

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 221/2019(S.B.)**

Maharashtra Rajya Shaskiya  
Bhautikopachar va Vyavasayopachar Tadnya  
Sangathana, through its Secretary –  
Shri Sachin Ramteke, age 38 years, Office at B  
3/6, Patrakar Colony, Civil lines,  
Nagpur-440 001.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
Through its Principle Secretary,  
Finance Department,  
Mantralaya, Mumbai- 32.
- 2) Principle Secretary, Public Health  
Department, Mantralaya,  
Mumbai-32.
- 3) The Director of Health Services,  
Mumbai, 400 001
- 4) The Commissioner, Employees State  
Insurance Scheme (ESIS), Lower parel,  
Mumbai.

**Respondents**

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Shri Bharat Kulkarni, Ld. counsel for the applicant.  
Shri A.M.Khadatkar, Ld. P.O. for the respondents.

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**Coram:-Hon'ble Shri M.A.Lovekar, Member (J).**

**Dated: - 25<sup>th</sup> August 2022.**

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**JUDGMENT**

**Judgment is reserved on 17<sup>th</sup> August, 2022.**

**Judgment is pronounced on 25<sup>th</sup> August, 2022.**

Heard Shri Bharat Kulkarni, learned counsel for the applicant and Shri A.M.Khadatkar, learned P.O. for the Respondents.

2. The applicant is an Association of Occupational Therapists and Physiotherapists who hold the degree of B.Th.O. Duration of this degree course is four and half years including compulsory internship of six months. Therefore, they are seeking parity of pay scale with degree holders working in the other branches under respondent no.2 department. There was pay parity between Occupational Therapists and Physiotherapists and Dental Surgeons. However, it was discontinued with effect from 01.01.1986 (after constitution of Bhole Commission). This anomaly arose because Occupational Therapists and Physiotherapists were treated to be Diploma holders though they were degree holders. To set right this discrepancy the Applicant Association filed O.A.No.610/2013. It was partly allowed by judgment dated 18.01.2018 (Annexure A-2). In para 3 of the judgment grievance of the Applicant Association was set out as under-

***According to the applicant, all its members mentioned in the list at Annexure-A-1 are Occupational and Physiotherapists having qualification of Bachelor of Occupational Therapy and therefore they are entitled to***

*receive all the remuneration, pay scales and other service benefits as applicable to the Graduate Occupational Therapists. The members of the association have acquired B.Th.O. which is a full fledged degree level course and they acquired it after passing Common Entrance Test after 10+2 examination. The members came to be appointed on the posts of Occupational Therapist in State of Maharashtra as per Recruitment Rules. The Government of Maharashtra however granted pay scales applicable to Diploma level examination to the applicants and as such violated the Article 14 and 16 of the Constitution of India.*

3. In the said O.A. the reliefs sought by the Applicant's Association were as follows-

*7. In the O.A. the applicant association claimed suitable order or direction to the respondents thereby to declare that the action on the part of respondent state in granting fixation of pay of the Occupational Therapists working in the State Government services considering their educational qualification as diploma holders is arbitrary and violative of Article 14 and 16 of the Constitution of India and to issue order or direction to the respondent state for fixing the pay scale of the Occupational Physiotherapists. The applicant association is claiming direction to respondent no.1, to implement the recommendations of the respondent no.3, i.e., the Director of Health Services vide communication dated 4/7/2011.*

***8. Subsequently by way of amendment the applicant has claimed direction to respondent no.2 to consider the proposal of respondent no.3 dated 4/7/2011 and to recommend the respondent no.1, the Finance Department to issue proper pay scale to Occupational Physiotherapists equal to the Lecturer in O.T./PT. having similar educational qualification and nature of work.***

This Tribunal summed up the discussion in the said O.A. and passed the order as follows-

***18. From the discussion in foregoing paras, it will be crystal clear that in the present case though the Government has not taken any decision on the recommendation of the applicant's claim on the basis of letter issued by the Joint Director of Health Services, the applicant association was allowed to represent by the Pay Revision Committee and after hearing the applicant association, the Committee issued its report dated 31/5/2012 as mentioned in the G.R. dated 11/2/2013 (Annex-R-9). In the said report, the cases of the applicants seem to have been considered, but the recommendation made by the Director of Health services was not placed before the said Committee. Once the Pay Revision Committee which is an expert Committee has considered the grievance and submitted its report on 31/5/2012 and decided not to change the pay scale of members of applicant association, it will not be proper at this juncture for this Tribunal to interfere in the said report of expert Committee. However, it is clear that the suggestion***

