I.D,)
Photographers in the offices at)
Mumbai, Pune etc under the)
Administrative control of the)
Respondent no. 4, having office)
at Pune except Petitioner No. 7,)
who retired as Photographer.)
Add: C/o: Shri A.V. Bandiwadekar)

9, "Ram Kripa", Lt. Dilip Gupte Marg)

Mahim, Mumbai 400 016.

)...**Applicants**

Versus

1. The State of Maharashtra)
Through the Addl. Chief Secretary,)
Home Department, Mantralaya,)
Mumbai 400 032.)
2. The State of Maharashtra,)
Through the Principal Secretary,)
Finance Department,)
Mantralaya, Mumbai 400 032.)
3. The Director General and Inspector)
General of Police, [M.S],)
Having office at Old Council Hall,)
Shahid Bhagatsinh Marg,)
Mumbai 400 039.)
4. The Addl. Director General of Police)
Maharashtra State, CID,)
Having office at Chavan Nagar,)
University Road, Pune-8.)...**Respondents**

2) ORIGINAL APPLICATION NO 316 OF 2013

1. Shri Dilip Suresh Jadhav)
2. Shri Anil Vishwas Tarate)
3. Shri Bhagavat Bhimrao Vhanamane)

4. Shri Amar Ramdas Ghume)
5. Shri Nitin Sambhaji Kelkar)
6. Shri Pramod Yeshwant Nagre)
7. Shri Amol Jaipal Sahare)
- All are working as C.I.D,)
- Junior Technical Assistants)
- in the offices at Mumbai, Pune etc)
- under the Administrative control)
- of the Respondent no. 4,)
- having office at Pune)
- Add: C/o: Shri A.V. Bandiwadekar)
- 9, "Ram Kripa", Lt. Dilip Gupte Marg)
- Mahim, Mumbai 400 016.)...**Applicants**

Versus

1. The State of Maharashtra)
Through the Addl. Chief Secretary,)
Home Department, Mantralaya,)
Mumbai 400 032.)
2. The State of Maharashtra,)
Through the Principal Secretary,)
Finance Department,)
Mantralaya, Mumbai 400 032.)
3. The Director General and Inspector)
General of Police, [M.S],)
Having office at Old Council Hall,)
Shahid Bhagatsinh Marg,)
Mumbai 400 039.)

4. The Addl. Director General of Police)
 Maharashtra State, CID,)
 Having office at Chavan Nagar,)
 University Road, Pune-8.)...**Respondents**

3) ORIGINAL APPLICATION NO 317 OF 2013

1. Shri Ramesh Mahadev Chavan)
 2. Shri Ramesh R. Satkar)
 3. Shri Sameer Ismail Shaikh)
 4. Shri Sunil Dattatraya Mane)
 5. Shri Suresh Balkrishna Rangdal)
 All are working as C.I.D,)
 Senior Technical Assistants)
 in the offices at Mumbai, Pune etc)
 under the Administrative control)
 of the Respondent no. 4,)
 having office at Pune)
 Add: C/o: Shri A.V. Bandiwadekar)
 9, "Ram Kripa", Lt. Dilip Gupte Marg)
 Mahim, Mumbai 400 016.)...**Applicants**

Versus

1. The State of Maharashtra)
 Through the Addl. Chief Secretary,)
 Home Department, Mantralaya,)
 Mumbai 400 032.)

2. The State of Maharashtra,)
Through the Principal Secretary,)
Finance Department,)
Mantralaya, Mumbai 400 032.)
3. The Director General and Inspector)
General of Police, [M.S],)
Having office at Old Council Hall,)
Shahid Bhagatsinh Marg,)
Mumbai 400 039.)
4. The Addl. Director General of Police)
Maharashtra State, CID,)
Having office at Chavan Nagar,)
University Road, Pune-8.)...**Respondents**

