

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 436/2017 (D.B.)

1.Pawankumar Revaram Kewate
Aged about 36 years, Occ.-Service,
R/o Plot No. 97, New Dyneshwar Nagar,
Manewada Road, Nagpur.

2.Rajendra Manohar Kamde
Aged about 41 years, Occ.-Service,
R/o 118, Near Navnath High School,
Ayodhya Nagar, Nagpur.

3.Mithil Shivshankr Dhattrak
Aged about 22 years, Occ.-Service,
R/o 23, Dhanvantari Nagar,
Ramna Maroti Road, Nagpur.

4.Hitendra Natthuji Bhoge,
Aged about 32 years, Occ.-Service,
R/o At Post- Tah. Kalmeshwar,
Distt.- Nagpur.

5.Navin Udhavrao Raut,
Aged about 35 years, Occ.-Service,
R/o 453, Kukde Lay-Out,
Rameshwari Road, Nagpur.

6.Ku. Mona Bhauraoji Kawdati,
Aged about 24 years, Occ.-Service,
R/o-40, Trisharan Nagar, Opp.- Somalwar
School, Khamla Road, Nagpur.

7.Avinta Sangdeep Purohit,
Aged about 25 years, Occ.-Service,
R/o 116, Gaytri Nagar, Parsodi,
Nagpur.

8.Sneha Rajesh Undirwade,
Aged about 26 years, Occ.-Service,
R/o Gaddigodam, Gautam Nagar,
Near Famous Library, Nagpur.

9. Pradip Ramdas Bahyal,
Aged About 30 years, Occ. Service,
R/o , at Jankapur, Post-Palebarsa,
Tah. Sawli, Distt. Chandrapur.
10. Vikash Bhaiyalal Gadriya,
Aged about 35 years, Occ.-Service,
R/o 37, Gurunanak Ward, Shanti Nagar,
Bhandara.
11. Ku. Ekta Rambhau Paunikar,
Aged about 30 years, Occ.-Service,
R/o , Juni Mangalwari, Ward No. 36,
Near Rahate Hospital, Samya Photographer
Telephone Exchange Chowk, Nagpur.
12. Sachin Govind Kshrisagar,
Aged about 31 years, Occ.-Service,
R/o Plot No.6, Ward No.1, At Peth,
Post- Vyahad, Tah. & Distt.- Nagpur.
13. Shekhar Panjab Patil,
Aged about 49 years, Occ.-Service,
R/o 26, Near Netaji Housing Society,
Near New Katol, Katol Road,
Nagpur.
14. Smita Vitthalrao Kumbhalkar,
Aged about 38 years, Occ.-Service,
R/o 39, Shiv Chatrapati Nagar,
New Kampti, Tah. Kampti, Distt.- Nagpur.
15. Manoj Keshavrao Somkuwar,
Aged about 40 years, Occ.-Service,
R/o, Mahatma Phule Nagar, Ward No.4,
Tah. Sawner, Distt.- Nagpur.
16. Harish Ramchandra Viadya,
Aged about 29 years, Occ.-Service,
R/o Gurudev Chowk, Mouda,
Tah. Mouda, Distt.-Nagpur.
17. Ku. Minal Vasantryao Kale,
Aged about 24 years, Occ.-Service,
R/o 57, Dimond Nagar, Tikle Lay-Out,
Near Gajanan Mandir, Hasanbag Road,
Ramna Maroti, Nagpur.

18.Gajanan Sambaji Borke,
Aged about 37 years, Occ. Service,
R/o, Plot No. 169, Govind Nagar,
Near Hanuman Mandir, Sutgirni Road,
Tah. Pusad, Distt. Yavatmal.

19.Rajkumar Manoharrao Dhangare,
Aged about 28 years, Occ. Service,
R/o, At Bamni, Ward No. 3,
Tah. Kalmeshwar, Distt. Nagpur.

20.Ku. Ujwala Ankush Telang,
Aged about 36 years, Occ.-Service,
R/o Juni Mangalwari, Near Buddha Vihar
C.A. Road, Ward No. 95, Nagpur.

21.Sachin Narayanrao Sontakke,
Aged about 30 years, Occ.-Service,
R/o-1309, Sindhi (Meghe) Akare Lay-Out,
Rasulabad Road, Wardha.

22.Anand Narendra Gargilwar,
Aged about 30 years, Occ. Service,
Vitthal Mandir Ward, Chandrapur,

23.Mukesh Kevalram Chopkar,
Aged about 28 years, Occ.-Service,
R/o – Gondumbri, Tah. Sakoli,
Distt.- Bhandara.

