

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 366/2017 (S.B.)**

- 1) Vinod S/o Narayan Dhoran,  
Aged about 37 years, Occu : Service,  
R/o C/o P.B. Kasurkar, Ramdhan Plot,  
Galli No.2, Ramdaspeth, Akola-444 001,  
Tq. & Distt. Akola.
  
- 2) Mahesh S/o Jivanrao Babulgaonkar,  
Aged about 45 years, Occu : Service,  
R/o 7, Shraddha Building, Sarda Nagri,  
Beed-431 122, Tq. & Distt. Beed.
  
- 3) Abhijeet S/o Vasanttrao Patil,  
Aged about 29 years, Occu : Service,  
R/o 401, Mahalaxmi Plaza, Sardar Park,  
Deokar Panand Road, Kolhapur,  
Tq. & Distt. Kolhapur.
  
- 4) Bhagwan S/o Abhiman Ingole,  
Aged about 43 years, Occu: service,  
R/o At post Januna, Post Tq. Mahagaon,  
Distt.Yavatmal-445 205.  
Tq. & Distt.Yavatmal.

**Applicants.**

**Versus**

- 1) State of Maharashtra,  
Through its Secretary,  
to Higher and Technical Education Department,  
Mantralaya, Mumbai- 32.
  
- 2) Director of Technical Education,  
Maharashtra State, Dhobi Talao,  
Mahapalika Marg, Mumbai.
  
- 3) Joint Director of Technical Education,  
Divisional Office, 412 Shivaji Nagar,  
Pune.

**Respondents**

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Shri R.L.Khapre, counsel for the applicants.  
Shri M.I.Khan, Ld. P.O. for the respondents.

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

**Dated: - 29<sup>th</sup> November 2022.**

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**JUDGMENT**

**Judgment is reserved on 18<sup>th</sup> October, 2022.**

**Judgment is pronounced on 29<sup>th</sup> November, 2022.**

Heard Shri R.L.Khapre, learned counsel for the applicants and  
Shri M.I.Khan, learned P.O. for the Respondents.

2. In this O.A. the applicants who are holding the post of Technical Lab Assistant are seeking pay parity with Draftsman.

3. Case of the applicants is as follows.

Posts of Draftsman and Technical Lab Assistant are distinct. As per recommendation of Pay Commission pay scale of Technical Lab Assistant was revised from 4000-6000 to 5200-20200-G.P.2400. Likewise, pay scale of Draftsman was revised from 6500-10500 to 9300-34800-G.P.4400 (Annexure A-1). By order dated 30.08.2010 passed in O.A.No.246/2007 (Annexure A-2) Principal Bench of this Tribunal had granted pay parity to Draftsmen working in various Polytechnique colleges in the State of Maharashtra. By G.R. dated 01.06.2012 (Annexure A-3) qualifications, duties, responsibilities etc. of various posts including those of Draftsman and Technical Lab Assistant were fixed. As per these G.Rs. duties and responsibilities of both these posts are the same. As per advertisement dated 12.12.1995 (Annexure A-4) exactly identical educational qualification was prescribed for both these posts. On the basis of information received under the RTI Act (Annexure A-5) representation dated 16.05.2015 (Annexure A-6) was made to respondent no.1 stating therein as follows.

विषय :- आरेखक या पदाप्रमाणेच कर्तव्ये व जबाबदा-या तसेच वैश्विक अर्हता समकक्ष असल्याने तांत्रिक पदावरील कर्मचा-यांना तसेच तांत्रिक प्रयोगशाळा सहाय्यक या पदासाठी आरेखक या पदास देय

असलेली वेतन श्रेणी ०१/०१/१९९६ पासुन पुर्वलक्ष्मी प्रभावाने  
मिळणेबाबत.

आदरणीय महोदय,

वरील विषयास अनुसरून नम्रपणे खालील निवेदन देत आहे. तंत्रिक्षण संचालनालयाच्या अधिपत्याखालील संस्थामध्ये आम्ही तांत्रिक सहाय्यकारी पदावर व तांत्रिक पदासाठी आय.टी.आय. षे. अर्हता आवश्यक असुन तांत्रिक प्रयोगशाळा सहाय्यक या पदासाठी पदविका ही षे. अर्हता आवश्यक आहे. या पदांना २४००/- रु. ग्रेड वेतन अनुज्ञेय आहे.

तंत्रिक्षण संचालनालयामध्येच आरेखक हे पद अस्तित्वात होते तथापी सध्या ते व्यपगत झाले आहे. आरेखक या पदासाठी आय.टी.आय. ही षैक्षणिक अर्हता आवश्यक आहे व तांत्रिक प्रयोगशाळा सहाय्यक पदासाठी ही षे. अर्हता आवश्यक आहे याकडे आपले विशेष लक्ष वेधु ईच्छितो.

