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IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI
ORIGINAL APPLICATION NO.140 OF 2012

DISTRICT : THANE

1. Shri Peter Mingle D'Mello,)
2. Shri Pradipkumar S. Shahani,)
3. Shri Chandrashekhar R. Katkar,)
4. Shri Sandip Y. Sawardekar,)
5. Shri Avadhut B. Devkar,)
6. Shri Uday C. Marathe,)
7. Shri Rajan D. Murkar,)
8. Shri Rajendra C. Shirke,)
9. Shri Vijay B. Kamble,)
10. Shri Vijay S. Rasal,)
11. Shri Mahendra Y. Patade,)
12. Shri Raghunath P. Dhadwad,)
13. Shri Mayur S. Mochemadkar,)
14. Shri Yuvaraj B. Bansode,)
15. Shri Vasudeo J. Jagtap,)
16. Shri Devanand G. Borude,)
17. Shri Shivaji N. Kadam,)
18. Shri Kishor C. Pawar,)
19. Shri Ajay P. Chaudhari,)



20. Shri Madhukar H. Thakare,)
 21. Shri Ramesh G. More,)
 22. Shri Vijay B. Salunke,)
 23. Shri Vijay G. Potdar,)
 24. Shri vasudeo C. Pednekar,)
 25. Shri Satish D. Deore,)
 All aged adult, occ. Government service,)
 working in the Government Polytechnic in)
 different places and posts)
Address for service of notice:)
 Shri A.V. Bandiwadekar, Advocate,)
 9, 'Ram-Kripa', Lt. Dilip Gupte Marg, Mahim,)
 Mumbai 400016)..ApplicantS

Versus

1. The State of Maharashtra,)
 Through Principal Secretary,)
 Higher and Technical Education Deptt.)
 Mantralaya, Mumbai 400032)
 2. The Incharge Director of Technical)
 Education, M.S., Mumbai)
 Technical Education Directorate,)
 3, Mahapalika Marg, Post Box No.1967,)
 Mumbai 400001)



3. The Principal,)
Government Polytechnic, Malwan,)
Taluka Malwan, District Sindhudurg)
4. The Principal,)
Government Polytechnic,)
Thiba Palace Road, Ratnagiri)
5. The Principal,)
Government Polytechnic,)
Jalgaon, Division Nashik)
6. The Principal,)
Government Polytechnic,)
Dhule Division Nashik)..Respondents

Shri A.V. Bandiwadekar – Advocate for the Applicants

Miss Neelima Gohad – Presenting Officer for the Respondents

CORAM : Shri Rajiv Agarwal, Vice-Chairman

Shri R.B. Malik, Member (J)

DATE : 13th July, 2016

PER : Shri Rajiv Agarwal, Vice-Chairman

J U D G M E N T

1. Heard Shri A.V. Bandiwadekar, the learned Advocate for the Applicants and Miss Neelima Gohad, the learned Presenting Officer for the Respondents.


2. This OA has been filed by the Applicants, who were recruited/appointed as Turner, Fitter, Carpenter etc. but who claim that they were doing teaching duties in the workshops attached to the Govt. Polytechnics. The Applicants are seeking redesignation as their posts as 'Workshop Instructors' and are also seeking pay accordingly and at least in the Pay Band of Rs.5200-20200 with Grade Pay of Rs.2800. The Applicants have also challenged GR dated 1.6.2012 by which the Respondent No.1 has prescribed duties of the posts on which the Applicants are working.

3. Learned Counsel for the Applicants argued that the Applicants were recruited in various Govt. Polytechnics in the post of Turner, Fitter, Carpenter, Mechanic etc. on various dates. The Applicants are actually working in the Workshops attached to the Polytechnics and helping the Workshop Superintendent in his teaching duties. This was being done as per instructions of the Respondents. The Applicants had sought information from the Respondent No.2 on 14.9.2010 under the Right to Information Act regarding exact nature of

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their duties. However, though no teaching duties were given to the Applicants as per documents supplied to them by the Respondents on 15.10.2010, they were made to perform teaching duties. The Applicant sought written orders in that behalf, which were not given. Even then they continued to discharge teaching duties.

4. The persons having similar qualifications are appointed as 'Workshop Instructors' in the Industrial Training Institutes (ITIs). The Applicants had submitted a representation on 16.3.2011 demanding 'equal pay for equal work'. Learned Counsel for the Applicants stated that there are various documents showing that the Applicants are discharging teaching duties. The Respondent No.2 to 6 had issued orders from 15.6.2011 to 12.12.2011, which proves this. A committee was set up by the Respondent No.2 to consider various demands of the Association of the Applicants. The Applicants' Association was informed that they were performing teaching duties. When the Applicants refused to perform teaching duties as they were not being paid for that work, the Respondent No.2 issued notices to the Applicant and despite replies to those notices explaining everything, punitive action was taken. Learned Counsel for the Applicants argued that their duties are of teaching nature and not of technical nature. However, the Applicants are not given pay as applicable to Instructors, this violating Article 39(d) of the Constitution of India.



