

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI


ORIGINAL APPLICATION NO.771 OF 2015

DISTRICT : RAIGAD

Shri Sandip Sitaram Chavan.)
Age : 38 Yrs., Working as an Electrician in)
Civil Hospital, Alibaug and residing at)
Building No.A-46, Room No.7, RCF Colony)
Kurul, Alibag.)...**Applicant**

Versus

1. The Principal Secretary, Public)
Health Department, Mantralaya,)
G.T. Hospital Compound, 10th Floor,)
Complex Building, Mumbai – 01.)
2. The Director, Health Service, Arogy)
Bhavan, 1st Floor, St. George's)
Hospital Compound, P.D'Mello Road,)
Mumbai 400 001.)
3. District Surgeon, Civil Hospital,)
Thane, Near Utsal Road & Hedge)
Road, Opposite to Police Quarter,)
Tembhi Naka, Thane (W), Thane 601)
4. The State of Maharashtra.)
Through the Principal Secretary,)
Finance Department,)
Mantralaya, Mumbai - 400 032.)...**Respondents**

2


Shri A.A. Gharte, Advocate for Applicant.

Shri K.B. Bhise, Presenting Officer for Respondents.

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

DATE : 03.08.2016

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

JUDGMENT

1. The Applicant, an Electrician working under the Director, Health Services having given up prayer clause (c) now agitates to seek directions to the Respondents to enforce the Government Resolution dated 11th February, 2013 in its true letter and spirit as he puts it and in effect seeks pay scale of Rs.5200-20200 and Grade Pay of Rs.2400/- from 1st February, 2013. According to the Applicant, there has been a hostile discrimination against him in as much as a few others similarly placed as the Applicant have been given that pay scale and grade pay.

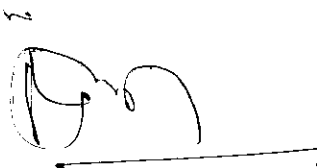
2. The 1st Respondent is the Principal Secretary, Public Health Department. The 2nd Respondent is the Director, Health Services. The 3rd Respondent has been described as District Surgeon, Civil Hospital, Thane and the 4th Respondent as Government of Maharashtra in the



Department of Finance. We have perused the record and proceedings and heard Shri A.A. Gharte, the learned Advocate for the Applicant and Shri K.B. Bhise, the learned Presenting Officer for the Respondents.

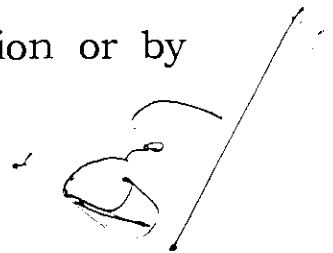
3. The Applicant is working as Electrician in Civil Hospital at Alibag since 29th September, 2007. He came to be appointed by an order dated 14.9.2007 from Open category on the pay scale of Rs.3050-75-3950-80-4590. It is his case that one Shri Vishnu Y. Thackeray came to be appointed to the same post on 22nd July, 2003, but on the pay scale of Rs.4000-6000. The said Thackeray and the Applicant are exactly similarly placed. According to the Applicant, this violates the constitutional principle of, "equal pay for equal work". The factual aspect pertaining to Mr. Thackeray is admitted in Para 10 (Page 114 of the Paper Book (P.B.)) in the Affidavit-in-reply of the Respondents. It is also admitted in the Affidavit-in-reply that the Applicant having been appointed in the pay scale of Rs.3050-75-3950-80-4590 got his pay enhanced as per 6th Pay Commission to Rs.5200-20200 with Grade Pay of Rs.1,900/-. These facts are admitted in Para 11 (Page 115 of the P.B.) in the Affidavit-in-reply.

4. It is a case of the Applicant that the G.R. above referred to dated 11.2.2013 came to be issued to



A handwritten signature in black ink, consisting of a stylized 'B' followed by a flourish, is written above a horizontal line.

