

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 313 of 2018 (DB)

Pesuram Tarachand Dara,
Aged about 73 years, Occ. Retired,
Superintendent of Prison,
R/o Jaripatka, Nagpur.

Applicants.

Versus

- 1) The State of Maharashtra,
through its Chief Secretary,
Mantralaya, Madam Cama Road,
Mumbai-400 032.
- 2) The Principal Secretary,
Home Department (Prison),
Government of Maharashtra,
Mantralaya, Madam Cama Road, Mumbai-400 032.
- 3) The Secretary,
Finance Department,
Government of Maharashtra,
Mantralaya, Madam Cama Road, Mumbai-32.

Respondents.

Shri R.V. Shiralkar, Advocate for the applicant.

Shri S.A. Sainis, P.O. for respondents.

**Coram :- Shri Shree Bhagwan,
Vice-Chairman and
Shri Anand Karanjkar, Member (J).**

Date of Reserving for Judgment : 11th July, 2019.

Date of Pronouncement of Judgment : 16th July, 2019.

JUDGMENT**Per : Anand Karanjkar : Member (J).****(Delivered on this 16th day of July,2019)**

Heard Shri R.V. Shiralkar, learned counsel for the applicant and Shri A.M. Ghogre, learned P.O. for the respondents.

2. The applicant was in service of the Maharashtra Prison as a Superintendent. The applicant retired from the service in the month October, 2003. It appears from the facts that the Hon'ble High Court had received a letter from one of the one inmate of the Central Prison; Nagpur, cognizance of that letter was taken as public interest litigation and on the basis of this letter Writ Petition No. 285/1999 was proceeded. Interim order was passed by the Hon'ble High Court in this Writ Petition and then Joint District Judge, Nagpur was appointed as a Commissioner to visit Central Jail, Nagpur and to submit report. It was noticed by the Hon'ble High Court that the service conditions of the Staff of the Prison Department were not good and there was disparity in the pay scales of the regular Police Force and the employees of the Prison. Thereafter, the report was submitted by the learned Joint District Judge, Nagpur and thereupon directions were issued by the Hon'ble High Court on 16/3/2000. It seems that in pursuance of the order the Government of Maharashtra took note of the grievance of the Jail employees regarding the disparity in the pay and decided to bring their salary at par with the officials of the

Maharashtra Police Force. The Government of Maharashtra issued G.R. on 12th September, 2003 and revised the pay scales of the Jail officials w.e.f. 4/6/2003.

3. Being aggrieved by this action of the Government not extending the benefits of the G.R. w.e.f. 1/1/1996, Writ Petition No. 1854/2004 was filed by the applicant and 4 others Jail employees. It was contended in the Writ Petition that the action of the Government not giving the benefits to the Writ Petitioners w.e.f. 1/1/1996 was arbitrary, discriminatory and it was in violation of the provisions under Article 14 of the Constitution of India. When the Writ Petition came up for hearing the Hon'ble High Court came to the conclusion that the Writ Petitioners should have first approached the Maharashtra Administrative Tribunal, consequently the Hon'ble High Court directed the Writ Petitioners to take back the Writ Petition and file the O.A. before the Maharashtra Administrative Tribunal, Nagpur Bench within 15 days. In pursuance of the order passed by the Hon'ble High Court, the present applicant who was Petitioner no.5 in the Writ Petition submitted O.A.

4. It is submission of the applicant that the direction was given by the Hon'ble High Court in the earlier Writ Petition to remove the disparity in the pay scales and for the same purpose, the Committee was established. It is submitted that the report of the

Committee was accepted by the Government and the G.R. dated 12/9/2003 was issued. It is submitted that the benefit of G.R. should have been given to the applicant and others Jail employees w.e.f. 1/1/1996, but it was not done and the effect to the G.R. was given from 4/6/2003.

5. It is submitted by the applicant that direction be given to the respondents to implement the benefits of the 5th Pay Commission w.e.f. 1/1/1996 and further directed the respondents to pay arrears of salary and revised pension and all consequential benefits flowing for the same. The learned counsel for the applicant submitted that no justification is given by the respondents for not giving effect to the G.R. dated 12/9/2003 from 1/1/1996. It is submitted that the Government of Maharashtra has issued G.R. dated 17/1/2004 vide Annex-A-4 and extended the benefits of the G.R. w.e.f. 1/1/1996. This action of the Government is attacked on the ground that it is discriminatory, arbitrary and denying equal protection of law. It is submitted that no just reasons are recorded for not giving the benefits of this G.R. w.e.f. 1/1/1996, therefore, the direction be issued to the respondents to extend the benefits of G.R. dated 12/9/2003 from 1/1/1996.

