

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

AURANGABAD BENCH, AURANGABAD.

ORIGINAL APPLICATION NO.601/2015.

Shrimant Maroti Ture,
Aged about 59 years,
Occ- Retired,
R/o Plot No.1081, Sainagar,
N-6, CIDCO, Aurangabad.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Principal Secretary,
Department of Higher & Technical Education,
Madam Cama Road, Hutatma Rajguru Chowk,
Mantralaya, Mumbai-32.
2. The Under Secretary,
Department of Higher & Technical Education,
Mantralaya, Vistar Bhavan, Mumbai-32.
3. Vocational Education and Training Institute,
(M.S.), Through its Deputy Director,
3, Mahapalika Marg, P.B. No.10036,
Mumbai-01.
4. The Director (Training),
Vocational Education and Training,
(M.S.), Mumbai-01.
5. The Secretary,
Department of Higher & Technical Education,
Madam Cama Road, Hutatma Rajguru Chowk,
Mantralaya, Mumbai-32.
6. The Deputy Director,
Vocational Education and Training,
Regional Office, Aurangabad.

7. Industrial Training Institute,
(Through its Principal),
Railway Station Road,
In front of Devgiri College, Aurangabad.

Respondents.

Shri Avinash S. Deshmukh, Adv. holding for Shri Kakasaheb B. Jadhav,
the learned counsel for the applicant.
Shri S.K. Shirse, the Ld. P.O. for the respondents.

Coram:- Shri J.D. Kulkarni,
Vice-Chairman (J).

Dated:- 22nd September 2017.

Order

Heard Shri Avinash S. Deshmukh, Adv. holding for
Shri Kakasaheb B. Jadhav, the learned counsel for the applicant and
Shri S.K. Shirse, the learned P.O. for the respondents.

2. In this O.A., the applicant has prayed for quashing
and setting aside the communication dated 1.4.2015 issued by the
respondents and requested that he be granted benefit of selection
grade pay scale or Assured Career Advancement Scheme w.e.f.
20.2.2009 till the date of his retirement i.e. 31.12.2014 with further
commensurate pension from the date of retirement and continuity.
Subsequently, by way of amendment, the applicant has claimed that it
be held and declared that the benefit of the scheme of selection grade
pay scale with related pay scales of Rs. 4000-6000 and 9300-34800
with grade pay of Rs.5400/- must respectively be read in Item No.2 in
table in the G.R. dated 8.3.1999 and in Item No.5 in the table in
Annexure A-2 of G.R. dated 19.7.2010 for being extended to the post

of Group Instructor upon completion of total service of 24 years. The applicant has also claimed a direction to the respondents to grant him benefit of selection grade scale of Rs. 9300-34800 with grade pay of Rs.5400/- w.e.f. 20.2.2009 till the date of his retirement i.e. 31.12.2014 with all consequential financial benefits, revision of pension and arrears thereon. The applicant was working as Group Instructor in the office of respondent No.7 i.e. Industrial Training Institute, Aurangabad and he got retired on superannuation on 31.12.2014.

3. According to the applicant, he has passed requisite qualification / certification as an Electrical Supervisor. Considering his qualification, he came to be appointed by nomination on 18.2.1985 and joined the post on 20.2.1985.

4. In 1997, after completion of 12 years of continuous service, the applicant was duly granted senior pay grade scale by the respondents. The applicant completed continuous 24 years of service in the year 2002. In fact, he ought to have been granted selection grade pay scale after completion of 24 years of service. But it was not granted.

5. Prior to January 2010, the State Government employees were entitled to receive only one senior pay scale hike in the salary upon completion of 12 years of continuous service. But from 2010 onwards, the employees who have completed 24 years of

continuous service from 1.1.1986 onwards, were held entitled to selection grade pay scale. The applicant's case was recommended for such selection grade pay scale, but the same was not considered. The applicant was not granted benefit of G.R. dated 5.7.2010 and in fact his post was isolated.

6. On 11.2.2013, the G.R. issued for implementation of recommendation regarding anomalies in the revised pay structure sanctioned from 1.1.2006. However, the applicant's post was ignored in the said G.R. The applicant persuaded his case to the competent authorities. But his case was not considered and, therefore, the applicant was constrained to file this O.A. He has challenged the impugned letters dated 2.1.2012, 2.7.2014 and 1.4.2015, whereby grant of benefit of 3 tier pay scale / selection grade pay scale or Assured Career Advancement Scheme has been rejected.

7. Respondent Nos. 1 to 7 have filed affidavit in reply. According to the respondents, as per the Maharashtra Civil Services (Revised Pay) Rules, 2009, teaching staff of Industrial Training Institutes like Craft Instructor, Group Instructor, Math Instructor, Drawing Instructor etc. have been given 2 tier and 3 tier higher scale as per letter dated 22.4.2009 issued by Ministry of Finance, Govt. of Maharashtra, Mantralaya, Mumbai. A detailed existing and revised pay scale to these posts is as under:-

Sr. No.	Designation	Existing scale of pay and special pay, if any	Revised pay structure	
			Pay Band	Grade Pay
1	2	3	4	5
1	Group Instructor	i) 6500-10500 ii) 7450-11500 (senior scale)	i) 9300-34800 ii) 9300-34800	4400 4600 (Senior Scale) (Selection Grade Not admissible.)
2	Craft Instructor/Maths Instructor/Drawing Instructor	i) 5500-9000 ii) 6500-10500 (Senior scale) iii) 7450-11500 iv) (Selection Grade for 20% posts)	i) 9300-34800 ii) 9300-34800 (Senior Scale) iii) 9300-34800	4300 4400 (Senior Scale) 4800 (Selection Grade for 20% posts)

From the aforesaid chart, it will be clear that the Group Instructors has two tier higher scale applicable.

