

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 222 of 2013 (S.B.)

- (1) Ramesh Suresh Rao Mawaskar,
Aged about 43 years,
Occ. Dy. Commissioner (Supply),
R/o Narendra Nagar, Nagpur.
- (2) Deorao S/o Krishnarao Wankhede,
Aged about 45 years,
Occ. District Supply Officer, Gadchiroli.
- (3) Ramesh Shesh Rao Ade,
Aged about 44 years,
Occ. Food Grain Distribution Officer,
R/o Narendra Nagar, Nagpur.
- (4) Anil S/o Haridasji Bansod,
Aged about 43 years,
Occ. Food Grain Distribution Officer,
R/o Navin Subhedar Layout, Nagpur.
- (5) Prashant Sudhakar Rao Kale,
Aged about 45 years,
Occ. District Supply Officer, Nagpur.
- (6) Liladhar Jagannath Wardekar,
Aged about 51 years,
Occ. Assistant Food Distribution Officer,
Nagpur.
- (7) Rajendra Ramaji Chandurkar,
Aged about 52 years,
Occ. District Supply Officer, Amravati.
- (8) Rajendra R. Miskin,
Aged about 48 years,
Occ. District Supply Officer, Washim.
- (9) Ramesh Dhondbaji Bhende,
Aged about 44 years,
Occ. District Supply Officer, Chandrapur.

- (10) A.S. Tankasale,
Aged about 42 years,
Occ. District Supply Officer, Buldhana.
- (11) Naresh Wanjari,
Aged about 44 years,
Occ. District Supply Officer, Akola.
- (12) A.K. Savai,
Aged about 48 years,
Occ. District Supply Officer, Gondia.

Applicants.

Versus

- 1) The State of Maharashtra,
through its Secretary,
General Administration Department (Services),
Mantralaya, Mumbai-32.
- 2) The State of Maharashtra,
through Secretary (Finance and Accounts),
Finance Department, Mantralaya, Mumbai-32.
- 3) The State of Maharashtra,
through its Secretary,
Food and Civil Supply Department,
Mantralaya, Mumbai-32.

Respondents

Shri S.P. Palshikar, Advocate for the applicants.

Shri A.P. Potnis, Id. P.O. for respondents.

**Coram :- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J).**

JUDGEMENT

(Delivered on this 19th day of December,2017)

Heard Shri S.P. Palshikar, learned counsel for the applicants and Shri A.P. Potnis, learned P.O. for the respondents.

2. The applicants were appointed in different cadres such as Assistant Food grain Distribution Officer, Purchase Officer, Technical Officer and now they are working as Dy. Commissioner, District Supply Officer, Assistant Food Grain Distribution Officer and Assistant District Supply Officer.

3. According to the applicants, as per service recruitment rules, in the ratio of 50:50, i.e., 50% persons were to be considered and appointed to the post of Assistant District Supply Officer, Purchase Officer / Technical Officer from the Revenue Department and remaining 50% were to be appointed from the Food Civil Supplies Department. The applicants were getting pay scale of Rs.7450-11500 before the 5th Pay Commission. The Officers appointed from the Revenue Department were also getting the same pay scale.

4. As per the Notification issued by the Government of Maharashtra in General Administration Department (GAD) on 2/7/2001, the employees who are working in the pay scale of Rs.7450-11500 are treated as Grade-A employees. A corrigendum to that effect has been issued on 21/5/2005 giving Grade-A to the Technical Officer of Grade-B (Gazetted) and as such there is no dispute that the applicants are working as Grade-A (Gazetted officer).

5. The Government of Maharashtra constituted the 6th Pay Commission to revise the pay scales of the Government employees.

The pay scale of the Officers' who were working in the Revenue Department was fixed at Rs.15600-39100 with GP of Rs.5000. However, similarly situated Officers like the applicants from Food and Civil Supplies Department have been granted pay scale of Rs. 9300-34800 with Grade Pay of Rs.4600. This is nothing but discrimination.