4) ORIGINAL APPLICATION NO 318 OF 2013

1. Shri Kailash Narayan Banswal)
2. Shri Sachin Dattatraya Panse)
All are working as C.I.D,)
Assistant Photographers)
in the offices under the)
Administrative control)
of the Respondent no. 4,)
having office at Pune)
Add: C/o: Shri A.V. Bandiwadekar)
9, "Ram Kripa", Lt. Dilip Gupte Marg)
Mahim, Mumbai 400 016.)...**Applicants**

Versus

1. The State of Maharashtra)
Through the Addl. Chief Secretary,)
Home Department, Mantralaya,)
Mumbai 400 032.)
2. The State of Maharashtra,)
Through the Principal Secretary,)
Finance Department,)
Mantralaya, Mumbai 400 032.)
3. The Director General and Inspector)
General of Police, [M.S],)
Having office at Old Council Hall,)
Shahid Bhagatsinh Marg,)
Mumbai 400 039.)
4. The Addl. Director General of Police)
Maharashtra State, CID,)
Having office at Chavan Nagar,)
University Road, Pune-8.)...**Respondents**

5) ORIGINAL APPLICATION NO 319 OF 2013

1. Shri Chitrasen Bhimrao Mayachari)
working as C.I.D, Foreman)
in the office under the)
Administrative control)
of the Respondent no. 4,)
having office at Pune)

Add: C/o: Shri A.V. Bandiwadekar)
 9, "Ram Kripa", Lt. Dilip Gupte Marg)
 Mahim, Mumbai 400 016.)...**Applicants**

Versus

1. The State of Maharashtra)
 Through the Addl. Chief Secretary,)
 Home Department, Mantralaya,)
 Mumbai 400 032.)
2. The State of Maharashtra,)
 Through the Principal Secretary,)
 Finance Department,)
 Mantralaya, Mumbai 400 032.)
3. The Director General and Inspector)
 General of Police, [M.S],)
 Having office at Old Council Hall,)
 Shahid Bhagatsinh Marg,)
 Mumbai 400 039.)
4. The Addl. Director General of Police)
 Maharashtra State, CID,)
 Having office at Chavan Nagar,)
 University Road, Pune-8.)...**Respondents**

Shri A.V. Bandiwadekar, learned advocate for the Applicants.

Shri A.J Chougule, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)
Shri R.B. Malik (Member) (J)

DATE : 21.08.2014

PER : Shri Rajiv Agarwal (Vice-Chairman)

ORDER

1. Heard Shri A.V. Bandiwadekar, learned advocate for the Applicants and Shri A.J Chougule, learned Presenting Officer for the Respondents.

2. All these Original Applications heard together and are being disposed of by a common order as the issues to be decided are identical.

3. The Applicants are working in the Government Documents, Handwriting and Photographic Section in the office of the Additional Director General of Police, C.I.D., Pune, the Respondent no. 4. This office of Additional Director General of Police, C.I.D., has Finger Print section and a section of Government Documents and Handwriting and Photographic section. The present Original Applications are regarding grant of higher pay scale to different posts in Government Documents and Handwriting and Photographic section of the State C.I.D which have already been granted to Finger Print section.

4. Learned Counsel for the Applicants argued that way back in 1978, a Sub-Committee appointed by Government of India in its meeting held on 18.4.1978 had made various recommendations regarding posts in Finger Print Bureau of the State Police. It has recommended that the posts of Photographer and Assistant Photographers may be at the level of Police Inspector and Police Sub-Inspector respectively. Respondent no. 3 (the State D.G.P) had accordingly requested the Respondent no. 2 (the Home Department) on 8.2.1999 to give pay scale as per Annexure 'C'. For the Fifth Pay Commission to the Photographers the Respondent no. 3 has suggested the following pay scales:-

Sr. No.	Post	Pay scale approved	Pay scale suggested
1.	Chief Photographer	4500-7000	7450-11500
2.	Photographer	4500-7000	7450-11500
3.	लघुचित्र Photographer	4500-7000	6500-10500
4.	Assistant Photographer	4000-6000	5500-9000
5.	Senior Technical Assistant	4000-6000	4500-7000
6.	Junior Technical Assistant	3900-4900	4000-6000

