

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI, BENCH NAGPUR**

ORIGINAL APPLICATION NO 565 OF 2012

DISTRICT : NAGPUR

1. Mohd Iqbal Mohd. Hussain)
2. Uttam Vitthlrao Dakhore)
3. Shri R.R Diwadi)
4. A.M Parmar)
5. Maroti F. Shende)
6. Dinkar C. Sawarkar)
7. Dwarkaprasad K. Prasad)
- C/o: Shri S.P Palshikar, Advocate)
- for the Applicants, Advocate,)
- M.A.T, Nagpur.)...**Applicant**

Versus

1. The State of Maharashtra)
Through the Additional Chief)
Secretary, Home Department,)
Mumbai 400 032.)
2. Director General of Police,)
Having its office near Regal Theatre)
Colaba, Mumbai-400 032.)

3. Chief Secretary [Services],)
General Administration Department)
Mantralaya, Mumbai 400 032.)
4. Secretary (Accounts & Treasury),)
Finance Department, Mantralaya,)
Mumbai 400 032.)...**Respondents**

Shri S.P Palshikar, learned advocate for the Applicants.

Shri A.M Ghogre, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

DATE : 10.03.2017

ORDER

1. Heard Shri S.P Palshikar, learned advocate for the Applicants and Shri A.M Ghogre, learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicants some of whom retired as Police Inspectors (P.I) and some of whom are working as Police Inspectors/Dy. S.P. The Applicants are claiming that their pay in the post of P.I should be fixed in the Pay Band-III like those of Tahsildar and not in Pay Band-II under the 6th Pay Commission.

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3. Learned Counsel for the Applicants stated that in the 5th Pay Commission, the pay scale of Rs. 7450-11500 was made applicable to the post of Police Inspector. The same pay scale was made applicable to Tahsildars in Revenue Department. The duties of the post of Tahsildar and Police Inspector have nothing in common. However, in the 5th Pay Commission both were given pay in the same pay scale. Learned Counsel for the Applicants stated that in the 6th Pay Commission, the Pay Band in which Tahsildars are getting pay is Pay Band-III, namely Rs. 15600-39100 plus grade pay of Rs. 5000, while for the post of Police Inspector, Pay Band-II viz. Rs. 9300-34800 plus grade pay of Rs. 5000/- is provided. Learned Counsel for the Applicants stated that there is absolutely no reason as to why the two posts which were getting the same pay scale under the 5th Pay Commission should be given different Pay Bands in the 6th Pay Commission. The Applicants had filed O.A no 191/2012 before this Tribunal and this Tribunal had directed that the matter may be considered by the Pay Anomaly Committee. The decision of the Pay Anomaly Committee is annexed. No reason as to why the Police Inspectors have been given pay in a lower Pay Band has been given by the Pay Anomaly Committee in its report dated 15.5.2012.

4. Learned Counsel for the Applicants therefore, prayed that the report of the Pay Anomaly Committee

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dated 15.5.2012 may be quashed and set aside and the Respondent no. 1 be directed to grant pay to the Police Inspectors in the Pay Band-III plus grade pay of Rs. 5000/-. Learned Counsel for the Applicants stated that the Respondent no. 2 has submitted a detailed proposal to the Respondent no. 1 in this regard on 1.12.2009 and given full justification as to why the Police Inspectors should be given same pay as given to Tahsildars. Learned Counsel for the Applicants also stated that the added Respondents no 3 & 4, namely, G.A.D and Finance Department have not filed any affidavit in reply in this Original Application and adverse inference may be drawn.

5. Learned Presenting Officer argued that this Tribunal by order dated 21.8.2012 in O.A no 640/2010 directed the Respondents to take appropriate decision in accordance with law as early as possible. The matter was under consideration of the Pay Anomaly Committee, which submitted its report on 15.5.2012. The Committee noted that the State Pay Revision Committee 2008, which was appointed to apply the recommendations of the 6th Pay Commission to the State Government employees, has recommended that both the Police Inspectors and Tahsildars should get the pay in the Pay Band-II. While the matter was considered by the State Cabinet, a decision was taken to grant pay in the Pay Band-III only to the cadre of Tahsildars, though the Committee has

recommended grant of pay in Pay Band-II to almost 100 cadres. Learned Presenting Officer argued that it is fully within the powers of the State Government to accept or not, the recommendations of the Pay Revision Committee. Considering the nature of duties of the Tahsildars, the State Government has decided to give them pay in a higher Pay Band. As the Applicants themselves admit that there is no comparison between the nature of duties and responsibilities of Police Inspectors and Tahsildars, there is no basis on which the Applicants can claim that they should also be given pay in the same Pay Band in which Government has decided to give pay to the Tahsildars.

6.9) Learned Presenting Officer relied on the following judgments:

(1) **M.P. RURAL AGRICULTURE EXTENSION OFFICERS ASSOCIATION Vs. STATE OF M.P & ANR (2004) 4 SCC 646.**

(2) **UNION OF INDIA & ORS Vs. HIRANMOY SEN & ORS : (2008) 1 SCC 630.**

In the former case, Hon'ble Supreme Court has upheld the right of the Government to grant higher pay scale to Graduate in the same cadre as compared to Non-graduates.

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In HIRAMONY SEN (supra), Hon'ble Supreme Court has held that if two posts in the past were carrying same pay scale, merely because pay scale of one post has been increased that by itself cannot result in increase in the pay scale of another post.