5. Learned Counsel for the Applicants stated that Aurangabad Bench of Hon'ble Bombay High Court in W.P. No.5768 of 2008 by judgment dated 11.11.2008 directed the State of Maharashtra to pay to the petitioners therein, salary for the post on which they were actually working. State Government later issued a GR dated 15.9.2011 to implement the aforesaid decision. The Respondents should not compel the Applicants to do teaching duties, unless suitable pay scale is granted to them. Otherwise, the Applicants should be allowed to discharge technical duties. The Applicants cannot be denied monthly salary on their refusal to discharge teaching duties. Learned Counsel for the Applicants stated that during the pendency of this OA, the Respondent No.1 issued a GR dated 1.6.2012 laying down duties and responsibilities of the supporting staff in Government Polytechnic and Engineering Colleges.

6. This GR is unconstitutional as it does not take into account the duties and responsibilities in the nature of conducting practical in the workshops of Polytechnics. It is necessary that a new cadre of 11 posts in workshops be created for the Applicants giving them status of the Teachers. A three Member Committee appointed by the Respondent No.2 had recommended creation of a separate cadre of the employees



working in the Workshops. Learned Counsel for the Applicants stated that there are 11 types of posts viz.:

- 1) Turner
- 2) Fitter
- 3) Carpenter
- 4) Pattern Maker
- 5) Welder
- 6) Molder
- 7) Machinist
- 8) Blacksmith
- 9) General Mechanic
- 10) Plumber
- 11) Sheet Metal and Plumber

7. There have been proposals to change the nomenclature of these posts at various points in time and to treat them as 'Instructors'. There are similar posts in other establishments of the State Govt. but the incumbents are required to do the work of manufacturing and repairs, while the Applicants are required to assist in teaching. The posts of Applicants cannot be compared with the posts of Laboratory Assistants.

8. Learned Presenting Officer (PO) argued on behalf of the Respondents that the Applicants in this OA are demanding

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that they may be given status of 'Instructor', while they are appointed as Tradesmen. The Applicants are interpreting work being done by them as 'teaching', while in fact, they are assisting the 'Workshop Superintendent' in conducting practical classes for the students in Polytechnics. The Applicants claim that the nature of their duties is different from those discharged by 'Laboratory Assistants'. In fact, their duties are exactly similar in nature. The Applicants have no qualifications, which will entitle them to be appointed in higher pay scales. The posts of Turner, Fitter, Carpenter etc. have been granted in Engineering Colleges and Polytechnics to assist the Workshop Superintendents and other faculty members in conducting practical classes for the students and for maintenance and record keeping of Workshop equipment. In addition to 14 trades, other posts like Radio Mechanics, Motor Mechanics, Electrician, A.C. Mechanics are also created in various Engineering Colleges and Polytechnics for assisting faculty members in conducting practical classes. Detailed job chart for these posts was not formulated and the Applicants started claiming that they were forced to do teaching jobs. An interim circular dated 14.10.2011 was issued by the Respondent No.2 clarifying job responsibilities of the posts held by the Applicants. When the Applicants failed to discharge the duties accordingly, action was taken, which is also challenged in the present OA. Learned PO argued that the job responsibilities of 'Instructors' in the Industrial Training

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Institutes are quite different from the job responsibilities of the Applicants, as per GR dated 1.6.2012. This GR was issued after Govt. took a comprehensive review of technical supporting staff, including staff working in Workshops and Laboratories in Polytechnics and Engineering Colleges. There are a total of 790 employees in this cadre, 361 working in Workshops and 429 working in various Laboratories. Learned PO argued that Teachers in Polytechnics and Engineering Colleges are required to have minimum qualification of Bachelor of Engineering in 1st Class. Obviously, these teachers cannot be compared with the teachers (Instructors) in ITIs who are required to have much lower qualifications. In Polytechnics and Engineering Colleges, theory classes (called Lecturers) and practical classes (called Practicals) are conducted by Teachers. Practical classes are held in Workshops and Laboratories. In Workshops, the classes are held by Workshop Superintendents, who are teachers, while in Laboratories, practical classes are held by teachers. Both in Laboratories and Workshops, supporting technical staff is appointed to assist the teachers and for repairs and maintenance of equipment and for record keeping etc. The Applicants are required to perform duties of this very nature, which are no different from duties discharged by Laboratory Assistants or AC Mechanics, Radio Mechanics, Motor Mechanics etc.