24.Mahesh Vansantrao Bawankule,
Aged about 32 years, Occ.-Service,
R/o Murmadi/Tup, Tah. Lakhni,
Distt. Bhandara.

25.Sandeep Hemantrao Kadu,
Aged about 36 years, Occ.-Service,
R/o Juna Kotekar Wada, Upadhay Road,
Mahal, Nagpur.

26.Homkant Ramchandra Tondare,
Aged about 37 years, Occ.-Service,
R/o , Tahsil Office Area,
Lakhandur, Distt.- Bhandara.

27.Pankaj Madhukarrao Dhawale,
Aged about 34 years, Occ.- Service,
R/o Sane Guruji Nagar, Phale Lay-Out,
Ward No.6, Tah. Wani, Distt.- Yawatmal.

28.Ganesh Chendas Pardhi,
Aged about 27 years, Occ.-Service,
R/o, At Post- Near Kachewani Bus Stop,
Tah. Tiroda, Distt.- Gondia.

29.Praful Dnyaneshwar Naralwar,
Aged about 32 years, Occ.-Service,
R/o 11, Sai Nagar No.1,
Hudkeshwar Road, Nagpur.

30.Naresh Pandhri Awchate,
Aged about 34 years, Occ. Service,
R/o Tadgaon, Tah. Arjuni Morgaon,
Distt.- Gondia.

31.Ganesh Manohar Thawkar,
Aged about years, Occ.-Service,
R/o , Palandur, Govind Nagar Colony,
Tah. Lakhni, Distt. Bhandara.

32.Jagatkishor Hari Thakre,
Aged about 40 years, Occ. Service,
R/o, ITDP Colony, Type-II, Building
No. 3, Qr. No. III, Kurkheda,
Distt. Gadchiroli.

33.Kishor Divakar Mohankar,
Aged about 40 years, Occ.-Service,
R/o, Gautam Nagar, Near Tahsil Office,
Tumsar, Distt. Bhandara.

34.Roshan Bhayyalal Garade,
Aged about 29 years, Occ.-Service,
R/o Pandharabodi, Gondia,
Tah. & Distt.- Gondia.

35.Ku. Puja Prabhudas Mate,
Aged about 23 years, Occ.-Service,
R/o At Post- G.R.B.C. Khed Colony,
Near Polytechnic College, Bramhapuri,
Tah. Bramhapuri, Distt.- Chandrapur.

36.Siddharth Anandrao Nandeshwar,
Aged about 39 years, Occ.-Service,
R/o Chandramani Nagar, Bhagwan Nagar,
Nagpur.

37.Vignesh Santi Mergu,
Aged about 29 years, Occ.-Service,
R/o At Alaphalli, Bajrang Chowk,
Ward No.6, Tah. Aheri,
Distt.- Gadchiroli.

38.Vinay Anandrao Ralbanddiwar,
Aged about 24 years, Occ.-Service,
R/o Tahsil Post- Alaphalli, Welgur Road,
Tah. Aheri, Distt.- Gadchiroli.

39.Swapnil Nilkanth Waghmare,
Aged about 29 years, Occ.-Service,
R/o 91, Deepnagar, Near Shitalmata
Mandir, Narsala, Distt.- Nagpur.

40.Mahesh Deoravji Borkar,
Aged about 33 years, Occ.Service,
R/o At Post- Bondgovdevi,
Tah. Arjuni Morgaon, Distt.- Gondia.

41.Parag Manik Nakade,
Aged about 35 years, Occ.-Service,
R/o At Post-Angara, Tah. Kurkheda,
Distt.- Gadchiroli.

42.Yogeshwar Vasudev Dadgaye,
Aged about 39 years, Occ.-Service,
R/o At Post- Jambhurkhedea,
Post-Gotangaon, Tah. Kurkhedea,
Distt.- Gadchiroli.

43.Dattatrya Prabhakar Jadhav,
Aged about 35 years, Occ.-Service,
R/o At Dhavari, (Khurd) Post- Therban,
Tah. Bhokar, Distt.- Nanded.

44.Kishor Shrikrushna Govankar,
Aged about 30 years, Occ.-Service,
R/o , Tahsil Kochhi, Post- Bedgaon,
Tah. Sawner, Distt- Nagpur.

