

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION 1006 OF 2013

DISTRICT : THANE

1. Shri Shyam Nivrutirao Limbgaonkar)
2. Shri Jayant V. Bharat.)
3. Shri Mohan Motiram Patil,)
4. Shri Satyawan E. Chaudhari.)
5. Shri Ravindranath A. Kulat.)
Occ : as Hostel Superintendent,)
Cum Physical Training Instructor,)
Cum Librarian in different)
Industrial Training Institutes,)
Such as I.T.I, Wangaon, Tal-Dahanu)
Dist-Thane etc.)
Add for service of notice:)
Shri A.V Bandiwadekar,)
Advocate, having office at 9,)
"Ram Kripa", Lt Dilip Gupte Marg,)
Mahim, Mumbai 400 016.)...**Applicant**

Versus

1. The State of Maharashtra)
Through the Principal Secretary,)
Higher & Technical Education Dept.)
Having office at Mantralaya,)
Extension Bhavan, Mumbai 400 032.)

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2. The Director, [Training],)
Vocational Education & Training,)
Directorate, having office at)
3, Mahapalika Marg,)
Mumbai 400 001.)...**Respondents**

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

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

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

DATE : 20.07.2016

PER : Shri Rajiv Agarwal (Vice-Chairman)

ORDER

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

2. This Original Application has been filed by the Applicants who are working as Hostel Superintendent-cum-Physical Training Instructor cum Librarian in different Industrial Training Institute (I.T.Is) seeking two-tier/three-tier pay scales on the lines of what is applicable to Craft Instructors.

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3. Learned Counsel for the Applicants argued that by G.R dated 17.1.2004, 2/3 tier pay structure was made applicable to the Craft Instructors. In a meeting held on 23.8.2007, the Respondents have agreed to extend this 2/3 tier pay structure to the Applicants, by withdrawing the benefits of Time Bound Promotion. The Applicants were asked to communicate their willingness to forgo T.B.P by letter dated 26.11.2007. However, no further steps were taken by the Respondents to extend the benefits of the G.R dated 17.1.2004 to the Applicants. The Applicants are entitled to get relief under the doctrine of 'promissory estoppel'. The Applicants are equally entitled to invoke the doctrine of 'legitimate expectation'. The Respondent no. 2 had submitted a report to the Respondent no. 1 on 26.5.2009 recommending granting of 2/3 tier pay structure to the Applicants. Learned Counsel for the Applicants argued that the pay scale of Hostel Superintendent as on 1.1.1976 was higher than the pay scale of Craft Instructors. However, after the 4th Pay Commission, the pay scale granted to the Craft Instructor was higher than that of Hostel Superintendent, though there was no justification for the same. The Applicants are discharging duties of 3 posts viz. Hostel Superintendent, Librarian and Physical Training Instructors. Their duties are more onerous than the duties attached to the post of Craft Instructors. The Applicants cannot be discriminated in the matter of pay etc. vis-à-vis the Craft Instructors. In fact, the Librarians are held as teachers, so also the Physical Training Instructors. As such, there is a strong case to treat the Applicants' post as equivalent to that of Craft Instructors. Learned Counsel for the Applicants argued that under the Maharashtra Civil

Services (Revised) Pay Rules, 1998, the post of Physical Training Instructor in Higher & Technical Education Department carries the same pay as is admissible to the Craft Instructors in I.T.Is. Even in School Education Department, P.T Instructors were in the same pay scale in 4th Pay Commission. In School Education Department, pay of Hostel Superintendent/Warden carries a pay scale of Rs. 7500-10500 (Vth Pay Commission). However, the Respondents have not considered any of these relevant facts, before rejecting the request of the Applicants by letter dated 17.2.2012 to grant them pay structures as applicable to the Craft Instructors.

4. Learned Presenting Officer (P.O) argued on behalf of the Respondents that the Applicants were working in the post of Hostel Superintendent cum Physical Training Instructors in various I.T.Is. The Government has revised the Staffing Pattern for the Vocational Education and Training Directorate by G.R dated 30.9.2006. In each of the I.T.I, one post of Hostel Superintendent-cum-Librarian cum-Physical Training Instructors was sanctioned. As a result, the nomenclature of the post stood revised. The Applicants are now working as Hostel Superintendent-cum-Librarian-cum Physical Training Instructors in I.T.Is. Learned Presenting Officer stated that up to third Pay Commission, post of Craft Instructor and Hostel Superintendent had identical pay scales viz. Rs. 365-760. However, after Fourth Pay Commission, the pay scales of these two posts were different. After 6th Pay Commission, Hostel Superintendent have been given pay in the pay band of Rs. 5200-20200, while the Instructors are