9. Learned PO argued that in Workshops, there are higher posts like Chargeman and Foreman and they are also not given any teaching duties. Learned PO argued that there is nothing objectionable or prejudicial to the Applicants in GR dated 1.6.2012, which is applicable to all Workshop Assistants and Laboratory Assistants in Govt. Engineering Colleges and Polytechnics. Learned PO stated that there are 45 institutes in Maharashtra which award diplomas in various Engineering and other disciplines. Out of these, 38 are Polytechnics, all of which have one sanctioned post of Workshop Superintendent in the Maharashtra Engineering College Teachers Services Group 'A' Cadre. Workshop Superintendents are treated at par with Lecturers in Polytechnics. The minimum qualification is Bachelor's degree in Engineering in First Class. The Applicants are not given any teaching work. They only assist the students during practical classes. Actual teaching is done by the Workshop Superintendents only. Learned PO stated that there were posts of Workshop Assistants in ITIs also, which have since been abolished. The pay scale of Craft Instructor in ITI is Rs.9300-34800 plus grade pay of Rs.4300, while for subordinate technical staff in Polytechnics, it is Rs.5200-20200 with grade pay of Rs.2400. However, nature of duties is totally different.

10. It appears that the demands of the Applicants can be summarized in 3 broad categories, viz.

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(i) A separate cadre of 14 trades (which they call 'caste based trades'), be created as the nature of job discharged by them is different from Laboratory Assistants etc. 2/

(ii) The Applicants are discharging teaching duties, and as such, they be given status and pay of 'Instructors', on the lines of the Instructors in ITIs.

(iii) The Applicants, if they are not given teaching responsibilities, should not be asked to do such work. The action taken against them for refusal to do teaching work should be revoked and GR dated 1.6.2012 is unconstitutional, as it should also be revoked.

The Respondents case is that all Applicants are part of a cadre of Assistant Technical Staff in Govt. Engineering Colleges and Polytechnics. 790 employees are working in this cadre out of which 361 employees are working in Workshops while 429 are working in Laboratories. Only 77 employees working in Workshop are not following circular dated 14.10.2011, and as these persons were not discharging duties as delineated in this circular, action was taken against them. The teaching responsibilities in Govt. Engineering Colleges and Polytechnics are entrusted to the teachers, who are required to have minimum qualification of Bachelor's degree in Engineering

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in 1st class. For holding practical classes in Workshops, in each of the 38 Polytechnics, there is one post of Workshop Superintendent, who is equivalent to Lecturer. Like other teachers holding practical classes in Laboratories, who are assisted by laboratory Assistants, the Applicants are required to assist the Workshop Superintendent in holding practical classes in Workshops. The Applicants are not discharging any teaching duties. It is quite true that in Laboratories/Workshop practical training is imparted to the students. The Applicants obviously cannot be appointed as teachers for holding practical classes in Workshops, as they do not have necessary qualifications for that post. Already Workshop Superintendents are appointed to discharge that responsibility. The Applicants are claiming that they are forced to discharge duties of teaching nature. However, by circular issued by the Respondent No.2 on 14.10.2011 (Exhibit 'C' page 52 of the paper book), the duties of the Applicants were clearly laid out for the first time. It is claimed that duties at Sr. No.6,9 and 12 are purely of teaching nature, which the Applicants refused to discharge as they were required to be discharging duties of a technical nature only. This circular was replaced by GR dated 1.6.2012, which has the following 8 duties for the Applicants and other persons in Assistant Technical staff: विज्ञान

“कर्तव्ये व जबाबदाऱ्या :-

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

These duties are common to the trades in which the Applicants are working as well as the other tradesmen like Motor Mechanic, Radio Mechanic, AC Mechanics. It also applies to the Laboratories Assistants. We do not find anything objectionable in this list. If the Applicants are asked to assist the students in completing practicals, we do not understand what is objectionable in that. Though the Applicants have given voluminous objection to this GR, we do not find anything which causes prejudice to them or which requires anything out of ordinary from them. When other tradesmen and

Laboratories Assistants are given the same duties, there is no reason for the Applicants to feel aggrieved. Probably now that their duties are clearly and unambiguously delineated, the Applicants will not be able to claim that they are doing duty of teaching nature and that is their grievance. The Applicants were employed to work in the Workshops, and they should have no objection to perform those duties as required by the employer. These duties cannot be called of teaching nature.

