

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.16/2010.

(D.B.)

Ramesh Vasantao Jagtap,
Aged about 56 years,
R/o 74, Kalpataru Colony, Anuradha Nagar,
Amravati-444 601.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Vocational Education & Training,
Mantralaya, Mumbai-32.
2. The Deputy Director,
Vocational Education & Training,
Regional Office, Morshi Road, Amravati.
3. The Principal,
Industrial Training Institute,
Morshi Road, Amravati.

Respondents

Shri G.K. Bhusari, the Ld. Advocate for the applicant.
Shri A.M. Khadatkhar, the Ld. P.O. for the respondents.

Coram:-Shri J.D. Kulkarni, Vice-Chairman (J)
and
Shri Shree Bhagwan, Member (A)

JUDGMENT

(Delivered on this 10th day of August 2018.)

Per:-Vice-Chairman (J)

Heard Shri G.K. Bhusari, the learned counsel for the applicant, Shri A.M. Khadatkar, the learned P.O. for the respondents.

2. The applicant had joined the service on 1.12.1976 at Nandurbar as Instructor in Maths. Thereafter he applied for request transfer from one region to another and vide order dated 16.3.1999, he came to be transferred to Amravati region. According to the applicant, the Government has issued G.Rs dated 8.12.1995 and 8.3.1999 thereby extending the benefit of selection grade pay scale after completion of 24 years of service. The applicant has completed 24 years of service on 1.12.2000 and is entitled to get the said benefit. However, the said benefit has not been granted to the applicant. The applicant has, therefore, prayed that the respondents be directed to grant him benefit of selection grade pay scale in view of G.Rs dated 8.12.1995 and 8.3.1999 w.e.f. 1.12.2000.

3. The respondent No.2 i.e. the Deputy Director, Vocational Education & Training, Regional Office, Amravati filed reply affidavit. It is stated that the seniority of Instructors who were transferred out of region on request, was to be counted from the date of their joining in new region. The applicant was transferred out of region and joined at Amravati region on 8.7.1994 and, therefore, his

seniority in the cadre of Math. Instructors is accordingly shown and he is placed at Sr. No.12 in the seniority list. It is further stated that the applicant is not fulfilling the requisite criteria of 20% employees from the same cadre and as per the seniority, the applicant cannot claim selection grade. The applicant's seniority number was at Sr. No.12 and only six employees were entitled to claim selection grade pay scale and, therefore, the applicant is not entitled.

4. The learned counsel for the applicant has relied on two G.Rs dated 8.12.1995 (Annexure A-6 at page Nos. 21 to 23) and another G.R. is dated 8.3.1999 at (Annexure A-7 at page Nos. 29 to 31 (both inclusive). The G.R. dated 8.12.1995 states about the procedure to apply selection grade to the officers. From the said G.R., it seems that the Government has decided to grant selection grade pay scale to the Instructors who have completed 24 years of service on or after 1.1.1986. However, while considering the said selection grade, those Instructors working in private schools were to be considered at 20% i.e. for getting selection grade. Instructors must come within the quota of 20%. Relevant condition in the G.R. is as under:-

“या मागणीचा साकल्याने विचार करून शासन आता असे आदेश देत आहे कि, दि. १.१.१९८६ पासून वरिष्ठश्रेणीत वेतन घेणाऱ्या व

दि. १.१.१९८६ वा तदनंतर २४ वर्षाची सेवा पूर्ण झालेल्या खाजगी माध्यमिक शाळांतील तसेच अध्यापक विद्यालयातील वरिष्ठश्रेणीत वेतन घेणाऱ्या शिक्षकांपैकी २० टक्के शिक्षकांना दि. १.१.१९८६ पासून निवडश्रेणी मंजूर करण्यात यावी. मात्र या शिक्षकांना शासन निर्णय शिक्षण व सेवायोजन विभाग दि. २.९.१९८९ सोबत जोडलेल्या परिशिष्टामध्ये निवडश्रेणी प्राप्त करण्यासाठी विहित केलेल्या इतर सर्व अटीची पूर्तता करणे आवश्यक आहे."