In Annexure 'A' of the aforesaid letter, there were recommendations in respect of persons working in Finger Print Section. By G.R dated 9.5.2000, the same were accepted. However, no orders were issued in respect of persons working in Hand Writing and Photography

section. The Respondent no. 4 by letter dated 1.12.2001 to the Respondent no. 3 brought out this anomaly when both the sections are working in the State C.I.D and pay scale of only one section were improved leading to feeling of despondency among the personnel working in the other section. The Respondent no. 3 by letter dated 23.12.2004, once again requested that personnel of the Handwriting & Photograph Section should get the same pay scale as are applicable to their counter parts in the Central Government.

5. After the implementation of the Sixth Pay Commission, Respondent no. 1 appointed a Pay Anomaly Removal Committee (वेतनत्रुटि निवारण समिती) by G.R dated 21.5.2009. The Respondent no. 4 wrote on 21.7.2009 to the Respondent no. 1 that the pay scale given to Finger Print Section may be given to the Government Documents and Handwriting & Photograph Section also. Learned Counsel for the Applicants argued that in other departments of Government of Maharashtra, Photographers have been given Pay Band of Rs. 9300-34800 with Grade Pay of Rs. 4300 in the School Education and Sports Department. Senior & Junior Technical Assistants in Medical Education and Drugs Department have been given Pay Band of Rs. 9300-34800 with Grade Pay of Rs. 4200 and Rs. 5200-20200 with Grade Pay of Rs. 2000. In Agriculture and ADF Department Foreman Engineer has been given Pay Band

of Rs. 9300-34800 with Grade Pay of Rs. 4300, the same as in Dairy Development Department for Foreman (Depot/Transport/Traffic). In the Home Department, Anti Corruption Bureau, Scientific Officer (Photography) has been given Grade Pay of Rs. 4400 in the Pay Band of Rs. 9300-34800. In Forest Department, Foremen is given Grade Pay of Rs. 4300 while Movie Cameraman in Commissionerate of Agriculture has been given grade pay of Rs. 4300. Learned Counsel for the Applicants argued that the Pay Anomaly Removal Committee did not give any finding as regards the Handwriting and Photography section and the matter is not yet resolved. Learned Counsel for the Applicant contended that in Special Civil Application no. 692 of 1987, Hon'ble High Court of Gujarat by order dated 16.10.2002 directed the State Government to ensure that "there should not be very much difference in the pay scales of Police Photographers and Technical Assistants working in the Police Department." Accordingly, the Assistant Photographers were treated as Police Photographers in Gujarat. Learned Counsel for the Applicants argued that Maharashtra Police should also be directed to follow the same principles. Learned Counsel for the Applicants argued that the Respondent no. 2 has not filed any affidavit in reply and adverse inference may be drawn by this Tribunal.

6. Learned Presenting Officer (P.O) argued on behalf of the Respondents that the Applicants are asking this Tribunal to act as Pay Commission. The reliefs sought are also in respect of 5th Pay Commission, while the recommendations of the 6th Pay Commission have been implemented w.e.f 1.1.2006. Learned Presenting Officer argued that after the recommendations of the Sixth Central Pay Commission were received, State Government appointed State Pay Revision Committee, 2008, popularly known as 'Hakim Committee' (राज्य वेतन सुधारणा समिती). After considering the report of the Hakim Committee, Government notification dated 22.4.2009 was issued revising pay scales w.e.f 1.1.2006 on the basis of 6th Pay Commission. As some anomalies might have remained, the Government appointed Pay Anomaly Removal Committee by G.R dated 21.5.2009. Learned Presenting Officer argued that this Committee considered the proposal regarding pay revision of the Government Documents and Handwriting and Photography section of State C.I.D and made certain recommendations regarding Chief Governments Document Examiner and Additional Chief Government Document Examiner. Other demands were not pressed before the Committee. Learned Presenting Officer argued that none of the reliefs sought by the Applicants can be accepted.