*/ recommendation made by the Director of Health Services, was not placed before the Committee. Since the new Pay Revision Committee is formed under the Chairmanship of K.P. Bakshi, Retired IAS which is known as “राज्य वेतन सुधारणा समिती, २०१७” it will be in the interest of justice and equity to allow the association to submit its grievances before the said Committee and at the same time the recommendation made by the Director of Health Services vide its communication dated 4/7/2011 (Annex-A-17) shall also be placed before the said Committee for consideration. In view of this, I pass the following order :-*

**ORDER**

*The O.A. is partly allowed. The respondents are directed to place a proposal of respondent no.3, i.e., the Director of Health Services dated 4/7/2011 and recommendation made by the respondent no.1 the Finance Department before the “राज्य वेतन सुधारणा समिती, २०१७” under the Chairmanship of Shri K.P. Bakshi, Retired IAS. The said Committee may take appropriate decision in respect of grievances made by the applicant association and also by considering the recommendation made by the Joint Director of Health Services, Mumbai vide letter dated 4/7/2011 (Annex-A-17). No order as to costs.*

According to the Applicant Association representation was submitted by it to respondents 2 and 1 on 21.02.2018 and 30.10.2018, respectively as per judgment dated 18.01.2018 passed by this Tribunal in O.A.No.610/2013. The Applicant Association learnt that the

recommendation regarding grant of pay parity was placed before the Bakshi Committee by respondents 1 and 2 as per order of this Tribunal.

4. Grievance of the Applicant Association now is that the Bakshi Committee has not taken any decision as per proposal / recommendation dated 04.07.2011 (Annexure A-4) made by respondent no.3, as well as order dated 18.01.2018 passed by this Tribunal in O.A.No.610/2013. Hence, this application for following reliefs-

**[I.] Direct the R. 1 & 2 to issue the GR as per demand of the Applicant Association of revision of pay scale in 7<sup>th</sup> pay as revised pay matrix S-20 56100-177500 instead of S-14 38600-122800 to remove the anomaly in 7<sup>th</sup> pay.**

**[II.] Direct the R. No.1 and 2 to grant the pay scale of Rs.2200-4000 w.e.f. 1/1/1986 notionally and from 01/01/1996 Rs.8000-13500/-, and from 1/1/2006 Rs.15600-39100 with grade pay of Rs.5400/- with arrears of pay and allowances to remove the discrimination in pay scale may kindly be issued the GR. In view of the proposal of R.No.2 & 3 dated 4/7/2011 and issue the GR to that effect to remove the inequality and parity in pay scale.**

**[III.] Direct the Respondents to pay the arrears of pay & allowances with interest from 1/1/1996.**

5. The Applicant Association has placed on record notification dated 30.01.2019 (Annexure A-3) issued by Finance Department of Government

of Maharashtra. Regarding this notification the Applicant Association as averred-

***The R.No.1 has issued Notification of revised pay scale of 7<sup>th</sup> pay Commission w.e.f. 1/1/2016. In this notification the R.No.1 has not considered the pay scale of Applicants as recommended by the R.No.1 & 2 of 6<sup>th</sup> pay Commission Rs.15600-39100 with grade pay Rs.5400/- instead of Rs.9300-34800/- with Grade pay Rs.4300/- to applicants Occupational Therapist & Physio Therapist, in short called as O.T. & P.T. The same is compared to 7<sup>th</sup> pay Commission pay level in revised pay matrix S-14 : 38600-122800. Whereas Dental Surgeon Rs.15600-39100 and now in 7<sup>th</sup> Commission Revise pay matrix S-20: Rs.56100-177500. Discrepancy in pay scale is not removed.***

6. The applicant has further placed on record extract of report of the 7<sup>th</sup> CPC relating to Paramedic Cadres at Annexure A-5. Contention of the Applicant Association based on Annexure A-5 is as follows-

***The 7<sup>th</sup> Central pay Commission has made the observation about the Paramedic cadres page 217/2018 of the report that "The entry level qualification for physiotherapists has been revised by the Government recently from the existing Diploma in physiotherapy to Bachelor Degree in physiotherapy with two years practical experience with a desirable qualification of Master in physiotherapy. In this backdrop the Commission recommends the pay restructuring. Therefore the***

*applicants though degree holders the discrepancy occurred only because after Bhole Commission the Central pay Commission has recommended pay scale to Occupational Therapist on the backdrop of Diploma and not the Degree.*