तसेच आरेखक या पदाप्रमाणेच कर्तव्ये व जबाबदा-या तसेच षैक्षणिक अर्हता समकक्ष असल्याने तांत्रिक पदावरील कर्मचा-यांना तसेच तांत्रिक प्रयोगशाळा सहाय्यक या पदासाठी आरेखक या पदास ०१/०१/१९९६ पासुन देय असलेली ४४००/- रु. ही वेतनश्रेणी ०१/०१/१९९६ पासुनच देय ठरते तरी याबाबत तातडीने कार्यवाही होणेबाबत विनंती आहे.

By the impugned communication dated 17.11.2015 (Annexure A-7) it was informed –

उपरोक्त संदर्भात आपणास कळविण्यात येते की, ६ व्या आयोगा अंतर्गत मंजुर झालेल्या वेतनमानाबाबत त्रुटी असल्यास त्यावर निर्णय घेण्यासाठी षासनाने वेतन त्रुटी समितीची स्थापना केलेली होती. कर्मचा-यांनी त्या-त्या वेळी वेतनत्रुटी

समिती पुढे आपली निवेदने विहित मार्गाने सादर करणे आवश्यक होते. कर्मचा-यांनी वेळीच अर्षी निवेदने दिलेली नसल्याने आता अर्षा निवेदनांचा विचार करता येत नाही. तरी संबंधित कर्मचा-यांना तसे कळवावे.

Hence, this O.A..

4. In their reply at pp.55 to 64 respondents 1 and 2 have averred as follows. The O.A. is barred by limitation. No part of cause of action so far as applicants 2 and 3 are concerned, had arisen within the territorial jurisdiction of this Bench. Hence, Rule 6 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 will preclude this Bench from entertaining the O.A. to the extent of applicants 2 and 3. Equation of posts and salary is a complex domain and it should be left to expert body. Order dated 30.10.2010 passed in O.A.No.246/2007 granted pay parity to Draftsmen working in various Polytechnic Colleges in the State of Maharashtra. This is clearly distinguishable on facts. A High Level Committee of Secretary Level was formed to take a review of excess posts in various institutions as per the need of the students and on 9.12.2002 the Committee submitted the report and by that report post of Draftsman is abolished from the various institutions vide the G.R. dated 14.01.2003 (Annexure R-1). No new post of Draftsman is filled after 2003. A Committee is formed in the year 2009 to fix pay scales. The Committee submitted its report in 2012. Considering these aspects challenge in the instant O.A. is rather belated. G.R. dated 01.06.2012 speaks only about O.A.No.366/2017

rules and responsibilities of concerned employees and not about their educational qualification. For these reasons the O.A. is liable to be dismissed.

5. It is the contention of the applicants that cause of action arose only after duties and qualifications of Draftsman and Technical Lab Assistant were fixed by G.R. dated 01.06.2012 (Annexure A-3). This would essentially mean that from said date limitation would start. Instant O.A. is filed on 15.11.2016. It is clearly time barred.

6. By G.R. dated 01.06.2012 same duties and responsibilities were stipulated for Draftsman and Technical Lab Assistant. However, as pointed out by learned P.O. these G.Rs. only referred to duties and responsibilities of various posts and not to educational qualification required for these posts.

7. According to the learned P.O., so far as applicants 2 and 3 are concerned, they were neither posted for the time being within the jurisdiction of this Bench nor any part of cause of action had arisen within the jurisdiction of this Bench nor any of the respondents against whom relief is sought ordinarily resides within the jurisdiction of this Bench and hence, in view of Rule 6 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 grievance of the applicants 2 and 3 can not be

considered for redressal by this Bench. Correctness of this submission is borne out by record.

8. The applicants have relied on the following rulings.

(1) **Union of India and Ors. v. Dineshan K.K. AIR 2008 Supreme Court 1026.**

In this case it is held-

*It is true that the principle of equal pay for equal work has no mathematical application in every case of similar work. Equation of posts and equation of pay structure being complex matters are to be generally left to the Executive and expert bodies like the pay Commission etc. 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. 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, arbitrary or unjust, it is open to the Court to intervene.*

- (2) **Haryana State Minor Irrigation Tubewells Corporation and Ors. v. G.S.Uppal and Ors. Haryana State Minor Irrigation Tubewells Corporation and Ors. v. Chakrawarti Garg Haryana State Minor Irrigation Tubewells Corporation and Ors. v. A.S.Dhir. AIR 2008 Supreme Court 2152.**