6. Being unsatisfied by the discrimination as above, the applicants preferred representations on 8/6/2009 and 15/6/2009 to the appropriate authority and requested that their pay scales be corrected and they shall also be given pay scale of Rs.15600-39100 with Grade Pay of Rs.5000. A personal hearing was also given to the applicants and therefore the applicants were under impression that in due course of time their pay scales will be fixed properly at par with the employees who were transferred or promoted from the Revenue Department. However, their requests have not been considered and hence this O.A. The applicants have prayed as under :-

“(i) Call for the entire record from the Pay Anomaly Committee regarding fixation of Pay Scale of the applicants and after perusal of the same, further be pleased to hold and declare that the applicants are entitled to get Pay Scale of Rs.15600-39100 with Grade Pay of Rs.5000/- w.e.f. 1/1/2006”.

7. Earlier the reply has been filed by the respondents on 24/9/2014 which was signed by the Divisional Commissioner, Nagpur

and he tried to justify the pay scales of the applicants. Thus, it is stated that the cadre of the applicants is not equivalent to Tahsildar cadre and therefore they cannot be given pay scale equal to the Tahsildar cadre.

8. Vide order dated 7/3/2017 this Tribunal has observed that the matter was referred to Pay Anomaly Committee which has not recommended any change in the pay band and grade pay of the officers like the present applicants working in Food and Civil Supplies Department. It was observed that the decisions in such matters of Pay Commission are to be taken by the Finance Department of the State Government and therefore it was necessary that the Finance Department shall file affidavit. This Tribunal therefore directed the Finance Department to file affidavit in the O.A.

9. In pursuance of the aforesaid order dated 7/3/2017 the Deputy Secretary of Finance Department of Government of Maharashtra has filed affidavit in the matter on 31/3/2017. The Secretary of Finance Department (R/2) has stated in the affidavit as under :-

“(5) It is submitted that the duties and responsibilities of Tahsildar cadre and above mentioned cadre of Supply Department are of totally different nature. Besides, responsibility of Supply Officer, Tahsildar handles the work of law and order in taluka, taluka magistrate, census, election, relief and rehabilitation, work related to

land etc., whereas, Supply Officers perform only one responsibility. Hence, it is the fact that this cadre is not equivalent to the Tahsildar cadre. Therefore, it will not be appropriate and lawful to sanction pay scale equal to the Tahsildar cadre.

(6) It is submitted that, after implementation of 6th Pay Commission by Government of India, State Government had appointed 'State Pay Revision Committee, 2008' to recommend revised pay scales to State Government employees. This committee, while recommending the revised pay scales to state cadres had taken into account the existing pay scales sanctioned in the 5th Pay Commission. The Committee, recommended Rs.9300-34800 with grade pay of 4600 to Group B cadre those are drawing pay scale of Rs.7450-11500 and Rs. 9300-34800 with grade pay of 5000 to Group A cadre those are drawing pay scale of Rs.7450-11500 or 7500-12000. The Cabinet specifically sanctioned pay structure of Rs.15600-39100 with grade pay of Rs.5000/- to Tahsildar cadre. Applicants' cadre is Group-B cadre and was getting pay scale of Rs.7450-11500 in the 5th Pay Commission. The pay structure of Rs.9300-34800 with grade pay of Rs.4600 is sanctioned to these cadres.

(7) Once the increased pay scales are made applicable to all the cadres in all the various Departments of Govt., in order to address the grievances/ anomalies if any and to give them an opportunity to be heard and redress these grievances / anomalies, the Pay Anomalies Removal Committee is constituted. The committee examines the grievances/ anomalies if any, that might have arisen due to the new pay revision. The grievance of the applicants, to sanction the pay structure of Rs. 15600-39100 with grade pay of Rs. 5000/- as per the pay structure of Tahsildar was duly considered by the Pay Anomalies Removal Committee and the said Committee made recommendations to the State Government, that these cadre

is not equivalent to the cadre of Tahsildar. The recommendations which were approved subsequently by State Cabinet and accordingly Government Resolution, Finance Department dated 11/02/2013 was issued.”

