

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**ORIGINAL APPLICATION 961 OF 2015**

**DISTRICT : MUMBAI**

Shri Arun Bhiva Ghadigaonkar, )  
Working as Demonstrator in Botany, )  
Ismail Yusuf College, Jogeshwari [E], )  
Mumbai. R/o: D-402, Hingiri Apartment,) )  
Manwelpada Road, Near Neelgiri Tower, )  
Virar [E], Tal-Vasai, Dist-Palghar. )...**Applicant**

**Versus**

1. The State of Maharashtra )  
Through the Principal Secretary, )  
[Higher Education], Higher & )  
Technical Education Department, )  
4<sup>th</sup> floor, Mantralaya, Mumbai. )
2. The Principal Secretary, )  
Finance Department, 3<sup>rd</sup> floor, )  
Mantralaya, Mumbai. )
3. The Director of Higher Education, )  
Maharashtra State, Central Bldg, )  
Pune-1. )

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4. The Principal, )  
Ismail Yusuf College of Arts, Science)  
and Commerce, Jogeshwari [E], )  
Mumbai 400 060. )...**Respondents**

Shri M.R Patil, learned advocate for the Applicant.

Ms Archana B.K. learned Presenting Officer for the Respondents.

**CORAM : Shri Rajiv Agarwal (Vice-Chairman)**

**DATE : 27.07.2016**

**ORDER**

1. Heard Shri M.R Patil, learned advocate for the Applicant and Ms Archana B.K. learned Presenting Officer for the Respondents.
2. This Original Application has been filed by the Applicant seeking restraining the Respondents from making any recovery from the Applicant on account of excess amount paid to him. The Applicant claims that no excess amount has been paid to him.
3. Learned Counsel for the Applicant argued that the Applicant was appointed as 'Demonstrator' in Botany



in Ismail Yusuf College, Jogeshwari, Mumbai by order dated 12.9.1978. The Applicant joined the said post on 13.9.1978 in the pay scale of Rs. 250-400. Education Department issued a G.R on 4.10.1975, upgrading the pay scale of the post of Demonstrator / Tutor to Rs. 500-900. By yet another G.R dated 25.10.1997, this pay scale was made applicable with retrospective effect from 1.1.1973 for those who held the qualifications for the post of Demonstrator as prescribed by University of Bombay and the Applicant's pay was fixed in the pay scale of Rs. 500-900. On 27.2.1989, by another G.R, pay scales of teachers in non-agricultural University, affiliated colleges, Government Institutes of Science, Management Studies, Social Science were revised. For the post of Demonstrator/Tutor, pay scale of Rs. 1740-3000 was prescribed. In pursuance of instructions contained in para 5 of the letter from the University Grants Commission dated 8.10.1992, the Government issued a Circular on 16.2.1999, and Demonstrators / Tutors who were drawing pay in the pay scale of Rs. 1740-3000, and who were drawing basic pay of Rs. 2700/- were given personal pay in the pay scale of Rs. 2200-4000, which is the same of the pay scale for the post of Lecturer. Government Circular dated 16.2.1999 prescribed that those Demonstrators/Tutors and Method Masters who were drawing pay in the scale of Rs. 7140-60-2700-EB-75-3500 and those who were permitted to cross Efficiency Bar should be given benefit of pay

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fixation in the pay scale of Rs. 2200-4000. This pay scale was for the post of Lecturer, but when made applicable to the Demonstrators/Tutors, there was no change in their designations. Such Demonstrators/Tutors were also not entitled to Selection Grade etc. which is admissible to Lecturers. Learned Counsel for the Applicant stated that the Applicant's pay was fixed in the pay scale of Rs. 2200-4000 in terms of Government Circular dated 16.2.1999 and the claim of the Respondents that he was not entitled to the scale of Rs. 2200-4000 is absolutely without any foundation. Learned Counsel for the Applicant contended that Memorandum dated 9.10.2015 (Exhibit N, page 126 of the Paper Book) issued to the Applicant by the Respondent no. 4 has been issued without application of mind and it is liable to be quashed and set aside.

4. Learned Presenting Officer (P.O) argued on behalf of the Respondents that no order of recovery has yet been issued to the Applicant, so this Original Application is premature. Only a memorandum dated 9.10.2015 has been issued to the Applicant by the Respondent no. 4, and the Applicant was expected to submit his reply. Learned Presenting Officer stated that the Applicant's pay was fixed in the pay scale of Rs. 500-900 as per G.R dated 25.10.1977. His pay was fixed in the pay scale of Rs. 1740-60-2700-EB-75-3000 as per G.R dated 27.2.1989. Learned Presenting Officer argued



that U.G.C letter dated 8.10.1992 is not applicable to Government Institution/Colleges. It is applicable to private Colleges only. For the Demonstrators in Government colleges, Government had prescribed pay scale of Rs. 5500-9000 as per G.R dated 11.12.1999 and the Applicant was eligible to get pay as per the said G.R. Learned Presenting Officer further stated that G.R dated 12.8.2009 extended 6<sup>th</sup> Pay Commission to Maharashtra Government employees. However, Demonstrators etc. were excluded and continued to be governed by the old policy. Learned Presenting Officer argued that the Applicant's pay was wrongly fixed in the pay scale of Rs.2200-4000, which is the pay scale of the post of Lecturer by wrongly applying G.R dated 16.2.1999.