In this case it is held-

*When the pay revision took place, the revised pay scales that were given to the Engineers of the State Govt. were also given to the Engineers of the Govt. Corporation with effect from 1-1-1986 thereby maintaining the parity. What was not extended to the Corporation employees, which is the subject matter of the grievance, is the further revision by way of removal of anomaly in pay scales given to AEE/AE/SDO/SDE of the State Govt. with effect from 1-5-1989. When, after a pay revision, it is not a new pay revision but a correction of the original pay revision, or an amendment to the pay scale that has already been granted. Therefore, where the pay revision extended to the Govt. servants has already been extended to the employees of the Corporation also, it follows that any correction of anomaly in the revised pay scale given to the Govt. servants should also be made in the case of those who were earlier given parity by extending the pay scale which is the*



*subject matter of the correction. It should be borne in mind that the question whether Corporation Engineers were on par with PWD Engineers and should be given parity in pay scales was already decided when the pay scale revision granted to Govt. (PWD) Engineers was extended to the Corporation Engineers also with effect from 1-1-1986. That question did not again arise when the anomaly in the pay revision was rectified with reference to the Govt. Engineers. When the anomaly in the pay scale of Govt. Engineers was rectified, the rectification should apply to Corporation Engineers also to maintain the parity. Moreso when said benefit was extended to all other employees of the Corporation.*

- (3) Food Corporation of India and Ors. v. Ashish Kumar Ganguly and Ors. AIR 2009 Supreme Court 2582.

In this case it is held-

*The Corporation had all along been keen to obtain the services of Government employees working in the Food Departments of the States evidently because they did have the requisite experience. Those employees were appointed to a post to which a time scale was applicable. They were in continuous service for not less than two years. Paragraph 4.70 of the Office Manual and Regulation 81 of the Regulations providing for grant of advance increment are attracted both in the case of the Central Government*

*employees and the State Government employees sent on deputation. The nature of duties, qualification and service conditions of both set of employees also stand on similar footings. The nature of duties, qualification and service conditions of both set of employees also stand on similar footings. Not to apply the rules applicable to the employees of the Food Corporation of India to deputationists from State Govts. absorbed in service of F.C.I. only on ground that they have been taken from the different sources is discriminatory.*

(4) **Union of India and Ors. v. Jagdish Pandey and Ors. AIR 2010 Supreme Court 3019.**

In this case it is held-

*Pay scale is a legitimate right of an employee and except for valid and proper reasons it cannot be varied, that too only in accordance with law. None of these justifiable reasons exist in the present case. The impugned order itself does not give any reason. The expression 'erroneously' used in the order can hardly justify withdrawal of such an existing right.*

(5) **State of Kerala v. B. Renjith Kumar and Ors. AIR 2009 (Supp) 465 Supreme Court.**

In this case it is held-

*The State Government had granted to presiding Officers of Industrial Tribunal pay scale at par with that of the District Judges before the recommendations of the pay scales of the District Judges by the Shetty Commission by which District Judges were placed in higher scales which benefit has been denied to the Presiding Officers of Industrial Tribunals merely on the ground that the Presiding Officers of the Industrial Tribunal are not appointed under Article 233 of the Constitution of India nor they are appointed to the Judicial Services of a State under Article 234 of the Constitution. The action of the State Government in treating the officers presiding over the Industrial Tribunal differently from the District Judges in the matter of pay scales on its face is in violation of Article 14.*

9. The respondents, on the other hand have relied on the following rulings-

- (1) Judgment dated 16.07.2019 in O.A.No.313 of 2018. In this case it is held-

*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.*

- (2) **Union of India and Others vs. Central Administrative Tribunal, Bombay Bench, Camp at Nagpur and Others. 2017 (3) Mh.L.J.241**

In this case, on facts, it was held that the Tribunal committed a serious error in interfering with policy of Petitioners not granting financial benefits of upgradation of pay scale.

- (3) **State of West Bengal and Others vs. Deb Kumar Mukharjee and Others 1995 Supp (2) Supreme Court Cases 640.**

In this case it is held that recommendations of Pay Commission are not subject to judicial review.

- (4) **Union of India and Others vs. Makhan Chandra Roy (1997)**

**11 Supreme Court Cases - 182.**

In this case it is observed -

*More often functions of two posts may appear to be the same or similar, but there may be difference in degrees in the performance. The Quantity of work may be the same. But quality may be different that cannot be determined by relying upon averments in affidavits of interested parties. The equation of posts or equation of pay must be left to the Executive Government. It must be determined by expert bodies like Pay Commission. They would be the best judge to*

***evaluate the nature of duties and responsibilities of posts. If there is any such determination by a Commission or Committee, the court should normally accept it. The Court should not try to tinker with such equivalence unless it is shown that it was made with extraneous consideration."***

10. I have considered these rulings. Apart from the bar of limitation, the O.A. also deserves to be dismissed on merits as well. There is nothing on record to show that the classification with regard to pay is ex-facie irrational, arbitrary or unjust. In the result, O.A. is dismissed with no order as to costs.

(M.A.Lovekar)  
Member (J)

Dated – 29/11/2022

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 : 29/11/2022.  
and pronounced on  
Uploaded on : 29/11/2022.