45. Atul Dhanpal Wanjari,
Aged about 30 years, Occ.-Service,
R/o Ambedkar Chowk, Nandgaon (Jani),
Post Tah. Bramhapuri, Distt.-Nagpur.
46. Samir Harish Waghmare,
Aged about 31 years, Occ.-Service,
R/o Mangalwari Ward, Tah. Pawni,
Distt.- Bhandara.
47. Jitendra Pandurang Wahane,
Aged about years, Occ. Service,
R/o, Nakadongari, Tah. Tumsar
Distt.- Bhandara.
48. Ku. Rupali Vijay Dabare,
Aged about 26 years, Occ.-Service,
R/o Post-Kaneri (Dagdi), Tah. Lakhni,
Distt.- Bhandara.
49. Priyanka Yadavkant Dhawale,
Aged about 30 years, Occ.-Service,
R/o 251, Samarth Nagar, Murmadi,
Post Tah. Lakhni, Distt.-Bhandara.
50. Sandeep Shivshankar Nimagade,
Aged about 37 years, Occ. Service,
R/o At Post. Padsa, Tah. Hadgaon,
Distt. Nanded.
51. Shital Ramesh Kapse,
Aged about 35 years, Occ.-Service,
R/o Near Shastrinagar Atithi Gruh,
Tah. Tumsar, Distt.- Bhandara.
52. Sanghpal Ramdasji Borkar,
Aged about years, Occ. Service,
R/o Palasgaon, Tah. Sakoli,
Distt.- Bhandara.
53. Pratibha Raghoji Pise,
Aged about 37 years, Occ. Service,
R/o At Tah. Tumsar, Distt. Bhandara.
54. Ajaykumar Mulchand Shende,
Aged about 45 years, Occ. Service,
R/o Mundhari (Bu.), Tah. Mohadi, Distt. Bhandara.

55. Bhushan Prabhakar Dadmal,
Aged about 29 years, Occ.-Service,
R/o Gurudev Ward, Post- Chimur,
Tah. Chimur, Distt.- Chandrapur.

56. Khushal Mukhraj Rakhde,
Aged about 33 years, Occ.- Service,
At Khandoli, Post- Khadoli,
Tah. Bramhapuri, Distt- Chandrapur.

57. Sumit Janardhan Kinnake,
Aged about 27 years, Occ. Service,
R/o, C/o, Prabhakar Satpute, Amrai
Ward, Rajura, Distt. Chandrapur.

58. Ratan Sudeep Meshram,
Aged about 27 years, Occ.-Service,
R/o, Chikali, Post-Mhasgaon,
Tah. Goregaon, Distt.-Gondia.

59. Harish Vinayakrao Kinkar,
Aged about 27 years, Occ.-Service,
R/o Parsodi, Post- Kakda,
Tah. Karanja, Distt.- Wardha.

60. Liladhar Amrutrao Narnavre,
Aged about 28 years, Occ. Service,
R/o, Ram Nagar, Datta Mandir,
Wardha. Tah. & Distt. Wardha.

61. Dhiraj Chandrabhan Lohi,
Aged about 31 years, Occ.-Service,
R/o 1364, Dhangharpura, Ward No.3,
Tah. Hingna, Distt.- Nagpur.

62. Kundlik Suresh Dhande,
Aged about 23 years, Occ.-Service,
R/o 234, Near Hedgewar Smarak,
Reshimbag, Nagpur.

63. Bajrang Chatru Pawar,
Aged about 27 years, Occ.-Service,
R/o Belhara (Tanda) Post- Wadhona,
Tah. Arvi, Distt.- Wardha.

64.Samir Ambadas Bawane,
Aged about 26 years, Occ.-Service,
R/o LIG 96/81, Govt. ITI, Juni Mhada
Colony, Sindhi (Meghe), Wardha.

65.Rahul Lakshmanrao Nehare,
Aged about 30 years, Occ. Service,
R/o, Shubash Nagar, Behind IT Park,
Nagpur.

66.Shadab Israil Sheikh,
Aged about 26 years, Occ.-Service,
R/o, c/o Musa Sheikh,
opp. Dr. Sheikh Clinic, Santoshi Mata
Ward, Karwa Road, Ballarpur,
Tq. Ballarapur Dist. Chandrapur 442701.

