

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.254 OF 2015

DISTRICT : MUMBAI

1. Shri Sanjay Tukaram Mete.)
Age : 39 years, Occu.: Govt. Service,)
Address Office of the Executive)
Engineer, Public Works (Electrical),)
Pune.)
 2. Shri Rajendra Ramdas Pimparkar.)
Age : 52 years, Occu.: Govt. Service,)
Address Office of the Executive)
Engineer, Public Works (Electrical),)
Nashik.)
 3. Shri Chandrakant K. Rane.)
Age : 57 years, Occu.: Govt. Service,)
Address Office of the Executive)
Engineer, Public Works (Electrical),)
South Mumbai Division, Mumbai.)
 4. Shri Kailas Pandurang Vetal.)
Age : 47 years, Occu.: Govt. Service,)
Address Office of the Executive)
Engineer, Public Works (Electrical),)
North Mumbai.)
 5. Smt. Vipra Vinay Karnik.)
Age : 56 years, Occu.: Govt. Service,)
Address Office of the Executive)
Engineer, Public Works (Electrical),)
Thane.)
-)...Applicants**



Versus

1. The State of Maharashtra.)
Through the Secretary,)
Public Works Department,)
Mantralaya, Mumbai - 400 032.)
2. The Secretary.)
Finance Department, Mantralaya,)
Mumbai 400 032.)
3. Chief Engineer.)
Public Works (Electrical), Marzaban)
Road, Fort, Mumbai 400 001.)...**Respondents**

Shri C.T. Chandratre, Advocate for Applicants.

Shri N.K. Rajpurohit, Chief Presenting Officer for Respondents.

**CORAM : RAJIV AGARWAL (VICE-CHAIRMAN)
R.B. MALIK (MEMBER-JUDICIAL)**

DATE : 12.04.2016

PER : R.B. MALIK (MEMBER-JUDICIAL)

JUDGMENT

1. This Original Application (OA) is made by five Store Keepers working in the Office of Executive Engineer, Public Works Department (Electrical), Nashik, Mumbai and Thane for removal of what the Applicants perceived to be an anomaly and injustice to them because their cadre has

not been included in the post of Store Keeper in the Electrical Wing of Public Works Department at Serial No.15 in the 3rd Column of an Annexure to a G.R. dated 27.2.2006 which is wrongly mentioned in the prayer clause as 'A' though it is at Exh. 'A-8' (Page 49 of the paper book).

2. We have perused the record and proceedings and heard Mr. C.T. Chandratre and Mr. D.B. Khaire, the learned Advocates for the Applicants and Shri N.K. Rajpurohit, the learned Chief Presenting Officer for the Respondents.

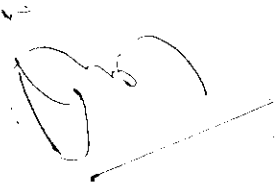
3. As already indicated at the outset, the Applicants are working as Store Keepers in the Public Works Department (Mechanical). The 1st Respondent is Secretary, P.W.D, Mantralaya. The 2nd Respondent is the Secretary, Finance Department and the 3rd Respondent is the Chief Engineer, Public Works (Electrical), Mumbai. The Applicant No.1 came to be initially appointed on 17.2.2001, the Applicant No.2 on 23.1.1986, the Applicant No.3 on 1.7.1976, the Applicant No.4 on 4.9.1993 and Applicant No.5 on 2.11.1982 respectively. They came to be promoted as Store Keepers on 16.10.2007, 10.6.1996, 18.6.2006, 1.11.2007 and 1.4.2009 respectively. These details are to be found in Exh. 'A-4' (Page 17 of the Paper



Book). They are in the pay scale of Rs.9300-3400 and Rs.4200/- as Grade Pay. Further, according to the Applicants, initially there was one single department called as "Building and Communication ? (Construction) Department (BCD)". For administrative reasons, it was divided into two Departments viz. Public Works Department and Irrigation Department. The Irrigation Department has now been rechristened as 'Water Resources Department'. It is the case of the Applicants, however, that the functioning, administrative setup, staff pattern and the nature of work is broadly the same and the day to day activities are carried out as per guidelines in 'Public Works Manual' and 'Public Works Account Code'. In Para 6.7, the Organization structure of the Department has been set out.

4. It will be appropriate to mention the details of the pay scales set out in Para 6.8 of the OA. For a proper appreciation of the facts at issue, the said Para is hereby reproduced.

"6.8. Applicants state that as stated earlier they are holding the post of Store Keeper. The pay scales of the posts are determined as per Pay Rules notified from time to time, on

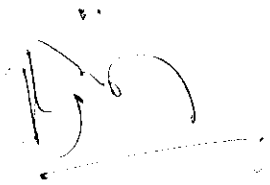


recommendation of pay commission, which were as under in respect of the post of Store Keeper.