7. It is seen that the claim of the Applicants that they are entitled to get the pay in the Pay Band-III is only based on the fact that in the 5th Pay Commission Tahsildars and Police Inspectors were getting pay in the same Pay Scale. It is admitted by the Applicants themselves that there is no comparison between the duties and responsibilities of these two posts. The Applicants are of course claiming that nature of their duties and responsibilities are more arduous and they are on duty for 24 hours in a day. They are also relying on the recommendations of the Respondent no. 2 dated 11.12.2009. It is seen that the Applicants have earlier filed O.A no 640/2010. This Tribunal has passed the following order:-

“Having regard to the fact that the issue pertaining to the anomaly in the pay scale of Police Inspectors in the 6th Pay Commission is pending consideration before the Pay Anomaly Committee, the present O.A stands disposed of by directing the said Committee to take appropriate decision in accordance with law touching the above issue as early as possible and

communicate the said decision to the applicant immediately. The O.A stands disposed of with n order as to costs. The O.A does not survive.”

This order is dated 21.8.2012, i.e. after the recommendations of the Respondent no. 2 was sent to Respondent no. 1 in 2009. This Tribunal has noted that the matter is pending consideration before the Pay Anomaly Committee and it was directed that the Committee may take appropriate decision. Apparently, it was not brought to the notice of the Tribunal that in the meanwhile on 15.5.2012 the said Committee has already submitted its report. The relevant portion of the report is reproduced below:-

समितीची शिफारस:-

राज्य वेतन सुधारणा, २००८ च्या अहवालातील परिच्छेद ३.६.२ मध्ये तहसिलदार आणि पोलीस निरिक्षक या संवर्गाचा वेतनबॅंड पीबी-२: रु.९३००-३४८०० आणि रु.५००० ग्रेड वेतन या वेतनसंरचनेची शिफारस केली आहे. हीच वेतनसंरचना विवक्षितपणे उचित शासन आदेशाद्वारे पूर्वी वर्ग-१ म्हणून घोषित केलेल्या (सध्याच्या गट - अ मधील) रु. ७४५०-९९५०० आणि रु. ७५००-९२००० या विद्यमान वेतनश्रेणीतील पदांना लागू होईल अशीह शिफारस करण्यात आली आहे व सदर शिफारस शासनाने स्विकारली आहे.

शासनाच्या विविध विभागांमध्ये रु. ७४५०-९९५०० या असुधारित वेतनश्रेणीतील सुमारे १०० पेक्षा अधिक संवर्ग आहेत, तथापि या शिफारशीबाबत निर्णय घेतांना मंत्रीमंडळाने केवळ तहसिलदार संवर्गास जाणीवपूर्वक वेतनबॅंड पीबी-२ ऐवजी वेतनबॅंड पीबी-३ (रु.९५६००-३९९००) मंजूर करण्याचा निर्णय घेतला आहे. रु.

७४५०-११५०० वेतनश्रेणीस समकक्ष वेतनबॅड पीबी-२ ची शिफारस केलेली असल्याने तसेच या असुधारित वेतनश्रेणीतील अन्य कोणत्याही संवर्गास वेतनबॅड पीबी-३ मंजूर केला नसल्याने पोलीस निरीक्षक संवर्गास वेतनबॅड पीबी-३ मंजूर करणे योग्य ठरणार नाही.”

The Committee has noted that the State Pay Revision Committee 2008 had recommended pay in the Pay Band-II for 100 cadres including the cadre of Police Inspectors and Tahsildars. The matter was considered by the State Cabinet, who decided to grant the pay to Tahsildars in the Pay Band-III. That was the only exception in which the recommendations of the State Pay Revision Committee was not accepted by the Cabinet. Evidently, it is a policy decision of the State Government to grant pay to the Tahsildars in a higher Pay Band.

8. The Hon'ble Supreme Court in the case of **HIRANMOY SEN** (supra) has clearly held as follows:-

“5. Learned counsel for the respondents submitted that the auditors and assistants have been historically treated on a par in the matter of pay scales. Although this fact has been denied by the appellant, we are of the opinion that even if it is correct, that will not be of any help to the respondents. To give an illustration, if post A and post B have been carrying the same pay scales, merely because the pay scale of post A has been

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increased that by itself cannot result in increase in the pay scale of post B to the same level. It is entirely on the Government and the authorities to fix the pay scales and to decide whether the pay scale of post B should be increased or not. The judiciary must exercise self-restraint and not encroach into the executive or legislative domain.”

The facts in the present case are squarely applicable and the decision of the State Government cannot be interfered with by this Tribunal.

9. In the other case cited by the Respondents, **M.P RURAL AGRICULTURE EXTENSION OFFICERS ASSOCIATION** (supra), the Hon'ble Supreme court has held:-

“The State in exercise of its jurisdiction conferred upon it by the proviso appended to Article 309 of the Constitution of India can unilaterally make or amend the conditions of service of its employees by framing appropriate rules.”

Hon'ble Supreme Court has clearly upheld the right of the State Government either to accept or not to accept any particular recommendations of the Pay Commission. The Government can also change the conditions of service of its employees. In the present case, the State

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Government has decided to grant pay to the Tahsildars in a higher Pay Band and there is no reason as to why the same Pay Band should be extended to the cadre of Police Inspectors.

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

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(Rajiv Agarwal)
Vice-Chairman

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Place : Mumbai Nagpur
Date : 10.03.2017
Dictation taken by : A.K. Nair.