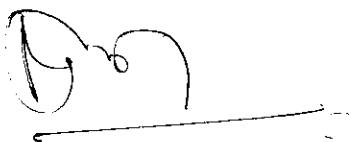
implement the suggestions of the report of Pay Anomaly Removal Committee described in Marathi as "Vetan Truti Niwaran Samiti". The post which the Applicant is holding is there at Item No.7, Serial No.48 in the Schedule annexed to that G.R. The post has been described therein as "कनिष्ठ तांत्रिक सहाय्यक/वीजतंत्री". It has been the case of the Respondents that there was no specific post as such mentioned in the said Schedule. We need not examine this aspect in great details because in our opinion, and on a plain reading, it does appear that the post which the Applicant is holding is clearly mentioned in the Schedule as detailed just now. The then, "present pay" scale has been set out as Rs.3050-4590. The recommended pay scale was Rs.5000-20200 with as Grade Pay of Rs.1900/- while the Committee approved the pay scale of Rs.5200-20200 but the Grade Pay was enhanced to Rs.2400/-. These averments are made in Para 6(F) of the OA and they have been sought to be traversed in Para 12 (Page 115 of the P.B.). As already hinted above, according to the Respondents, the post of Electrician was in fact not included in the Schedule and what was included was that post in Transport Wing of Public Health Department, and therefore, according to the Respondents, the proposal in respect of anomaly in pay scale of the Electrician was not placed before the Pay Anomaly Removal Committee by either any Union or by



Public Health Department. According to them, the proposal in respect of Junior Technical Assistant / Electrician was so placed before the Anomaly Removal Committee and the Committee recommended the above detailed pay structure and special pay. In our opinion, as already alluded hereinabove, in view of the very fact that after Junior Technical Assistant, there was a slash and then Electrician was mentioned, we must so construe it to include the post that the Applicant holds, for otherwise, there is no separate entry for the said post and we cannot countenance a situation whereby the post of the Applicant would be rendered practically non-existent. That would be anomalous, if not downright ridiculous. With this finding, we now proceed further.

5. It is further pleaded in the OA that the pay scales as detailed above as per the recommendation of Pay Anomaly Removal Committee were given to a few colleagues of the Applicant who have been named in the OA including Mr. Navnath A. Ghule, Mr. Madhukar B. Bhalerao, Mr. Dilip L. Pawara and Mr. Ravindra N. Salgaonkar. Quite pertinently, from the orders in respect of these colleagues of the Applicant annexed with the OA for example Mr. Thackeray's order is at Exh. 'B' while the order of Shri Dhule is at Exh. 'D'. They have been

2

A handwritten signature in black ink, consisting of a stylized 'B' followed by a horizontal line extending to the right.

described as Electrician (Veej Tantri). Now, incidentally, if there was no such post in the above referred Schedule to the G.R. of 11.2.2013, how come the orders of these other colleagues of the Applicant have been given the pay scales at all and further the pay scales as suggested by the said Committee. In case of each one of these Electricians, the case of the Respondents has been that they came to be appointed as Electricians in the pay scale of Rs.5200-20200 with Grade Pay of Rs.1,900/-. However, the concerned Civil Surgeon under whom they were working, wrongly interpreted the said G.R. and wrongly re-fixed their pays and grade pays. "I further say and submit that necessary steps are being taken to rectify the error and also to fix the responsibility for making such an error."

6. Para 18 from Page 117 of the Paper Book (Affidavit-in-reply) in fact needs to be fully quoted to highlight the nature of the case of the Respondents.

"18. With reference to Para 6 L, I say and submit that as per the revised pattern of staff, accepted vide G.R. dated 01.03.2006, all the posts of Electricians are created and sanctioned in the pay scale of Rs.3050-4590 (Rs.5200-20200 GP 1900). However, it seems that, at few places, the pay scale of Electricians have been revised in the light of G.R. dated 11.02.2013 which is not



correct. I further say and submit that necessary steps will be taken to rectify the error and also to fix the responsibility for making such error.”