6. The respondent nos. 1&2 have submitted their reply and resisted the application. It is submitted that the Government of

Maharashtra has not violated any provisions while extending the benefits of the G.R. from 4/6/2003. It is submitted that considering the direction issued by the Hon'ble High Court and the report submitted by the Committee cognizance was taken by the Government of Maharashtra and in its wisdom decision was taken to extend the benefit of the G.R. w.e.f. 4/6/2003. It is submitted that there was no direction issued by any Court to extend the benefits of the G.R. w.e.f. 1/1/1996. It is submitted that the applicant has received all the benefits of the 5th Pay Commission and arrears and therefore there is no substance in it.

7. We have perused the record and proceeding. It appears that the Notification dated 10/12/1988 was issued by the Government of Maharashtra, Finance Department and provisions of the 5th Pay Commission were made applicable to the employees on the establishment of Inspector General of Prisons, Pune. It is contended by the learned P.O. that the applicant and all employees of the Prison Department in Maharashtra have received the salary and arrears as per the 5th Pay Commission.

8. Even after going through the prayer clause, it seems that there is no prayer for issuing direction to the respondents to give benefit of the 5th Pay Commission and arrears to the applicant. It must be remembered that cognizance of the letter was taken by the

Hon'ble High Court in the year 1999, at that time the 5th Pay Commission was already implemented vide Notification dated 10/12/1998. It was brought to the notice in Writ Petition No.285/1999 that there was a disparity in pay scales of the employees of the Prison Department and the Police Department, so also it was brought to the notice of the Hon'ble High Court that the service conditions of the employees of the Prison Department were stringent and labours than the employees of the Police Department. In view of this background, direction was issued and Commissioner was appointed and feedback was obtained and ultimately directions were issued to the Government to remove the disparity. There is no dispute about the facts that in pursuance of this background the Government of Maharashtra issued G.R. dated 12th September, 2003. In para-2 of this G.R. this entire background is discussed. After considering the material which was placed before, the Government of Maharashtra took decision to remove the disparity in the pay scales of the employees and officers of the Police Department and Prison Department and to extend the same pay scales to the employees and officers of the Prison Department. So far the pay scales proposed by the G.R. are concerned, there is no dispute about it. The only the contention of the applicant is that the Government of Maharashtra should have extended the benefit of the G.R. w.e.f. 1/1/1996.

9. The applicant has contended that the Government of Maharashtra has issued the G.R. dated 17/1/2004 for removing the disparity in the pay scales of the Teachers in the Government Industrial Training Institutes, Technical Schools and Higher Secondary Schools. I have gone through this G.R. which is at Annex-A-4. It appears that in this G.R. also the provisions of the G.R. were not extended since 1/1/1996 to all persons who were benefited by the G.R. As per the Clause-B in this G.R. the full time Teachers were entitled for the pay scale as per the G.R. w.e.f. 1/3/2000.

10. It appears from the facts that considering the disparity in the pay scales of the employees of the Jail Department and Police Department, the decision was taken by the Government of Maharashtra to bring the salaries of the employees of the Jail Department at par with the salaries of the Police Department. As a matter of fact this is a policy decision taken by the Government and the Government in its own wisdom has decided to give effect to implement the G.R. from 4/6/2003. The Government was not under legal obligation to extend the provisions of the G.R. w.e.f. 1/1/1996. I have already cleared that attempt is made to give colour that even benefit of the 5th Pay Commission is not given to the applicant and other Jail employees, but it is not a fact, otherwise the applicant would have prayed for such relief in the prayer clause. The legal

position is settled that the Administrative Tribunal cannot issue any direction to the Government to take a policy decision. The jurisdiction of the Administrative Tribunal is very limited, it can interfere in the matter only when the decision taken by the Government is apparently arbitrary and discriminatory. Once it is accepted that the employees of the Jail Department are brought on the same level to that of the employees of the Police Force, then there remains no substance in the application. In the result, we hold that the application is devoid of merit. Hence, the following order –

ORDER

The O.A. stands dismissed. No order as to costs.

(Anand Karanjkar)
Member(J).

(Shree Bhagwan)
Vice-Chairman.

Dated :- 16/07/2019.

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I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble V.C. and Member (J).

Judgment signed on : 16/07/2019.

and pronounced on

Uploaded on : 16/07/2019.