67.Abhay Ramesh Patil
Aged about 25 years, Occ.-Service,
Tirupati Nagar, Buldana Road, Nandura,
Tq. Nandura Dist. Buldana - 443004

68.Nilesh Saluba Pholane
Aged about 25 years, Occ.-Service,
R/o Indira Nagar, Ward No.4, Janephal,
Tq. Mehkar Dist. Buldana - 443304

69.Ku. Nilam Ramesh Bhonde,
Aged about 27 years, Occ.-Service,
R/o Teacher Colony, Bhade Layout,
Kondhali, Tq. Katol Dist. Nagpur – 441103

70.Ku. Ambika Ganesh More,
Aged about 24 years, Occ.-Service,
R/o At Post Sakhali Bk.
Tq. Dist. Buldana – 443001.

71.Gopal Madhukar Chaudhari,
Aged about 38 years, Occ.-Service,
R/o At Post Jarandi Tq. Soygaon,
Dist. Aurangabad – 431120.

72.Milind Uttamrav Damare,
Aged about 30 years, Occ.-Service,
R/o Shivaji Nagar, Khamgaon,
Tq. Khamgaon Dist. Buldana – 444303.

73.Akash Siddharth Ingle,
Aged about 25 years, Occ.-Service,
R/o Gautam Nagar, Ward No. 6,
Wadner Bholji, Tq. Nandura,
Dist. Buldana – 443404.

74.Ku. Meena Shantaram Shrijoshe,
Aged about 25 years, Occ.-Service,
R/o Old Gourakshan Road,
Choukase Layout, Khamgaon,
Tq. Khamgaon Dist. Buldana – 444303.

75.Saurabh Shrikrushna Chavhan,
Aged about 27 years, Occ.-Service,
R/o Near Pooja Prashikshan Sanstha,
Sawji Layout, Khamgaon Tq. Khamgaon,
Dist. Buldana – 444303.

76.Anant Vishwasrao Gaikwad,
Aged about 27 years, Occ.-Service,
R/o Uttamrao Deshmukh Nagar,
Ward No. 16, Malkapur Road, Nandura,
Tq. Nandura Dist. Buldana – 443404.

77.Gopal Vasudev Lonagre,
Aged about 25 years, Occ.-Service,
R/o-40, Trisharan Nagar, Opp.- Somalwar
School, Khamla Road, Nagpur.

78.Shakti Mallikarjun Kyawal,
Aged about 44 years, Occ.-Service,
R/o Jijamata Nagar, Circular Road,
Buldana Tq. Dist. Buldana – 443001.

79.Ku. Mamta Shriram Yeul,
Aged about 25 years, Occ.-Service,
R/o , At Post Sungaon Tq. Jalgaon Jamod
Dist. Buldana – 443402.

80.Ramesh Kisan Nemade,
Aged about 25 years, Occ.-Service,
R/o Prabhat Chowk, Nandura Khurd,
Tq. Nandura Dist. Buldana – 443004.

81.Kapil Namdev Ahirrao,
Aged about 29 years, Occ.-Service,
R/o Vijay Nagar, Vijay Chowk,
Garkheda Area, Aurangabad – 431001.

82.Tushar Krushnakumar Deshmukh,
Aged about 27 years, Occ.-Service,
R/o Santosh Nagar, Murtizapur,
Tq. Murtizapur Dist. Akola – 444107.

83.Manoj Sambhaji Yengade,
Aged about 29 years, Occ.-Service,
R/o Vrindavan Colony, Karegaon Road,
Tq. Dist. Parbhani – 431401.

84.Aniruddha Madhukarrao Borkar,
Aged about 27 years, Occ.-Service,
R/o, In Front Of SMC English School,
Lakhala, Washim Dist. Washim – 444505.

85.Parish Prakash Ambatpure,
Aged about 27 years, Occ.-Service,
R/o Civil Line, Washim – 444505.

86.Manish Krushnarao Shirbhate,
Aged about 38 years, Occ.-Service,
R/o , Shri Prabhu Dairy, Radhika Layout,
Wadgaon Road, Yavatmal – 445001.

87.Mahendra Digambarrao Swami,
Aged about 40 years, Occ.-Service,
R/o At Post Jamb Tq.
Dist. Parbhani – 431401.

88.Suresh Ananda Mohare,
Aged about 34 years, Occ.-Service,
R/o At. Kurla Post Dawha,
Tq. Malegaon Dist. Washim – 444503.

89.Vikesh Madhukarrao Chittakwar,
Aged about 31 years, Occ.-Service,
R/o At Post Pardi Takmor,
Tq. Dist. Washim – 444505.