7. We have scrutinized the material on record and considered arguments on behalf of the Applicants

and the Respondents. We must make our displeasure known that in such important matters involving pay scale of a section of Government employees, which may have adverse impact on the finances of the State, the Respondent no. 2, viz Finance Department has chosen not to file any affidavit in reply.

8. The Applicants have sought the following reliefs:-

9(a) By a suitable order/direction, this Hon'ble Tribunal may be pleased to hold and declare that the Petitioners as Photographers shall be entitled for pay scale of Rs. 6500-10500 as per the 5th Pay Commission recommendations with corresponding pay band of Rs. 9300-34800 with grade pay of Rs. 5000/- for the posts of Photographers and with corresponding pay band of Rs. 5200-20200 with grade pay of Rs. 2800/- for the posts of Photographer as per the 6th Pay Commission recommendations, as has already been recommended by the Respondent no. 3 to the Respondent no. 2 vide report dated 8.2.1999 and accordingly, the Petitioners be granted all the consequential service benefits.

(b) In the alternative and without prejudice to above, by a suitable order/direction this Hon'ble

Tribunal may be pleased to direct the Respondent No. 1 to amalgamate into one the posts of Photographer as Photographer as has been done by the Government of Gujarat vide Notification dated 30.12.2006 on the basis of the decision of the Gujarat High Court in S.C.A no 692 of 1987 decided on 16.10.2002 and that too by invoking the doctrine of “similarly situated persons” and accordingly the Petitioners be granted all the consequential service benefits.

(c) In the alternative and without prejudice to above, by a suitable order/direction, this Hon'ble Tribunal may be pleased to hold and declare that the Petitioners as Photographers shall be entitled for pay scale of Rs. 6500-10500 as per the 5th Pay Commission recommendations with corresponding pay band of RS. 9300-34800 and grade pay of Rs. 5000/- as per the 6th Pay Commission recommendations on the lines on which the counter part of the Petitioners in the Central Government so also in the State of Gujarat have been granted such relief vide G.R dated 30.12.2006 on the basis of the decision of the Gujarat High Court in S.C.A No. 692 of 1987 decided on 16.10.2002 and that too by invoking the doctrine of “similarly situated persons” and accordingly, the Petitioners be granted all the consequential service benefits.

(d) By a suitable order/direction, the Hon'ble Tribunal may be pleased to direct the Respondent No. 1 to accept the report of the Respondent No. 3 dated 13.2.1997, 8.2.1999, 24.1.2002, 3.12.2004 and 8.9.2006 in the matter of change of the nomenclature of 5 posts mentioned therein failing in the Hand Writing and Photography Section with corresponding pay scale mentioned against each such post and accordingly, the Petitioners be granted all the consequential service benefits.”

9. Let us first examine the relief in clause 9(b). The Applicants are seeking implementation of the judgment of Hon'ble Gujarat High Court in S.C.A no. 692 of 1987 decided on 16.10.2002 by invoking doctrine of 'similarly situated persons'. If the relief was sought on the basis of any judgment of Hon'ble Bombay High Court or Hon'ble Supreme Court, our tasks would have been quite easy. However, in the present case, the Applicants are seeking amalgamation of posts of Photographer and Assistant Photographer into one post of Photographer and similarly amalgamating post of Junior Technical Assistant and Senior Technical Assistant to that of single post of Technical Assistant. There are five posts in Maharashtra of the cadre of Photographers in State C.I.D, viz Foreman, Photographer, Assistant Photographer, Senior Technical Assistant and Junior Technical Assistant. As per the affidavit in reply filed by

the Respondent no. 1, the following pay scales have been granted:

Sr No	Post	Pay Scale	Grade Pay
1.	Photographer	5200-20200	Rs. 2800/-
2.	Assistant Photographer	5200-20200	Rs. 2400/-
3.	Senior Technical Assistant	5200-20200	Rs. 2400/-
4.	Junior Technical Assistant	5200-20200	Rs. 2000/-
5.	Foreman	5200-20200	Rs. 2800/-

From this, it is clear that in effect, there is no difference between Foreman & Photographer and Assistant Photographer and Senior Technical Assistant. However, their service conditions are governed by rules framed under Article 309 of the Constitution of India. We are not inclined to give any directions to the Respondents in regard to merger of different cadres when after the 6th Pay Commission, only three effective cadres have remained. We are sure that in due course of time, the Respondents will take appropriate decision regarding nomenclature of these three cadres.