5. During the course of final hearing, original Service Book of the Applicant was produced for my perusal. It is seen that he was appointed as 'Demonstrator' in Botany, which is recorded in English. His appointment letter dated 12.9.1978 issued by the Principal of Ismail Yusuf College, Bombay also clearly mentions that he was appointed as Demonstrator in Botany in the pay scale of Rs. 250-400 w.e.f 13.9.1978. There is no doubt that the Applicant was appointed to the post of Demonstrator. The Respondents have not disputed that the Applicant's pay was correctly fixed in the pay scale of Rs. 1740-60-2700-EB-75-3000 as per G.R dated 27.2.1989. The dispute is whether U.G.C letter

dated 8.10.1992 is applicable to Demonstrators/Tutors working in Government colleges. This letter from U.G.C dated 8.10.1992 has not been placed on record by either of the parties. However, Government Circular dated 16.2.1999 is at Exhibit 'F' (page 72 of the Paper Book). It refers to earlier G.Rs dated 27.2.1989 and 8.3.1995 in addition to letter of U.G.C dated 8.10.1992. The title of the Circular is:-

“ विद्यापीठ व संलग्नित महाविद्यालयातील ट्यूटर/ डेमॉन्स्ट्रेटर व मेथड मास्टर यांच्या वेतनश्रेणीबाबत.”

The Respondents claim that this Circular is applicable to Demonstrator etc. in Universities & affiliated Colleges and is not applicable to Government colleges. The claim of the Applicant is that this circular has been issued in continuation of earlier G.Rs dated 27.2.1989 and 8.3.1995, which were applicable to all Demonstrators, including those working in Government colleges. The Applicant's pay was fixed as per G.R dated 27.2.1989 (as admitted by the Respondents in para 8(vii) of the affidavit in reply dated 22.1.2016). G.R dated 8.3.1995, is not placed on record. However, title of G.R dated 27.2.1989 (Exhibit 'D', page 69 of the Paper Book)\_reads:-

“Teachers in Non-Agricultural Universities, affiliated Colleges, Government Institutes of Science /Management Studies/ Social Science. Revision of

Pay Scales of teachers and other measures for maintenance of Standards in higher education.”

As this G.R was made applicable to the Demonstrators working in Government College (i.e. the Applicant), it is clear that Government colleges were included in the G.R as affiliated colleges. It is nobody's case that Government colleges are not affiliated to Universities. The claim of the Respondents that Government Circular dated 16.2.1999 is not applicable to Government colleges has no basis. In fact, U.G.C pay scales are applied to all teachers, regardless of the facts that such teachers are working in Government colleges or Non-Government colleges. There is no reason to exclude 'Demonstrators' working in Government colleges from the benefits extended to Demonstrators in Non-Government Colleges. It is quite clear that the claim of the Applicant that he was granted pay in the scale of Rs. 2200-4000 (applicable to the post of Lecturer) in terms of Circular dated 16.2.1999 is correct. The Respondents have not disputed that the Applicant fulfilled all the conditions stipulated in the aforesaid circular. Their claim is that this circular was not applicable to persons like him. This contention of the Respondents has to be rejected.

6. The Applicant has relied on G.R dated 12.8.2009 regarding his pay fixation after

recommendations of the 6<sup>th</sup> Pay Commission were implemented. In para 6.12, he has stated as below:-

“6.12 In due course, the 6<sup>th</sup> Pay Review Committee made its recommendations for various teaching posts in Universities and Colleges. The Applicant craves leave to refer to and rely upon copies of the said recommendations as and when produced. However, contents of para 5.24 in Part-IV other Academic Categories are reproduced since they are relevant for the purpose of this O.A.

The Committee cannot recommend parity for Tutors and Demonstrators with Lecturers since recruitment to these two categories were abolished by the University Grants Commission a long time ago in 1974 and those possessing equivalent qualifications were recommended to be absorbed into the cadre of lecturers through the regular process of selection.

However, the Committee recommends that if there are still Tutors and Demonstrators working in Universities and Colleges, they may be governed by the old policy enunciated for them.”

This is not denied by the Respondents in the affidavit in reply dated 22.1.2016. In para 8(xii), it is stated that his





pay was fixed in the Pay Band of Rs. 9300-34800. It is presumed that it was on the basis of old policy for Demonstrators and in accordance with circular dated 16.2.1999. However, the Applicant was eligible to get pay in the scale of Rs. 2200-4000 and his pay in the 6<sup>th</sup> Pay Commission has to be fixed on that basis.

7. Having regard to the aforesaid facts and circumstances of the case, the memorandum dated 9.10.2015 issued by the Respondent no. 4 is quashed and set aside. The Applicant's case is covered by Circular dated 16.2.1999 and if his pay has been <sup>fixed</sup> accordingly, no recovery can be ordered from him. This Original Application is allowed accordingly with no order as to costs.

Sd/-

(Rajiv Agarwal)  
Vice-Chairman

**Place : Mumbai**  
**Date : 27.07.2016**  
**Dictation taken by : A.K. Nair.**