90.Amol Shriram Matre,
Aged about 26 years, Occ. Service,
R/o At Post Poghath Tq. Mangrulpir,Dist. Washim – 444403.

91.Suhas Manohar Bhagat,
Aged about 33 years, Occ.-Service,
R/o , Dabhadi Borgaon Road, Sambhaji
Nagar, Near Hanuman Temp, Arni
Tq. Arni Dist. Yavatmal – 445103.

92.Akash Rajsh Wasnik,
Aged about 25 years, Occ.-Service,
R/o , New Babulkheda, Chaudhari
Mohalla, Post Bhagwan Nagar,
Tq. Dist. Nagpur – 440027.

93.Akash Rajndra Thakare,
Aged about 25 years, Occ.-Service,
R/o – Ashiyad Colony, Shegaon Naka,
Amravati, Tq.Dist. Amravati – 444604.

94.Ku. Megha Ashok Kamble,
Aged about 26 years, Occ.-Service,
R/o Gauri Colony, Rajura Tq. Rajura,
Dist. Chandrapur – 442405.

95.Ku. Kanchan Anil Nasare,
Aged about 25 years, Occ.-Service,
R/o c/o Pradip Girde, Sant Tukdoji Ward,
Back Side Of Gurudev Lawn, Hinganghat,
Tq. Hinganghat Dist. Wardha – 442301.

96.Avinash Chandrakant Patil,
Aged about 42 years, Occ.-Service,
R/o Rathi Layout, Rashtrabhasha Road,
wardha – 442001.

97.Samir Kashinath Barsagade,
Aged about 27 years, Occ.-Service,
R/o At Post Waigaon Tq. Chamorshi,
Dist. Gadchiroli – 442707.

98.Ganesh Dinkar Surpatne,
Aged about 35 years, Occ.-Service,
R/o At Post Mundgaon Tq. Akot,
Dist. Akola – 444117.

99.Shivhari Mahadeo Vanare,
Aged about 41 years, Occ.-Service,
R/o At Post Chincholi Tq. Shegaon,Dist. Buldana – 444202.

Applicants.

Versus

- 1) State of Maharashtra,
through its Secretary,
Revenue and Forest Department,
General Administration,
Mantralaya, Mumbai-32.
- 2) State of Maharashtra,
Through its Secretary,
Finance Department,
Mantralaya, Mumbai-32.
- 3) The Settlement Commissioner and
Director of Land Records,
Maharashtra State,
Pune, 2&3 floor, new building Camp,
Opp. Council Hall,
Pune-411 001.
- 4) The Deputy Director of Land Records,
Nagpur Division, Room No.28 Divisional
Commissioner Building, Civil Lines,
Nagpur-440 001.
- 5) The Deputy Director of Land Records,
Amravati Division, Back Side of Collector
Office Camp,
Amravati-444 602.

Respondents.

S/Shri S. Ghate, Rohan and Mughdha Chandurkar, Swarupa

Pahade, Advocates for the applicants.

Shri A.M. Ghogre, P.O. for respondents.

**Coram :- Shri Shree Bhagwan,
Vice-Chairman and
Shri Anand Karanjkar, Member (J).**

Date of Reserving for Judgment : 11th September, 2019.

Date of Pronouncement of Judgment : 14th January, 2020.

JUDGMENT

Per : Member (J).

(Delivered on this 14th day of January, 2020)

Heard Ms. M. Chandurkar, learned counsel for the applicants and Shri A.M. Ghogre, learned P.O. for the respondents.

2. The applicants were appointed in service as Cadastral Surveyor / Bhukarmapak/ Clerk Typist and all the applicants are serving in Vidarbha Region. It is contention of the applicants that they are discharging the work of technical nature. They are visiting the sites, they are drawing the maps using the modern technical instruments, they are identifying the properties, they are effecting partitions of the properties and they are doing all the land surveys. The applicants have necessary technical knowledge. It is contention of the applicants that as per the advertisement published by the Department, the essential qualification for their posts was diploma in Civil Engineering or two years Certificate of Surveyor issued by the I.T.I. It is submitted that though the applicants are working as Surveyors, they have to discharge duties of Clerk also, but their main work is as a Surveyor and it is of a technical nature.

3. It is grievance of the applicants that the representations were made by the applicants to the Government to declare their servicers as technical service and give them the benefits which are

available to the technical service. It is claimed by the applicants though they are discharging work of technical nature, but they are not receiving the pay admissible to the post of technical nature.