10. As regards entitlement of pay scale in the fifth Pay Commission, we agree with the contention of Learned Presenting Officer that it is hopelessly time barred. After the recommendation of the 5th Pay Commission were implemented, Government had appointed two Committees. Any anomaly in the pay scales which

remained after the report of first Committee was received, were to be placed before Pay Disparity Committee, which had also submitted its report long back. Government in Home Department by letter dated 24.10.2008 had informed the Respondent no. 3 that:

“गुन्हे अन्वेषण विभागांतर्गत छायाचित्रकार व दस्ताऐवज उपविभागातील कर्मचा-यांना सुधारित वेतन मंजूर करणेबाबतचा प्रस्ताव वेतन असमानता समितीने दिनांक २६/१०/२००४ रोजी झालेल्या बैठकीत अमान्य केला आहे. त्याचप्रमाणे सहाय्या वेतन आयोगाच्या शिफारशी केन्द्र शासनाने नुकत्याच स्वीकृत केल्या असल्यामुळे सद्यस्थितीत पाचवा वेतन आयोग व असमानता /त्रुटि संबंधीचे कोणते ही संदर्भ विचारार्थ घेऊ नयेत असे परिपत्रक वित्त विभागाने दिनांक ५/३/२००७ रोजी निर्गमित केले आहे. यास्तव सद्यस्थितीत प्रस्तुत प्रस्ताव अमान्य करण्यात येत आहे.”

A final decision has been taken regarding the Applicants not being entitled to any revised scale in the 5th Pay Commission. As the Pay Disparity Committee had rejected the demand of the Applicant in its meeting held on 26.10.2004, the same cannot be considered at this stage. Relief 9(d) cannot be granted.

11. The Applicants are seeking relief of that on the basis of 6th Pay Commission, their Pay Band and Grade Pay may be brought at par with (a) their counterparts in the Central Government, (b) in other State Government Department and (c) in the Finger Print Section of State

C.I.D. The principle of pay parity in the pay of Central Government employees and the State Government employees has never been accepted. We are also not giving any serious consideration to that demand of the Applicants. Applicants have cited pay scales of Foreman, Photographer, Technical Assistants in Departments like Directorate of Education, Food and Drugs Administration, Commissionerate of Fisheries, Dairy Development Department, Forest Department, Commissionerate of Agriculture etc. It has to be appreciated that the nature of duties of say Foreman in the office of Chief Conservator of Forests may be entirely different from the Foreman in C.I.D, who appears to be supervisor of other Photographers. Qualifications etc may also be different. Similarly Foreman in Dairy Development Department is probably required to supervise transport of Milk. He obviously cannot be equated with Foreman (Photographer). Same is true of Scientific Officer (Photographer) in Anti Corruption Bureau. It cannot be said that nature of duties of this post are identical or even similar to any post of Photographer in C.I.D. We are unable to accept the contention of the Applicants that they are entitled to higher pay scale on the lines of posts of carrying similar nomenclature in other Departments of the State Government.

12. As regards the claim of the Applicants, that personnel in Finger Print Section of the State C.I.D were given higher pay scales long time back. Despite vigorous efforts on the part of the Respondents no 1, 3 & 4, the persons working in Handwriting and Photography section have failed to get any increase in their pay scales. The Applicants should have placed their case before the Pay Anomaly Removal Committee appointed by G.R dated 21.5.2009. Relevant extracts of the aforesaid Committee's report are on page 78-81 of the Paper Book. As regards State C.I.D, scales of the following posts were placed before this Committee.