Rules	Name of the Department stated in the Rules/wings	Prescribed Pay scale for the post of Store Keeper.	Relevant Page No. of Books.
Prior to 1969	B & C Department & Irrigation and Power Department	145-8-185-10-195	81
	Electrical Wing	145-8-185-10-195	90
RP Rules 1969	B & C and I & P Department	150-10-230-EB-10-270-15-300	81
	Electrical Wing	150-10-230-EB-10-270-15-300	92
RP Rules 1978	PW Department	365-15-500-20-660-Ext-20-700	190
	Electrical Wing	365-15-500-20-660-ext-20-700	194
RP Rules 1988	PW Department	1400-2300	L-2
	Irrigation Department including CDO and other circles	1400-2300	K-6
	PW Electricals	1400-2300	L-8
RP Rules 1998	PW Department	4500-7000	275
	PW Electricals	4500-7000
	Irrigation & Power department including its all organization	4500-7000

5. The above chart would bear out the Applicants that the posts of Store keepers of the various departments carried the same pay scales from 1962. The problem for the Applicant arose as a result of the notification of 27.02.2006. (Exh. 'A-8' page 49 of the Paper Book). The history preceding it was that in order to give effect to the recommendations of 5th Pay Commission (w.e.f. 1.1.1996) the pay scales of Government officers and employees came to be revised. In that behalf, a committee to remove pay anomaly was constituted. Now, to the schedule annexed to the said Exh. 'A-8' at Sr.No.15 the pay scale of the Store Keepers (भांडारपाल) have been provided. The post mentioned is भांडारपाल. The department is P.W.D. (सार्वजनिक बांधकाम विभाग/सर्वमंडळे). Then the unrevised pay scales, the recommended pay scales and the approved pay scales have been mentioned.

6. The post of Store Keeper in electrical wing of the P.W.D. has not been mentioned there. The result thereof is that the Applicants have been denied the pay scale that not only the Store Keepers of P.W.D. but also "सर्वमंडळ" got. This fact was accordingly conveyed to them by the order dated 30.12.2014 (Exh. 'A') page 13 of the P.B.) which is herein impugned.



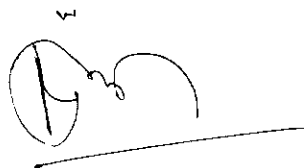
7. The best that we can possibly do is to refer to the affidavit of Shri S.D. Londhe, Under Secretary, Finance Department. In paragraph no.4 thereof he has prepared a chart regarding Store Keepers (All circles) and Electrical wing Under P.W.D. from 4th to 6th Pay Commissions. The rest of the said para is best reproduced.

“I say and submit that from the above column, it is seen that the pay scale of the post of Storekeeper in all circles of PWD in the 5th Pay Commission was revised to Rs.4500-7000 from unrevised pay scale Rs.1400-2300. Further the said revised scale of Rs.4500-7000 was re-revised to Rs.5000-8000 as per the recommendation received from High Power Pay Anomaly and Pay In-equality committee vide Government Resolution of Finance Department dated 27.2.2006.” Copy of the said GR is annexed hereto as Ex-A. However the proposal in respect of the storekeepers working in Electrical wing of Chief Engineer’s office could not come before the High Power Pay Anomaly and Pay In-equality committee, as a result of which the pay scales of the Storekeepers in the Electrical wings of PWD could not be revised.”

(Emphasis supplied)

8. Further, in the concluding paragraph of the said affidavit i.e. para 7 it is stated.

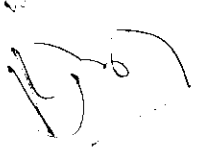
“7. I say and submit that, the disparity that has occurred in the pay scale of the Storekeepers in the Electrical wing of PWD in comparison to the



same post that are existing in All circles of PWD, initially in the period of 5th pay commission and its effect was naturally carried forward in the 6th pay commission. Now the expert body like pay commission or Pay Anomaly Removal Commission is not in existence, hence considering the observations of Hon'ble Supreme Court in the above referred ruling relief prayed by the applicants in the Original Application may kindly be rejected."

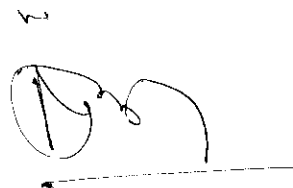
9. Now, it requires no particular technical or legal or executive perspicacity to find that even as the Applicants are discharging the same duties as their counter parts in P.W.D. and other departments and till the G.R. of 2006 were also getting the same pay scale now they have been deprived thereof. The case of the Respondents is clearly reflected from the above discussed affidavit in reply. Howsoever temperate an expression may be it must be held to be a case of accidental and bonafide lapse. If there was any justification for the discrimination against the Applicants that the impugned action and impugned order bring in their wake we do not find anything at all in the record.

10. The Principle of equal pay for equal work is therefore clearly observed in its breach. A case for relief is therefore clearly made out.