4. The second submission is that various representations were made to the Hon'ble Chief Minister, Settlement Commissioner and other Higher Officers of the Land Survey Department but no action was taken, consequently, there was a strike and ultimately the grievance of the applicants was referred to the Hakim Committee, but it was of no use and thereafter their grievance was placed before the Bakshi Committee. It is submission of the applicants that the Bakshi Committee recommended the pay scale Rs.5200-20200 with Grade Pay Rs.2400/-. It is submission of the applicants that the Forest Department is paying Grade Pay Rs.2400/- to the Surveyor and whereas the Pimpri Chinchwad Municipal Corporation (PCMC), Pune is paying Grade Pay Rs.2800/- to the Surveyor. According to the applicants, the Surveyor in the Forest Department and PCMC, Pune are discharging same work as that of applicants, but there is a disparity in their pay scales. It is contended that even essential eligibility criteria for the post of Surveyor in the Forest Department and Surveyor in PCMC, Pune is the same as that of applicants and therefore this, disparity is discriminatory.

5. According to the applicants, even though the Bakshi Committee recommended Grade Pay Rs.2400 to the applicants, but it was not accepted by the Government and the applicants are receiving Grade Pay only Rs.1900/-. According to the applicants, disparity in the pay is arbitrary and there is no rational basis for it, consequently, by allowing this O.A. direction be issued to the respondents to declare the Department of the applicants as technical department and disparity in the pay of the Surveyor in Forest Department, PCMC, Pune and the pay of the applicants be removed applying the principle of equal pay for equal work.

6. The respondents have filed their reply which is at page no. 162 of the P.B. It is contention of the respondents that this O.A. is not tenable for the reason that pay fixation of the Government employees in different cadre is the prerogative of the State Government. It is policy decision of the State Government which pay scale should be given to the employees working in a cadre. It is contention of the respondents that the Courts or Tribunals have no jurisdiction to interfere in this matter.

7. The second contention of the respondents is that the applicants were appointed on the post of Surveyor- cum -Clerk Typist, a Class-III post. The applicants were aware what pay scale was offered by the Government when they applied for the post, therefore,

after accepting the appointments, the applicants have no right to say that they are entitled for higher pay scale, because, the pay scale of the posts in some other department is higher. It is denied by the respondents that the nature of the work performed by the applicants is purely technical. It is submitted that while working on a post of the Clerk cum Typist, the Surveyor is not discharging the technical work. It is also submitted that the applicants are not employed to discharge only technical work of Surveyor continuously, but for some time they are discharging purely clerical work.

8. There is no dispute about Constitution of the Hakim and Bakshi Committee and the recommendations made by the Committee. According to the respondents, there was a meeting of the Vidarbha Land Survey Department Employees Association and in that meeting it was discussed that there were only few posts in the Department which was holding technical qualification. It was also noticed that the other posts were not holding the technical qualification and therefore it was not possible to declare the entire Department as technical one. According to the respondents, there is no discrepancy in the pay scales of the applicants on one hand and the pay scales of the Surveyors in the Forest Department and the Surveyors in the PCMC, Pune. It is submitted that looking to the entire nature of the duty, the pay scales are fixed by the Government and there is no disparity in it.

It is submitted by the respondents that so far as the applicants are concerned, there are 16 identical posts which are interchangeable and the nature of the work of many posts is of purely clerical nature and it is not technical work. According to the respondents, the applicants were aware about this situation and their grievance was sympathetically considered by referring the matter to the Hakim Committee as well as Bakshi Committee and ultimately decision is taken by the Government that it is not possible to declare the entire Land Survey Department as Technical Department and to grant the Grade Pay at par with Surveyors in the Forest Department and the Surveyors in PCMC, Pune.

9. We have heard submissions on behalf of the applicants and the respondents. The learned counsel for the applicants submitted that the respondent no.3 and the Land Survey Department supported the case of the applicants. Our attention is invited to Annex-A-9 the report submitted by the respondent no.3 to the Additional Chief Secretary (Revenue and Forest Department). After going through the report, it seems that the respondent no.3 considered that technical knowledge was essential for discharging duty as Cadastral Surveyor and the surveyors must possess the knowledge to use modern technical instruments for the survey of the land. In the report, it is mentioned which instruments the Surveyors of the Department

were bound to use while measuring the properties, their duties are also discussed. On page no.137 the duties of Surveyor are discussed. Similarly, it is mentioned about the duties of the न#Lrh fyid, Scrutiny Clerk, Record Keeper, City Survey Clerk, Typist, Detailed Surveyor, Inquiry Surveyor etc.