The anomaly was sought to be explained in Para 20 of the said Affidavit-in-reply which may also be reproduced for facility.

“20. With reference to Para 6 N, I say and submit that such anomaly has occurred due to following two main reasons.

1. Earlier to review of staffing pattern i.e. before 01.03.2006, all posts of Electricians were created in the pay scale of Rs.1200-1800 (Rs.4000-6000 in 5th Pay Commission and Rs.5200-20200 Grade Pay Rs.2400 in 6th Pay Commission). Therefore all the candidates appointed prior to 01.03.2006 are drawing higher pay scale whereas candidates appointed after implementation of G.R. dated 01.03.2006 are carrying pay scale of Rs.3050-4590 (Rs.5200-20200 Grade Pay Rs.1900/-).
2. Secondly, at few places, pay of the Electricians working in the Civil Hospitals are wrongly refixed on the basis of recommendations made in the G.R. dated 11.02.2013 by wrong interpretation.

I further say and submit that a suitable guidance of the Finance Department will be sought to solve the first issue and

1


secondly suitable action will be taken on the erring officers for wrong interpretation of the G.R. dated 11.02.2013.”

7. In our opinion, the justification sought to be accorded to the clear discrimination practised against the Applicant is not even an apology thereof. No doubt, a disparity crept in somehow somewhere down the line. That is a given fact. The issue is as to whether it is supportable and in our opinion, it is not. The justification sought to be given for a few of them getting higher pay scale has no basis or legal support from any instrument, etc. and if the Respondents want to wriggle out of the corner that they have locked themselves in by the sweeping statement of mistake and wrong that quite clearly will not pass muster with the judicial test. Granting all latitude to them, there was no scope for them to mention that the suitable guidance would be taken from the Finance Department and then the necessary steps taken because after-all, the 4th Respondent is none else but the Finance Department. In that view of the matter, therefore, we are very firmly of the view that the Respondents who by the impugned order have conveyed to the Applicant that the pay scale granted by the said Committee was applicable to the Transport / Stores Department is inaccurate and unsustainable. There is no real justification for granting


A handwritten signature in black ink, appearing to be 'B. B.', is located in the bottom right corner of the page. The signature is written in a cursive style and is positioned over the end of the main text block.

that particular pay scale to the various colleagues of the Applicant who are doing exactly the same work as the Applicant does and not to the Applicant and then try to explain them away with the plea which is completely unacceptable.

8. Mr. Gharte, the learned Advocate for the Applicant relied upon **Union of India Vs. Atul Shukla, AIR 2015 SC 1777**. Now, that was a matter arising out of the service conditions of Armed Forces (Air Force Personnel). However, there are several observations of Their Lordships which would make it clear that there cannot be any hostile discrimination in matters such as this one.

9. In order to fortify his argument based on the principle of "equal pay for equal work", Mr. Gharte referred us to **Randhir Singh Vs. Union of India & ors., AIR 1982 SC 879**. For the same principle, he relied upon **Union Territory, Chandigarh Vs. Krishan Bhandari, (1996) 11 SCC 348**.

10. The upshot, therefore, is that on our own independent assessment of the facts herein, we are very clearly of the view that the Applicant has been wronged.



There is absolutely no justification in practicing any discrimination against him and the other similarly placed employees.

11. The impugned action and order refusing to grant to the Applicant, the pay scale as detailed in Prayer Clause (b) of this OA stands hereby quashed and set aside and it is held that he is entitled thereto and be placed at par with the other colleagues whose names have figured hereinabove. The Respondents shall make amends within six weeks from today. The Original Application is allowed in these terms with no order as to costs.

~

Sd/-

(R.B. Malik)
Member-J
03.08.2016

Sd/-

(Rajiv Agarwal)
Vice-Chairman
03.08.2016

Mumbai

Date : 03.08.2016

Dictation taken by :

S.K. Wamanse.

E:\SANJAY WAMANSE\JUDGMENTS\2016\8 August, 2016\O.A.771.15.w.8.2016.doc