

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 983 OF 2015

DISTRICT : AHMEDNAGAR

Tracers Association,)
Agriculture Department, Maharashtra)
Through its General Secretary,)
Shashikant Jadhav,)
R/o: Vrundavan Niwas, 66, Topkhana,)
Ahmednagar, Dist-Ahmednagar.)...**Applicant**

Versus

1. The State of Maharashtra)
Through P.O, M.A.T,)
Aurangabad Bench, Aurangabad.)
2. The Principal Secretary,)
General Administration Department)
Mantralaya, Mumbai 400 032.)
3. The Principal Secretary,)
Department of Finance,)
Mantralaya, Mumbai 400 032.)
4. The Principal Secretary,)
Department of Agriculture,)
Mantralaya, Mumbai 400 032.)...**Respondents**

12/11

Shri K.R Jagdale, learned advocate for the Applicant.

Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

**CORAM : Shri Rajiv Agarwal (Vice-Chairman)
Shri R.B. Malik (Member) (J)**

DATE : 29.01.2016

PER : Shri Rajiv Agarwal (Vice-Chairman)

ORDER

1. Heard Shri K.R Jagdale, learned advocate for the Applicant and Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicant seeking declaration that eligibility criteria in the G.R dated 1.4.2010 to for grant of first and second benefits of the Assured Career Progression Scheme for the post of Tracer are unreasonable, discriminatory ^{and} to the detriment to the members of the Applicant ^{Association} Association. RH

3. Learned Counsel for the Applicant argued that the Applicant is the registered association of the Tracers working in the Department of Agriculture in the State of Maharashtra. The Applicant's members have been

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discriminated in the matter of grant of first and second benefits of Assured Career Progression (A.C.P) Scheme which has been implemented w.e.f 1.10.2006 in terms of G.R dated 1.4.2010. The Government created two classes amongst the persons working as Tracers in Agriculture Department. Learned Counsel for the Applicant argued that the Government had issued a G.R dated 31.10.1998, by which pay scales of the posts of Tracers, Assistant Draftsman and Draftsman in the Public Works Department were upgraded. Those who had worked for 7 years in the post of Tracer, 5 years on the post of Assistant Draftsman and 4 years on the post of Draftsman were eligible for higher pay scale. As per Resolution dated 19.10.1994, issued by Government of India, all Tracers etc. were eligible for pay upgradation. The Respondent no. 3 issued corrigendum to G.R dated 31.10.1998 and it was made applicable to employees of the Agriculture Department by G.R dated 14.1.1999. The Tracers in Agriculture Department were eligible to get pay scale of Rs. 1200-2040 after completion of 7 years of service from the pay scale of Rs. 975-1540. The Respondent no. 4 issued G.R on 20.4.2001, wherein it was decided that in Agriculture Department, post of Assistant Draftsman is not available, so the Tracer will be eligible to get the scale of Rs. 1600-2660 (i.e. Draftsman pay scale) on getting Time Bound Promotion. By G.R dated 24.1.2007, the Tracers, Assistant Draftsman and Draftsman were granted pay scale at further revised rates

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w.e.f 1.1.1996. The Time Bound Promotion scheme was closed and a new scheme called Assured Career Progression Scheme was introduced by G.R dated 20.7.2001. The Applicant made a representation on 30.1.2007 to the Commissioner of Agriculture to make the pay scale of Draftsman i.e. to Rs. 5500-9000 applicable to Tracers on Time Bound Promotion. However, no decision was taken. The G.R dated 1.4.2010 came into force w.e.f 1.10.2006. On 5.7.2010, another G.R was issued regarding implementation of A.C.P scheme for the isolated posts. The Applicant made a representation on 15.7.2010 to the Commissioner of Agriculture to treat the post of Draftsman as isolated post and a Draftsman should be given second benefit of A.C.P Scheme, which is denied to them as per G.R dated 1.4.2010 on the ground that they are given upgradation in pay scale after 4 years, and that is treated as first benefit and after 12 year, the benefit given to them is treated as second benefit.