5. As per another G.R. dated 1.1.1986 (Annexure A-7), it was stated that those who have completed 12 years of continuous service as on 1.1.1996 or thereafter, will get senior grade and those who have completed 24 years of service will get selection grade. The learned P.O. has also invited our attention to the G.R. dated 3.10.2002 issued by the Government which is at Annexure A-9 at Page Nos. 37 to 40 (both inclusive). In the said G.R., a specific criteria has been mentioned for those who are transferred from one region to another region and the criteria is as under:-

१.	विभागीय बदली झालेल्या निदेशकाला द्विस्तरीय (वरिष्ठ) / त्रिस्तरीय (निवड) वेतनश्रेणी कश्याप्रकारे मंजूर करण्यात यावी ?	एका विभागातून दुसऱ्या विभागात निदेशक पदावर विनंतीने बदली झालेल्या कर्मचाऱ्यांच्या बाबतीत त्यांनी सेवाज्येष्ठता नवीन विभागात ते ज्या दिनांकापासून रुजू झाले त्या दिनांकापासून धरण्यात येते. मात्र वरिष्ठश्रेणी निदेशक संवर्गातील १२ वर्षांची अर्हताकारी सेवा पूर्ण झालेल्या कर्मचाऱ्यांस अनुज्ञेय ठरत असल्याने बदली झालेल्या अशा कर्मचाऱ्यांस वरिष्ठ वेतनश्रेणीचा लाभ देण्याकरिता त्याची निदेशक पदावरील पूर्वीची सेवा विचारात घेण्यात यावी.
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		तथापि निवडश्रेणीकरिता नवीन विभागातील ज्येष्ठतेनुसार निवडश्रेणीचा लाभ त्यांना अनुज्ञेय नाही.
२	१२ / २४ वर्षासाठी कोणती सेवा ग्राह्य धरावी ?	१२ अथवा २४ वर्षांच्या अर्हताकारी सेवेनंतर वरिष्ठ अथवा निवडश्रेणीचा लाभ हा संबंधीत पदधारकाने त्या पदावर केलेल्या सेवेच्या अनुषंगाने द्यावयाचा आहे. इतर कोणत्याही पदावरील सेवा त्याकरिता विचारात घेतली जाणार नाही.

6. The applicant has not challenged the G.R. dated 30.10.2002 which is explanatory in nature and it shows that the seniority of Instructors who have changed region, will be from the date of joining in the new region. In fact, this condition seems to be not proper. However, same has not been challenged. The learned counsel for the applicant has placed reliance on the judgment reported in **Union of India and another V/s V.N. Bhat, 2004 SCC (L&S), 167**, wherein it is held that, “even on voluntary transfer, the employee loses his seniority and not other benefits and cannot be deprived of his experience and eligibility for promotion.” In view of this, the respondents ought to have considered the applicant’s service even prior to the change of region and thereafter applicant’s claim ought to have been considered.

7. The learned P.O. has invited our attention to the seniority list placed on record at (Annexure R-2, Page 84), from which

it seems that the applicant stands at Sr. No.12. It is an admitted fact that, only six persons in the said list have been given selection grade, as they fall within the ambit of 20% quota for private schools. It is, however, not clear from the said chart as to whether while considering the seniority, applicant's previous service i.e. the services prior to his change of region have been considered or not. Considering this aspect, instead of rejecting the claim of the applicant straightway, it will be in the interest of justice and equity to direct the respondents to re-consider the case of the applicant and even after considering the applicant's continuous service from the date of joining of his post, if the applicant is eligible for senior scale as per 20% quota as per G.Rs dated 8.12.1995 and 8.3.1999, the applicant may be considered for such relief and, therefore, following order is passed:-

ORDER

- (i) The O.A. is partly allowed.
- (ii) The respondents are directed to re-consider the case of the applicant as stated in foregoing paras and to take a decision as to

whether the applicant falls within the ambit fo
G.Rs dated 8.12.1995 and 8.3.1999.

- (iii) Such decision shall be taken within a period of two months from the date of this order and shall be communicated to the applicant in writing.
- (iv) No order as to costs.

(Shree Bhagwan)
Member (A)

(J.D.Kulkarni)
Vice-Chairman(J)

Dt. 10th August 2018.

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