11. The Respondents in opposing this O.A. which opposition is difficult to either comprehend or appreciate contend that the matter pertaining to the pay scales etc. involved technical expertise which the Tribunal can hardly claim to be endowed with and therefore they ask us to keep off this area. They have relied upon **Union of India Vs. Arun Jyoti (2007 AIR SCW 6227)** and **State of Haryana Vs. Haryana Civil Secretariate Personal Staff Association (2002) 6 SCC 72.**

12. Now, in the first place, the peculiar facts of this matter have to be borne in mind. The Respondents had a clear opportunity to justify the impugned action. But for all one knows, their own Affidavit above referred to would suggest quite clearly that the things have come to this pass only as a result of a lapse. We in this Tribunal are not called upon to enter into the detailed nitty gritty of the pay structure. The pay scales have already been given to those who are the counterparts of the Applicants and nothing needs to be done in that behalf. The facts in **Arun Jyoti Kundu** (supra) and State of Haryana (supra) were thus clearly distinct. As a matter of fact, the judgment of the Hon'ble Supreme Court cited by Mr. Chandratre, the learned Advocate in the matter of **Union of India Vs. Dineshan K.K. (2008) 1 SCC (L & S) 248** were more or



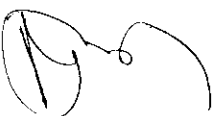
less similar as the present OA and that in our opinion is a direct authority for the purposes of the decision of this OA. That was a matter related to the pay scales of the Central Reserve Police Force and Border Security Force on one hand and the personnel holding the rank of Radio Mechanic in Assam Rifles. Their Lordships were pleased to hold that the principle of 'equal pay for equal work' has in fact since been elevated from directive principles of State policy to a fundamental right. In that connection, Articles 14 and 16 came to be invoked. Para 13 of the judgment of **Dineshan's** case in fact needs to be fully reproduced in which Paragraph, there is a reference to **Haryana Civil Service** Case (supra). The said Paragraph reads as under :

“Initially, particularly in the early eighties, the said principle was being applied as an absolute rule but realizing its cascading effect on other cadres, in subsequent decisions of this Court, a note of caution was sounded that the principle of equal pay for equal work had no mathematical application in every case of similar work. It has been observed that equation of posts and equation of pay structure being complex matters are generally left to the Executive and expert bodies like the Pay Commission etc. It has been



emphasized that a carefully evolved pay structure ought not to be ordinarily disturbed by the Court as it may upset the balance and cause avoidable ripples in other cadres as well. (Vide: Secretary, Finance Department & Ors. Vs. West Bengal Registration Service Association & Ors. and State of Haryana & Anr. Vs. Haryana Civil Secretariat Personal Staff Association. Nevertheless, it will not be correct to lay down as an absolute rule that merely because determination and granting of pay scales is the prerogative of the Executive, the Court has no jurisdiction to examine any pay structure and an aggrieved employee has no remedy if he is unjustly treated by arbitrary State action or inaction, except to go on knocking at the doors of the Executive or the Legislature, as is sought to be canvassed on behalf of the appellants. Undoubtedly, when there is no dispute with regard to the qualifications, duties and responsibilities of the persons holding identical posts or ranks but they are treated differently merely because they belong to different departments or the basis for classification of posts is ex-facie irrational,

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arbitrary or unjust, it is open to the Court to intervene.”

13. Seeking guidance from the Hon'ble Supreme Court as per the above extract, we find that in the present set of circumstances, the Applicants having been found to be entitled to the relief herein sought. To do so, would not be in contravention of any of the well recognized legal principles.

14. Mr. C.T. Chandratre, the learned Advocate referred us to an unreported judgment of the Hon'ble Supreme Court in **Civil Appeal No.4104/2004 (State of Kerala Vs. B. Renjit Kumar & Ors., dated 5.6.2008)**. That was a matter arising out of the issue with regard to treating certain senior subordinate judicial officers. The same issue was involved. Apart from several judgments of the Hon'ble Supreme Court, the judgment of **Dineshan** (supra) was also relied upon.

15. It is, therefore, quite clear as mentioned above that a case is made out for relief and in granting the same, we are not required to act as experts in the matter relating to pay scales, etc.



16. The Respondents are directed to take necessary steps and issue an appropriate instrument so as to incorporate the post of Store Keepers working in Electrical Wings of P.W.D. at Serial No.15 in Column 3 of the Annexure 'A' of the G.R. dated 27.2.2006 and treat the personnel including the Applicants exactly at par with the Store Keepers of P.W.D. (सार्वजनीक बांधकाम विभाग/सर्वमंडळे). Compliance within two months from today. The Original Application is allowed in these terms with no order as to costs.

Sd/-
(R.B. Malik)
Member-J
12.04.2016

Sd/-
(Rajiv Agarwal)
Vice-Chairman
12.04.2016

Mumbai
Date : 12.04.2016
Dictation taken by :
S.K. Wamanse.