11. The Applicants' claim that the nature of their duties is different from that of Laboratory Assistant is clearly untenable, especially when both are entrusted with identical duties. Both are required to assist the Lecturer (Workshop Attendant) in holding practical classes. The job of repairs and maintenance of equipment in Laboratories/Workshop and safekeeping of such equipment is necessarily their job. Help to the students in completion of practical work is not the full time job and in any case, it cannot be called a teaching job. The Applicants have not been able to show that they were doing any teaching job and also the GR dated 1.6.2012 does not ask them to do any teaching them. There is no ground on which this GR can be called unconstitutional. It is not arbitrary, nor is it discriminatory. The Applicants' challenge to the validity of this GR must fail.

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12. The Applicants' clam that they are entitled to be called 'Instructors' does not require any further comment as it is totally without foundation.

13. The Applicants' claim that the qualification required for the post to which they are appointed are same as required for appointment to the post of Craft Instructor in ITIs viz. SSC and ITI Course Certificate in the appropriate trade. This may be true. However, the Instructors in ITIs are required to impart education of a nature which has no comparison with the nature of education in an Engineering College or a Polytechnic. ITIs are imparting mostly training in various trades, while the Polytechnics and Engineering Colleges are required to impart education of much higher standard. The duties entrusted to Workshop Assistant or Assistant Technical Staff in Polytechnics are totally different from the duties of Craft Instructors in ITIs. Just because basic qualifications of two posts are similar, both the posts need not necessarily carry the same pay scale. For selection to different posts, different selection criteria are applied. To give an example, a graduate can become a Talathi or be appointed to All India Services. However, on the same analogy, a Talathi cannot demand that he should get the same pay as a member of an All India Service. This claim of the Applicant they should be given pay parity with Instructors in ITIs is misconceived. In fact, as they are not doing the same

work as being done by Instructors in ITIs, there is no question of application of principle of Equal Pay for Equal Work.

14. The Applicants have relied on the judgment of Aurangabad Bench of Hon'ble Bombay High Court in W.P. No.5768 of 2008. The Petitioner therein was actually working as Wireless Operator while he was appointed as Labourer on daily wages. Here the facts are quite different. The Applicants are appointed as Assistant Technical staff. There was no clarity in the nature of duties assigned to them. The same has been removed by GR dated 1.6.2012. They are not appointed in one post and asked to work in another. The case is clearly distinguishable.

15. Learned Counsel for the Applicants has relied on the judgment of Hon'ble Supreme Court in **AJMER VIDYUT VITRAN NIGAM AND OTHERS VERSUS NAVIN KUMAR SAINI, (2013) 1 SCC (L&S) 426**. It is held that relevant consideration for parity in pay is qualitative nature of responsibility. In the present case, the claim of the Applicants that they were compelled to discharge duties of teaching nature is not established. There are regular teachers appointed for the job and not the Applicants. The Applicants were merely assisting the students in their practicals. The position is now clarified by GR dated 1.6.2012. This case is clearly distinguishable.



16. It is seen that the disciplinary action against the Applicants was started for their refusal to follow instructions of the Respondent No.2 in Circular dated 14.10.2011. The Applicants refused to work as per this circular claiming that jobs at Sr. No.6, 9 and 12 in the circular were of teaching in nature and as they were neither given any teaching duties nor being paid for doing teaching duties, they refused to discharge those jobs.

17. The Applicants conduct in refusing to obey the orders of superiors is difficult to condone. However, now that a GR delineating their duties clearly and unambiguously is issued on 1.6.2012 and all of them have started discharging their duties, this issue, it is hoped, will be settled amicably. However, no blanket orders can be passed by us. If any employee is aggrieved by a specific order, he has to first take remedy available to him under relevant rules. There is no need to say anything further.


18. The Applicants have produced voluminous material in their endeavour to demonstrate that how various committee and other authorities have found merit in their claim that they were/are discharging duties of teaching nature. If by teaching duties, it is meant that they are discharging duties akin to or similar to duties discharged by the Instructors in ITIs, that

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claim is totally unfounded. Ultimately, the Govt. have clarified their duties (and duties of other similarly placed employees) by issuing GR dated 1.6.2012. By no stretch of imagination, the Applicants can claim parity with ITI Instructors. It is clear that duties are similar to duties of Laboratories Assistant. Their claim that they are discharging teaching duties is totally unfounded.

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

Sd/-
(R.B. Malik)
Member (J)
13.7.2016

Sd/- 
(Rajiv Agarwal)
Vice-Chairman
13.7.2016

Dictation taken by: S.G. Jawalkar.