

MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO.378/2010.

Mrs. Vandana Balkrishna Ramteke,
Aged about 42 yrs.,
R/o C/o Baburao Kalbande, Shivaji Ward,
Opp. Shivaji High School,
Deoli Road, Wardha.

Applicant

-Versus-

- 1) The State of Maharashtra,
Through its Secretary,
Department of Women & Child Development,
Mantralaya, Mumbai-440 032.
- 2) The Commissioner (M.S.),
Women & Child Development,
Administrative Building,
Pune.

Respondents

ORIGINAL APPLICATION NO.379/2010.

Mrs. Shobha Vasantrya Jichkar,
Aged about 43 yrs.,
R/o C/o Anilrao Pandhari, Yuva Square,
Ramnagar, ST Depot Road,
Wardha.

Applicant

-Versus-

- 1) The State of Maharashtra,
Through its Secretary,
Department of Women & Child Development,
Mantralaya, Mumbai-440 032.
- 2) The Commissioner (M.S.),
Women & Child Development,
Administrative Building,
Pune.

Respondents

ORIGINAL APPLICATION NO.380/2010.

Mrs. Sharmila Gangadharrao Bawangade,
Aged about 40 yrs.,
R/o C/o Nitin Akre,
Ramnagar, Krishna Nagar,
Wardha.

Applicant

-Versus-

- 1) The State of Maharashtra,
Through its Secretary,
Department of Women & Child Development,
Mantralaya, Mumbai-440 032.
- 2) The Commissioner (M.S.),
Women & Child Development,
Administrative Building,
Pune.

Respondents

Shri Shashikant Borkar, Ld. Counsel for the applicants.
Smt. S.V. Kolhe, learned P.O. for the respondents.

Coram:- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J).

Dated: - 5th April 2017.

Order

Heard Shri Shashikant Borkar, the learned counsel for the applicants and Smt. S.V. Kolhe, the learned P.O. for the respondents.

2. The applicants in these O.As were appointed as Bal Sewika under a scheme. The said scheme was implemented by the Maharashtra State Social Welfare Advisory Board, Mumbai and there were about 36 family welfare centres and 7 extension projects. The

said welfare centres and extension projects, however, came to be closed by the Government on 5.4.2003. But the Government decided to accommodate and absorb the employees, according to the qualification and pay scale. As per notification dated 5.4.2003, most of the employees were absorbed and remaining employees were accommodated as per the vacancy of the post on 31.5.2004. Admittedly the applicants were also absorbed. According to the applicants, they should have been absorbed and accommodated on the pay scale of Rs. 3050-4590, since all of them have passed matric examination and as per notification dated 31.3.2015, they were eligible for being appointed as Junior Clerk / Junior Assistant in the said pay scale. The applicants were, however absorbed in Class-IV posts.

3. According to the applicant, one Mrs. Panchasheela Pralhad Sahare was also accommodated in Class-IV post. The case of Mrs. Panchasheela Pralhad Sahare is identical to that of the applicants. The said Mrs. Panchasheela Pralhad Sahare had filed Complaint No.98/2006 before the Industrial Court, Bhandara. Her complaint was allowed and she was accommodated in Class-III post. The applicants are, therefore, claiming that the impugned communication whereby they have been accommodated and absorbed in Class-III post dated 17.11.2006 be quashed and set aside and the

respondents be directed to absorb the applicants as Junior Assistant / Junior Clerk in the pay scale of Rs. 3050-4590.

4. From the facts of the case, it seems that the applicant Mrs. Vandana Balkrishna Ramteke in O.A. No. 378/2010 was appointed as Bal Sewika on 11.9.1989, the applicant Mrs. Shobha Vasantryo Jichkar in O.A. No. 379/2010 was appointed on 20.11.1991 where the applicant Mrs. Sharmila Gangadharrao Bawangade in O.A. No. 380/2010 was appointed on 21.10.1989. All of them are SSC and, therefore, are entitled to the pay scale of Class-III post i.e. Junior Assistant / Junior Clerk. In all the O.As., respondent No.2 has filed an affidavit in reply. The defence taken is one and the same. According to the respondents, the applicants' pay scale at the time of absorption was Rs. 775-1150 and the same has been protected. As per the instructions of the G.R. dated 5.4.2003, the pay scale is to be protected. According to the respondents, the applicants are not entitled to be absorbed in the Class-III post, though they are SSC passed. The case of one Panchfula Sahare cannot be accepted on parity as the same was based on the judgment delivered by the Industrial Court, Bhandara and none of the applicants have approached the Industrial Court. It is further stated that the applicants

have already accepted the absorption order prior to 18 to 20 years and now they cannot raise objection regarding the pay scale.