7. Reply of respondent 1 is at pp.72 to 79. In this reply following details have been set out-

*(1) The Finance Department vide Government Resolution dated 17<sup>th</sup> January, 2017 had appointed the State Pay Revision Committee, 2017 for the implementation of 7<sup>th</sup> Pay Commission under the Chairmanship of Shri K.P. Bakshi, Retired Additional Chief Secretary, Government of Maharashtra. The scope of the said Committee was finalized vide Government Resolution dated 17<sup>th</sup> July, 2017. The Committee has also been assigned the task of looking into anomalies in pay scales of 6<sup>th</sup> Pay Commission, if any.*

*The applicant association has submitted its online representation regarding the anomalies in pay scales to Bakshi Committee. Hereto annexed and marked as Exhibit-“R-1” is copy of the representation.*

*(2) The State Pay Revision Committee, 2017 (Bakshi Committee), submitted its first report Volume-I in September 2018 to the Government. Thereupon the State Cabinet took its decision in respect of said report Volume-I of the State Pay Revision Committee, 2017 (Bakshi Committee) contains only revised pay*

*scales of 7<sup>th</sup> Pay Commission corresponding to pay scales of 6<sup>th</sup> Pay Commission, which was implemented vide Government notification dated 30.01.2019.*

*Recommendation of the Committee regarding anomalies and pay upgradations are included in Committees Report Volume-II. I say and submit that, 3740 proposals from around 800 cadres regarding pay scales/pay upgradations were received by the State Pay Revision Committee, 2017 (Bakshi Committee). After examining all these proposals, the Bakshi Committee submitted its consolidated report of Volume-II to the Government in the month of September, 2019. At that time, the Government had sought clarification from the Committee regarding the recommendations in the report. Thereafter, the Committee submitted its explanatory final report to the Government on 9<sup>th</sup> February, 2021. The recommendations in this report need approval of the Cabinet. Thereafter Finance Department had submitted the proposal to place the report Volume-II for consideration of the Cabinet. The Government has taken the decision on the said proposal as follows :-*

*At present there are limitations on expenditure due to COVID - 19 (Corona) pandemic. Government has imposed restrictions on expenditure vide Government Resolution dated 4<sup>th</sup> May, 2020. In this situation, at present it would not be appropriate to bear a new expenditure or to take up new schemes creating additional financial burden. Hence, it would be appropriate to take decision on the report Volume-II after some time on improvement in financial position.”*

- (3) *As the State Pay Revision Committee, 2017 (Bakshi Committee) has submitted the report Volume-II, no further action in this regard is pending with the said Committee. However, extraordinary and exceptional circumstances occurred due to outbreak of COVID - 19 pandemic in the year 2020 and 2021, there are restrictions on incurring expenditure from public exchequer. In this background and the fact that decision regarding all recommendations included in the report Volume-II will be taken on improvement in financial position of the state as stated earlier. The Government will take appropriate decision on the recommendations of the Committee made in the Report Volume-II. The decision taken by the Cabinet on the Report Volume-II, shall be made available on public domain.*
- (4) *Recommendations of the Bakshi Committee report will be finalized only after approval of the State Cabinet.*

These details show that report of the Bakshi Committee is awaiting approval by the State Cabinet.

8. In support of prayer made in the O.A. the applicant has relied on "*State of Punjab and Others versus Jagjit Sing and Others*" (Judgment of Hon'ble Supreme Court dated 26.10.2016 in Civil Appeal No.213/2013 with connected matters). In this ruling following observations in "*Steel Authority of India Ltd. versus Dibyanshu Bhattacharya*" have been quoted-

- (1) ***Granting parity in pay scales depends upon the comparative evaluation of job and equation of posts. The person claiming parity, must plead necessary averments and prove that all things are equal between the posts concerned.***
- (2) ***The Expert Committee has to decide such issues, as the fixation of pay scales etc. falls within the exclusive domain of the executive.***
- (3) ***Thus, the nomenclature of a post may not be the sole determinative factor.***
- (4) ***Unless there is complete and wholesale/wholesome identity between the two posts they should not be treated as equivalent and the Court should avoid applying the principle of equal pay for equal work.***

9. Since finalisation of recommendations of the Bakshi Committee is awaiting approval from the State Cabinet, this O.A. deserves to be allowed by directing respondents 1 and 2 to take necessary steps so that the recommendations of the Bakshi Committee are finalised expeditiously. Respondents 1 and 2 are directed accordingly. The O.A. is allowed in these terms with no order as to costs.

(M.A.Lovekar)  
Member (J)

Dated – 25/08/2022

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

Name of Steno : Raksha Shashikant Mankawde  
Court Name : Court of Hon'ble Member (J) .  
Judgment signed on : 25/08/2022.  
and pronounced on  
Uploaded on : 25/08/2022.