4. Learned Presenting Officer (P.O) argued on behalf of the Respondents argued that the Applicant wants benefits to its members which are contrary to the letter and spirit of the Time Bound Promotion Scheme. This Scheme envisages that if an employee is not able to get promotion due to promotional post not being available, he is given higher pay scale of the promotional post, without being actually promoted, after a period of

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12 years of continuous and regular service. By G.R dated 1.4.2010, second benefit of Assured Career Progression (A.C.P) Scheme is made available to those, who were given first benefit after 12 years, and yet could not get second promotion after 24 years. These benefits are, in effect, non-functional promotions. An employee continues to work in the lower post but gets pay in the pay scale of promotional post. For the persons working in isolated posts, the G.R dated 5.7.2010 makes appropriate provision under A.C.P Scheme. Learned Presenting Officer argued that the Tracers are given a higher pay scale after serving for 7 years. This is treated as first benefit under A.C.P Scheme as per G.R dated 1.4.2010. Tracers and Draftsman are already getting benefit of Special Time Bound Promotion Scheme introduced by G.R dated 31.10.1998 which was made applicable to them by Government Circular dated 24.5.1999. Under this scheme, a Tracer is entitled to get higher pay scale after 7 years of service, while the Draftsman are eligible to higher pay scale after 4 years of service. Before the G.R dated 1.4.2010, was made applicable to Government employees, Tracers and Draftsman were eligible to get Time Bound Promotion as per G.R dated 8.6.1995 on the basis of lower pay scale, after 12 years of service. For example, a tracer in the pay scale of Rs. 975-1540 was eligible to get pay in the scale of Rs. 1200-2040 after 7 years of service. However, under G.R dated 8.6.1995, after a further period of 5

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years (i.e. total 12 years) he was eligible to get pay in the pay scale of Rs. 1400-2300, which was the pay scale of the promotional post of Draftsman. Learned Presenting Officer argued that after the G.R dated 1.4.2010 made second benefit of A.C.P Scheme available to Government servants, it was decided to revise the applicability of A.C.P Scheme applicable to Tracers and Draftsman. It was provided in para 2 (b)(3) of the G.R that Non-functional higher pay structure to a post will be treated as first benefits of A.C.P and 12 years after first benefit of A.C.P Scheme, second benefit will be granted. Learned Presenting Officer argued that there is no discrimination against the members of the Applicant. On the contrary, earlier when other employees were getting one pay upgradation after 12 years, the members of the Applicant were getting two upgradation after 7 and 5 years respectively. Even now, when other employees will get two benefits of A.C.P Scheme in 24 years, the members of the Applicant will get it in $7 + 12 = 19$ years. There is no case of unreasonable or discriminatory treatment to the members of the Applicant and the G.R dated 1.4.2010 cannot be assailed on this ground. Learned Presenting Officer argued that the Applicant has not challenged any order in this Original Application and in fact there is no cause of action. The Applicant is seeking decision of this Tribunal on hypothetical problem.

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5. We find that Nagpur Bench of this Tribunal in O.A nos 636, 733 and 599/2013 by order dated 26.2.2015 held that upgradation of pay of a Extension Supervisor in Dairy Development Department from the pay scale of Rs. 975-1540 to Rs. 1200-1800 after 7 years of service as per G.R dated 14.12.1998 will not amount to first benefit of A.C.P Scheme, as the pay scale of the promotional post was Rs. 1350-2200. It was held that grant of intermediate scale between the pay scale of lower post and promotional post will not attract para 2(b)(3) of G.R dated 1.4.2010. The Applicants were, therefore, deemed to have received the benefit of first Time Bound Promotion after 12 years (7 years + 5 years) and were held eligible for second benefit of A.C.P scheme after a further period of 12 years. Orders contrary to this were quashed and set aside.

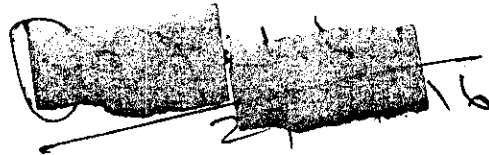
6. The Applicant, in the present Original Application is an Association of Tracers. No specific order has been challenged before us in the present O.A. We are not certain, what pay band and grade pay is available to Tracer on appointment and what is the grade pay after 7 years. If the Tracers are getting the same grade pay after 7 years, which is applicable to other employees after 12 years, obviously, the ratio of judgment of Nagpur Bench of this Tribunal will not be applicable. It will not be possible for us to decide a hypothetical question, without full facts being before us.

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7. In the other case relied upon by the Applicant viz. judgment of this Tribunal dated 21.4.2015 in O.A no 233/2013 and 1000 to 1003 of 2013, a ~~similar~~ view, similar to the view taken by Nagpur Bench as mentioned in para 5 above has been taken. Here also, for the Agricultural Assistants, the orders treating upgradation after 7 years as first benefit under A.C.P Scheme were quashed and set aside.

8. In the present case, no orders have been challenged and it can be said that there is no cause of action. The Applicant is seeking direction as to how the G.R dated 1.4.2010 will be operated in so far as its members are concerned. We are unable to give any such directive. There is no cause of action as no specific order has been challenged.

9. Having regard to the aforesaid facts and circumstances of the case, this O.A is dismissed with no order as to costs.



(R.B. Malik)
Member (J)



(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai

Date : 29.01.2016

Dictation taken by : A.K. Nair.