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given pay in the pay band of Rs. 9300-34000. Learned Presenting Officer stated that recruitment rules for these posts are different. Requirement of educational qualification for the post of Hostel Superintendent is S.S.C and one year certificate in Physical Education, while for Instructors, it is Diploma in Engineering or S.S.C with Trade Certificate in appropriate Trade. Learned Presenting Officer argued that the pay scales of Hostel Superintendents or Physical Training Instructors in other Departments like School Education or Higher & Technical Education Department cannot be compared with the pay scale of Hostel Superintendents in I.T.Is. After recommendation of every Central Pay Commission are received, State Government appoints Pay Revision Committee / Pay Anomaly Committee. If the Applicants had any grievance, they could have approached such Committees. Learned Presenting Officer argued that there is no question of invoking the 'promissory estoppel' or 'legitimate expectation', as the State Government had never taken any decision to grant benefit of G.R dated 17.1.2004 to the Applicants. Learned Presenting Officer argued that there is no merit in this Original Application and it may be dismissed.

5. We find that the Applicants are relying on the minutes of the meeting held under the Chairmanship of Deputy Secretary, Higher & Technical Education Department held on 23.8.2007 to consider the demands of the employees of I.T.Is. One of the subjects discussed was making applicable G.R dated 17.1.2004 regarding 2-3 tier pay scale to, interalia, Hostel Superintendents. It appears that Nagpur Regional Office of the Vocational Education and Training

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Directorate asked Principals of I.T.Is in Nagpur, Gondiya, Chandrapur Pulgaon to collect options from Hostel Superintendents in this regard. Another letter dated 26.5.2009 from the Respondent no. 2 to the Respondent no. 1 contains information about Hostel Superintendents, who were willing to forgo benefit of Time Bound Promotion, in case 2/3 tier pay structure was made applicable to them. According to the Applicants this is evidence that a decision was taken by the Respondents to extend benefit of G.R dated 17.1.2004 to them. They have invoked doctrine of 'Promissory Estoppel' and 'Legitimate Expectations'. Without going into the questions whether these doctrines can be invoked against the Government, we find that no decision was taken by the Respondent no. 1 to grant benefit of G.R dated 17.1.2004 to the Hostel Superintendent. Holding of some meeting to consider the demands of employees or Collection of some preliminary data regarding that cannot be called conclusive evidence that Government had taken such a decision. The claim of the Applicants in this regard is without any foundation and has to be categorically rejected.

6. The other claim of the Applicants is that till 3rd Pay Commission, Hostel Superintendents' pay scale was equal or higher than that was admissible to Instructors. In the affidavit in reply dated 18.9.2014, the Respondents have admitted that in the 3rd Pay Commission, both the posts carried identical pay scale Rs. 365-760. However, from 4th Pay Commission onwards, the pay scale for Hostel Superintendent is lower than that of Instructors. There is no basis for the claim of the Applicants for pay parity with the

Instructors, when nature of duties, recruitment rules and educational qualifications are entirely different. This claim of the Applicants that they are eligible to claim parity in pay scale with Instructors in I.T.I is not tenable. The Applicants have quoted pay scales of Physical Training Instructors / Librarian, who are said to be equivalent to teachers. Probably the Applicants are talking of such persons working in Polytechnics/Colleges. However, there is no basis to compare the post of Hostel Superintendent cum Librarian cum Physical Training Instructors in I.T.Is with Librarians or Physical Training Instructors working in Polytechnics / Colleges.

7. The Applicants were apparently appointed as Hostel Superintendent cum Physical Training Instructors. After G.R dated 30.9.2006 was issued, there post is redesignated as Hostel Superintendent-cum-Librarian-cum Physical Training Instructors. Report of 5th Pay Commission was applied in Maharashtra from 1999 with retrospective effect from 1.1.1996. Similarly, Report of 6th Pay Commission was applied from 2009 with retrospective effect from 1.1.2006. The Applicants could have approached Pay Revision / Pay Anomaly Committee if they had any grievance. This Tribunal cannot decide the issues of pay scales which should be granted to a particular group of employees. In any case, the Applicants have failed to make out any case for granting them pay parity with the Craft Instructors working in I.T.Is.



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

Sd/-

(R.B. Malik)
Member (J)

Sd/-

(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai

Date : 20.07.2016

Dictation taken by : A.K. Nair.