10. The learned counsel for the applicants Shri S.P. Palshikar submits that the applicants case was sent for favourable consideration as per recommendation and relevant documents in this regard are also placed on record. He invited my attention to the recommendations made to the Pay Anomaly Committee. The documents in this regard are at P.B. page 68 to 74 (both inclusive). Though it is stated that the applicants' case has been recommended for pay scales at par with those Officers coming from Revenue Department like Tahsildar, the report does not show as such. The observations made by the Committee is as under :-

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11. The learned P.O. has placed reliance on the Judgment delivered by this Tribunal at Nagpur Bench in O.A. 565/2013 in case of **Mohd. Iqbal Hussain & Ors. Vs. State of Maharashtra & Ors.**, delivered on 10/03/2017. In the said Judgment the petitioners, who got retired as Police Inspectors (P.I.) and some of whom were working as Police Inspectors / Dy. Superintendent of Police were claiming pay

scale in the post of Police Inspector in the Pay Band -III like those of Tahsildar and not in the Pay Band-II under the 6th Pay Commission. This Tribunal considered the submissions made by the respective parties and dismissed the O.A. giving reference to the Judgment of the Hon'ble Apex Court in **M.P. Rural Agriculture Extension Officers' Association Vs. State of M.P. & Ano. (2004) 4 SCC 646.**

This tribunal observed that the State in its jurisdiction conferred upon it by the proviso appended to the Article 309 of the Constitution of India can unilaterally make or amend the conditions of service of its employees by framing appropriate rules.

12. The Id. P.O. also submits that the Tribunal shall not enter into jurisdiction of revision of Pay Scales. He relied on the Judgment reported in **State of West Bengal Vs. Subhas Kumar Chatterjee & Ors.** in Civil Appeal No. 5538/2008 delivered by the Hon'ble Apex Court on 17/08/2010. He relied on the para 23 of the said Judgment which reads as under :-

“ Whether the Administrative Tribunal can delegate its power of judicial review and confer the same upon a Chief Engineer ? The Tribunals cannot travel beyond the power conferred on them and delegate their essential function and duty to decide service related disputes. Such delegation is abinitio void. It is too elementary to restate that no judicial tribunal can delegate its responsibilities except where it is authorised to do so expressly. The power conferred upon the Administrative Tribunals under the provisions of the said Act flows from Article 323-A of the Constitution. Such

power can never be delegated except under a valid law made by Parliament. The Tribunals by their own act cannot delegate the power to decide any dispute which in law is required to be decided exclusively by such Tribunals.”

13. The learned P.O. also placed reliance on the Judgment reported in **1998 SCC (L&S), 104** in the case of **Union of India & Ors. Vs. Makhan Chandra Roy**. In the said Judgment the Hon. Apex court has considered scope and limits of Tribunal and it was held that the approach of the administrative Tribunal in determining the pay scales under the revised pay rules, which should be granted to the employees, is deprecated. It was held that the action of Tribunal was “totally unauthorised” because it amounted to taking a policy decision which is within the domain of departmental authorities.

14. In the present case the Pay Anomaly Committee has considered the cases of the applicants and it came to the conclusion that the powers and responsibilities of the Tahsildars and those of Food Supply Officers are totally different and therefore they cannot be equated.

15. Considering these aspect, I do not find any reason to interfere in the decision taken by the respondent authorities as regards fixation of the pay scales of the applicants. The Expert Committee has applied mind and rejected the applicants demand and

as such there is no need to interfere in the said decision. Hence, the following order :-

ORDER

The O.A. stands dismissed with no order as to costs.

Dated :- 19 /12/2017.

dnk.

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