8. So far as the applicant is concerned, it is stated that the applicant did not acquire appropriate qualification for promotional post. Those Group Instructors who have acquired degree / diploma qualification, are included in the common seniority list of degree / diploma holder. By promotion of a suitable person on the basis of seniority, subject to fitness amongst suitable Class-III persons holding the post of full time Teacher / Junior Surveyor-cum-Junior Apprentice Advisor (Technical), avenues are open for promotion. But the applicant is not eligible. According to the respondents, Group Instructors cadre for promotional channel is not included in the G.R.

9. The respondents further submitted that the applicant has made a wrong statement that respondent No.4 sent a proposal on 8.1.2014 to respondent No.1 regarding Directorate of Vocational Education and Training for various officers / Institute employees, those who ought to have promotional channel, they will get special pay. In the said proposal, only following posts were included:-

“स्थायी व्रभागातील गणत, वकला नदेशक, गणत नदेशक, भाषा नदेशक या शक्य पधारकांना पदोनी साखळी उपलध नाह”

The post of the applicant was, however, not included in the said proposal.

10. The applicant has also placed on record the rejoinder affidavit and reiterated that his case for grant of 3 tier pay scale upon completion of 24 years of service was submitted before respondent No.6 on 22.4.2010. It is stated that respondent No.1 issued a G.R. on 19.7.2010 and granted the benefit of selection grade pay scale except to the post of Group Instructor. It is stated that the applicant's post has been avoided wilfully and respondent No.1 has acted discriminately.

11. Shri Avinash S. Deshmukh, Adv. holding for Shri Kakasaheb B. Jadhav, the learned counsel for the applicant invited my attention to the G.R. dated 8.3.1999. Copy of the said G.R. is

placed on record at page Nos. 88-A to 88-C. The learned counsel for the applicant has specially invited my attention to the introduction clause of the said G.R. which is nominated as "प्रवर्धनी" and it reads as

under:-

प्रवर्धनी:- उच्च व तंशण व्रभागांतगत येणाऱ्या शासकय औयोक ंशण संथा, शासकय व अशासकय अनुदात तं मायक व उच्च मायक तं शाळा येथे कायत असणाऱ्या ंदेशक / गट ंदेशकाना चटोपायाय सतीया शफारशीना अनुसन ंव्र/ ंव्र वेतनेणी ढ. १.१.१९९५ पासून उच्च व तंशण व सेवायोजन व्रभाग, शासन ंण . टएसए १०९४/(३०१९४)यशी-२ ढ. १५ मे १९९५ अवये लागू करयात आलेल आहे. सदरहू शासन ंण अमलात आणतांना काह अडचणी झायामुळे यांची अंमलबजावणी करणे शय झाले नाह शालेय शण व्रभागात या पधतीने ंव्र/ ंव्र वेतनेया लागू करयात आलेया आहेत याच पधतीने व याच सूनुसार या व्रभागांतगत कायत असणाऱ्या ंदेशकाना ढ. १.१.१९८६ पासून ंव्र/ ंव्र वेतनेया लागू करयाचा ंन शासनाया व्रचाराधीन होता."

12. The learned counsel for the applicant submits that the post of Group Instructor was isolated post and, therefore, the Government thought it proper to bring that post under the scope of G.R. dated 8.3.1999 for grant of benefit of the scheme after completion of 24 years of continuous service. However granting 3 tier pay scale to the officers, the post of Group Instructor has been deleted inadvertently, as will be seen from the chart in the said G.R. This was a mistake done on the part of respondent No.1.

13. The learned counsel for the applicant then invited my attention to the G.R. dated 19.7.2010, a copy of which is placed on record at page Nos. 29 and 30 of the O.A. (both inclusive). In the said G.R. also, mistake committed in the G.R. dated 8.3.1999 has been perpetuated wrongly. In fact, in both the G.Rs, senior scale should have been granted to the post of Group Instructors. This has defeated the reason for which both the G.Rs were issued, as will be seen from introductory clause (पाठवर्गी). It is not disputed that the applicant is not qualified for promotion.

14. I have perused the impugned communication vide which the applicant's name has been rejected, such as impugned letter dated 2.1.2012, 2.7.2014 and 1.4.2015. Through all these letters, it has been stated that there is no provision for granting 3 tier pay scale i.e. selection grade pay scale to the post of Group Instructors and that seems to be correct. Had the applicant been aggrieved by an action of not including the post in the G.R. dated 19.7.2010, it was open for the applicant to challenge the said G.R. However, the applicants are coming with a case that there was a mistake of not including the name of the applicant's post in the G.Rs and the said mistake should have been corrected. It is true that unless and until such mistake, if it is really there, is not corrected, the applicant will not

be entitled to claim Assured Career Advancement Scheme benefit after completion of 24 years of service and, therefore, it was necessary for the applicant to challenge the validity of the G.Rs for not including the applicant's post for the benefit of such scheme in the said G.Rs. If for want of non inclusion of the applicant's post in the G.R, the respondent authorities have refused to grant benefit of the scheme to the applicant, I do not find any illegality in the impugned communication. The applicant will be at liberty to challenge those G.Rs, if he desires to do so before the Division Bench of this Tribunal or before the Hon'ble High Court, as the case may be.

15. In view of the discussion in foregoing paras, I do not find any illegality in the impugned communication. Hence, the following order:-

ORDER

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

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

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