10. The learned counsel for the applicants invited attention to the report of the Bakshi Committee which is at Annex-A-7. So far as land Surveyors are concerned, it is observed on page no.103 of the report that it was representation of the Association of the Surveyors that Grade Pay Rs.2800/- be given to the Surveyors, whereas, it was proposed by the Department to give them Grade Pay Rs.2400/- and while doing so the duties and pay of Cadastral Surveyors were compared with pay scale of Naib Tahsildar, Circle Officer and Talathi and on the basis of this, the Committee came to the conclusion that there was no disparity in fixing the pay of cadastral Surveyor. The learned counsel for the applicants invited our attention to recommendations of 6th Pay Commission which were made applicable to PCMC, Pune. It is submitted that earlier pay of the Surveyor was Rs.4500-7000 and in 6th Pay Commission it was raised to Rs.5200-20200 with Grade Pay Rs.2800/-. Our attention is also invited to the provisions under the Maharashtra Forest Manual, 2011. On page no.15 the duties of Forest Surveyor are mentioned. On the basis of

this material, it is submitted that without comparing the duties of cadastral Surveyor with the duties of Surveyors in Forest Department and PCMC, Pune, the decision is taken by the Committee and therefore this decision is arbitrary and discriminatory, therefore, case is established to allow the O.A.

11. Our attention is also invited to Annex-A-9, dated 5/8/2014. The report submitted by the respondent no.3 to the Additional Chief Secretary (Revenue and Forest Department). According to the applicants, the respondent no.3 candidly reported that the employees working in Group-A, B and C in the Land Record & Survey Department were discharging the technical work and therefore this Department be declared as Technical Department.

12. The learned counsel for the applicants submitted that in Writ Petition No.4550/2012 reply was submitted by the present respondents and in that matter, in para-9 it was contended that the Class-III employees of the Land Record and Survey Department were discharging mostly duties of the technical nature. We have gone through the reply and after reading it, it seems that the Class-IV employees had filed the Writ Petition for claiming promotion to the posts in Class-III. It further seems that in pursuance of this litigation, the rules were amended by the State Government and provision was made to promote the Class-IV employee on a post in Class-III, but it

was subject to some conditions as mentioned in the rules framed on 2nd May,2014.

13. In the reply, the learned counsel for the respondents submitted that this tribunal has no jurisdiction of this to issue direction to the Government to give the pay scale which is being given to the Surveyors in the PCMC, Pune and the Surveyors in the Forest Department. It is submitted that after studying the exact nature of the duties and the work, policy decision is taken by the Government to give respective pay scales to the Surveyors in the Land Record and Land Survey Department, Forest Department and in PCMC, Pune, therefore, there is no disparity in it. It is submitted that this decision of the Government is policy decision and judicial direction cannot be given to give particular scale. The learned P.O. submitted that there are various Judgments delivered by the Hon'ble Apex Court in which warning is given that where the order fixing the pay scale is found unsustainable instead of granting a particular pay scale ordinarily, the Court should direct the authority concerned to reconsider the matter.

14. The learned P.O. has also invited our attention to the Judgment in O.A. 565/2013 delivered on 10/3/2017 by the Division Bench, MAT, Nagpur. This was a matter wherein the Police Inspector claimed that nature of his duties and duties of Tahsidar were same and their pay scales were same, but thereafter decision was taken to

give higher pay to the Tahsildars, it was contended that this was disparity in the pay and after request it was not removed by the Government. In this situation, that O.A. was filed. This Bench placed reliance on the Judgment in case of **Union of India & Ors. Vs. Hiranmoy Sen & Ors. (2008) 1 SCC,630**. It was observed that in Hiranmoy Sen case it was held that if two posts in the past were carrying the same pay scales merely because pay scale of one post has been increased that by itself cannot result in increase the pay scale of the another post. In para-9 the law laid down in case of **M.P. Rural Agriculture Extension Officers' Association Vs. State of M.P. (2004) 4 SCC, 646** is discussed and it is observed that the State in the exercise of 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. Thus it was held that there was a right to the State Government either to accept or not to accept any particular recommendation of the Pay Commission. The Government can also change the conditions of service of its employees. On the basis of this legal provision, it is contended by the learned P.O. that merely because there is a difference in the pay scales of the Surveyors in the three Departments, it cannot be said that the applicants are entitled for

the pay scale which is highest one. According to the learned P.O. there is no substance in the O.A.