गुन्हे अन्वेषण विभाग

२०) मुख्य शासकीय दस्ताऐवज परीक्षक

२१) अपर मुख्य शासकीय दस्ताऐवज परीक्षक

२२) शासकीय दस्ताऐवज परीक्षक

२३) सहाय्यक दस्ताऐवज परीक्षक

संघटनेचे अभिप्राय :- निरंक.

From this document, it is clear that the case of the Photographers in State C.I.D was never placed before the aforesaid Committee. It is surprising that the Respondents no 1, 3 & 4 failed to ensure that the matter was placed before the Committee. Para 2 of the Committee's report reads:

“ २. ज्या संवर्गाच्या सुधारित वेतनसंरचेमध्ये त्रुटि आहेत अशी प्रशासकीय विभागाच्या सचितांची/विभागप्रमुखांची खातरजमा झाली असेल, त्या संवर्गाचे वेतनत्रुटी निवारणाचे प्रस्ताव त्यांनी तपासून आवश्यक त्या समर्थजासह ४ प्रतीत दि. २० जुलै, २००९ पर्यंत समितीकडे सादर करावयाचे होते.”

The Respondent no. 1 (Administrative Department) and the Respondent no. 3 (Head of the Department) were responsible to ensure that proposal were submitted to the aforesaid Committee. It is seen that proposal from State C.I.D regarding Examiner of Documents was submitted but apparently not about the Photographers. The Respondent no. 2 can, therefore, not be blamed in the matter.

13. Learned Presenting Officer has relied upon judgments of Hon'ble Supreme Court in **UNION OF INDIA Vs. MAKHAN CHANDRA ROY 1997 AIR SC 2391** and **STATE OF HARYANA & ANR Vs. HARYANA CIVIL SECRETARIAT PERSONNEL STAFF ASSOCIATION (2002) 6 SCC 72.**

In **Makhan Chandra Roy's** case (supra), Hon'ble Supreme Court quoted from earlier judgment in **STATE OF U.P Vs. J.P. CHAURASIA, AIR 1989 SC** as under

“the first question regarding entitlement to the pay scale admissible to Section Officers should not

detain us longer. The answer to the question depends upon several factors. It does not just depend upon either the nature of work or volume of work done by Bench Secretaries. Primarily it requires among others, evaluation of duties and responsibilities of the respective posts. More often functions of two posts may appear to be the same or similar, but there may be difference in degrees in the performance. The quantity of work may be the same, but the quality may be different that cannot be determined by relying upon averments in affidavits of interested parties. The equation of posts of equation of pay must be left to the Executive Government. It must be determined by expert bodies like Pay Commission. They would be the best judges to evaluate the nature of duties and responsibilities of posts. If there is any such determination by a Commission or Committee, the Court should normally accept it. The Court should not try to tinker with such equivalence unless it is shown that it was made with extraneous consideration.”

In **Haryana Civil Secretariat's** case (supra), Hon'ble Supreme Court held that:

“instead of granting a particular pay scale, ordinarily the Court should direct the authority concerned to reconsider the matter. Hence, grant of parity in pay to State Civil Secretariat P.As with

Central Secretariat P.As by High Court merely because the designation was same, without comparing the nature of their duties and responsibilities and qualifications for recruitment and without considering the relevant rules, regulation and executive instructions issued by the employer was held to be improper.”

It is clear that this Tribunal cannot act as a Pay Commission. Anomaly, if any, have to be removed by the expert Committee. It is unfortunate that the Respondents no 1 & 2 did not place the case of Applicants before the Pay Anomaly Removal Committee appointed by G.R dated 21.5.2009.

14. Having regard to the aforesaid facts and circumstances, we do not find that we are in a position to give any relief to the Applicants. The Original Applications stand dismissed with no order as to costs.

Sd/-
(R.B. Malik)
Member (J)

Sd/-
(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai
Date : 21.08.2014
Dictation taken by : A.K. Nair.