15. The learned counsel for the applicants has placed reliance on the Judgment in case of **Punjab State Power Corporation Ltd. Vs. Rajeshkumar Jindal & Ors. (2019) (1) SCC (L&S), 503.** The Judgment on which reliance is placed by the applicants says that mere fact that there was parity in pay scale for over two decades is consequential since equation of posts and revision of pay scale is within domain of Government and matter best left to discretion and expertise of pay committee and on the basis of this, the claim of the Head Clerks who were claiming the pay scale admissible to the internal Auditor was turned down. The reliance is placed by the applicants on the Judgment in case of **State of Punjab & Ors. Vs. Jagjit Singh & Ors., (2017) 1 SCC, 148.** The issue before the Hon'ble Apex Court was whether temporary employees were entitled to claim pay at par with the regular employees and in this background the Hon'ble Apex Court held that the principle of equal pay for equal work is binding on all in India, it is also applicable to the temporary employees performing the same duties and responsibilities as regular employee. In our opinion, the applicants cannot take advantage of this ratio for the reason that the respondents in **Jagjit Singh & Ors.,** were

not receiving the pay admissible to the post for the reason that they were temporary employees.

16. It is submitted on behalf of the applicants that the ratio in case of **Steel Authority of India Ltd. & Ors. Vs. Dibyendu Bhattacharaya (2011) 11 SCC,122** is applicable to the present case. In this case it was held that equality clause can be invoked in matter of pay scales only when there is wholesome / wholesale identity between holders of two posts. It is further observed that it is not always impermissible to provide two different pay scales in the same cadre on the basis of selection based on merit with due regard to experience and seniority and mere difference does not always amount to discrimination. The reliance is also placed by the learned counsel for the applicants on the Judgment in case of **Uttar Pradesh Land Development Corporation & Ano. Vs. Mohd. Khurshed Anwar & Ano., (2010) 7 SCC,739**. It seems that in the case before the Hon'ble Apex Court the persons were employed on contractual basis and they were claiming regular pay scales. In our opinion the ratio in this case is of no help to the applicants.

17. The learned P.O. has invited our attention to the judgment in **State of Haryana & Ano. Vs. Haryana Civil Secretariat Personal Staff Association (2002) 6 SCC, 72**. In this case the caution is given by the Hon'ble Apex Court that the Court should approach such

matters with restraint and interfere only when they are satisfied that the decision of the Government is patently irrational, unjust or prejudicial to a section of employees and the Government while taking the decision has ignored factors which are material and relevant for a decision in the matter. Even in a case where the Court holds the order passed by the Government to be unsustainable ordinarily a direction should be given to the State Government or the Authority taking the decision to re-consider the matter and pass a proper order. The Court should avoid giving a declaration granting a particular scale of pay and compelling the Government to implement the same.

18. As a matter of fact as a model employer it is duty of the Government to give same pay scale to the same post in various Departments of the Government if the nature of the duties is same. We have seen that while taking decision in this matter, the authorities did not examine and consider the respective duties discharged by the Surveyors in the Forest Department and the Surveyors in PCMC, Pune. Had the authorities considered and had compared those duties together with the duties of the applicants as Surveyors, then matter would have been different. After reading the report of the Bakshi Committee it seems that the Committee compared posts of Naib Tahsildar, Awwal Karkun, Talathi and their pay scales and held that there was no disparity in the pay scales of the Surveyors in the Land

and Survey Department. Even in the Writ Petition reply was submitted by the respondents that the Class-III employees of the Land Record and Survey Department were mostly discharging the technical duties and these two aspects were not considered by the Government while rejecting the case of the applicants. In view of this matter and the caution given by the Hon'ble Apex Court, we are of the firm view that it is necessary in the interest of justice to direct the Government to constitute a Committee to examine the matter keeping in view the pay scales admissible to the post of Surveyor in Land Record and Survey Department, Forest Department and PCMC, Pune in comparison with their qualifications and exact nature of the duties and take decision within reasonable time.. In the result, we pass the following order -

ORDER

The O.A. is partly allowed. The respondent no.1 is directed to consider the representation of the applicants in view of the observations made in last para of this order. No order as to costs.

(Anand Karanjkar)
Member(J).

(Shree Bhagwan)
Vice-Chairman.

Dated :- 14/01/2020.

*dnk..

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble V.C. and Member (J).

Judgment signed on : 14/01/2020.

Uploaded on : 16/01/2020.