5. Shri Shashikant Borkar, the learned counsel for the applicants invited my attention to the G.R. dated 16.11.2005. The services of the applicants have been absorbed in view of the said G.R. He also invited my attention to the order of absorption and particularly item No.5 of the chart in the said order. In my opinion, Item Nos. 4 & 5 of the said chart are material, which are as under:-

| अ. . | मुल संवग/ पदनाम | वेतनपेणी | या संवगात सामावून घेयास परवानगी दिली आहे तो संवग | कायालय. |
|------|-----------------------------|---------------------------------|--|---|
| ४ | बाल सेविका (एस.एस.सी. पास) | ९५०-१५०० असुधारित ३०५०-४५९० समक | कॅम्पट सहायक /कॅम्पट सहायक | एकात्मिक बालविकास सेवा योजना आणि महिला व बाल विकास आयुक्तालयातील पदे. |
| ५ | बाल सेविका (नॉन Matric) | ७५०-११०० असुधारित २६१०-४००० समक | शपाई | एकात्मिक बालविकास सेवा योजना आणि महिला व बाल विकास आयुक्तालयातील पदे. |

6. From the aforesaid chart, it is clear that Bal Sewikas who have passed S.S.C. examination and who were drawing pay scale of Rs. 950-1500 were entitled to absorption in the pay scale of Rs.

3050-4590 i.e. the Junior Assistant / Junior Clerk whereas Bal Sewakas who are non SSC and who were drawing pay scale of Rs. 775-1150 were to be absorbed in the post of Peon in the pay scale of Rs. 2610-4000. In the present case even though, the applicants are SSC, admittedly their pay scale was Rs. 775-1150 at the time of absorption and they were not drawing the pay scale of Rs. 950-1500.

7. I have also perused the absorption order in respect of the applicants which is placed on record at paper book page Nos. 37 to 40 in O.A. No.378/2010. It is dated 19.2.2006. The said absorption order clearly shows that the employees including the applicants were drawing pay scale of Rs. 775-1150 and that pay scale shall be protected. It has been specifically mentioned that the absorption is subject to some conditions on which they were appointed. The relevant conditions of absorption are necessary to be incorporated which read as under:-

भारत सरकारने दिलेल्या कमिशनच्या अहवालातून घेतलेल्या संपादन वेतनांवरून वेतन अदा करण्यात यावे. उपरोक्त आदेशानुसार या कमिशनच्या अहवालातून घेतलेल्या वेतनांवरून वेतन अदा करण्यात यावे. उपरोक्त आदेशानुसार या कमिशनच्या अहवालातून घेतलेल्या वेतनांवरून वेतन अदा करण्यात यावे. उपरोक्त आदेशानुसार या कमिशनच्या अहवालातून घेतलेल्या वेतनांवरून वेतन अदा करण्यात यावे.

यांची नोकरीची वेतन अदा करण्यात येईल असे नमूद आहे. यांच्या वेतनांवरून वेतन अदा करण्यात येईल असे नमूद आहे.

यांच्या वेतनांवरून वेतन अदा करण्यात येईल असे नमूद आहे. यांच्या वेतनांवरून वेतन अदा करण्यात येईल असे नमूद आहे. यांच्या वेतनांवरून वेतन अदा करण्यात येईल असे नमूद आहे. यांच्या वेतनांवरून वेतन अदा करण्यात येईल असे नमूद आहे.

कमळायांना ढळणारे आवाशीत ढगती योजना इयाद सारखे लाभ देय होणार नाह

ढसढयुतीने पदथापना ढलेया वरल कमळायांनी ढयांया पदथापनेया ढकाणी सदर आदेश ढगढत इालेया ढनांकापासून ॢ ढवसांचे आत हजार होणे आवयक आहे. अयथा ढयांचे बाबात शासन ढणख ढांक १००१/ॢkra 29/2001 ढ्रीय सुधारणा ढनांक १०.९.२००१ मधील पशषाष्ट तीन मधील अ. . १२ मधील तरतुद नुसार कायढाह करयात येईल.

वरल अ. . १ वरल कमळायांची पदथापना ढथाढक असयाने ढयांना बदल ढवासढा व पदहण अवधी अनुेय राहणार नाह

8. Admittedly, the applicants had not challenged their absorption order dated 19.9.2006 prior to filing of these O.As. The O.As are filed in the year 2010 whereas the said absorption order was passed on 19.6.2006. As per the absorption order, pay scale is to be protected and since the applicants were drawing the pay scale of Rs. 775-1150, they have been given corresponding pay scale which is equivalent to Class-IV post.

9. I have perused the order passed by the Industrial Court, Bhandara. The said order cannot be binding on this Tribunal.

10. The learned P.O. also invited my attention to one G.R. dated 5.4.2003 which is at Page Nos. 54 to 60 (both inclusive) in O.A. No. 378/2010. The said G.R. has been issued when the Govt. has taken a policy decision to accommodate and absorb the employees. Clause 25 of the said G.R. is very material and it is as under:-

महाराष्ट्र राज्य समाज कल्याण संचालागार बोडाकडील ३६ कुटुंब व बाल कल्याण केंद्र आणि ७ कल्याण वित्तार योजना बंद केल्यामुळे या केंद्र / योजनांकडून असलेले ४९२ पदे रद्द करण्यात येत आहेत. सदर पदे रद्द केल्यामुळे या केंद्र योजनांकडून काम करत असलेल्या कमळाप्याना एकात्मिक बालविकास सेवा योजना आणि महिला व बालकांच्या संस्थामध्ये क्रवा आयुक्तालयाच्या अखत्यारितील ईतर समकक्ष पदांवर त्यांच्या संपादना सेवा , शतक कायम ठेवून त्यांच्यातीने सामावून घेण्यात येत आहे. सदर कमळाप्याना त्यांच्या संपादनाच वेतनपेणीत वेतन अनुषेय राहिल. या केंद्र / योजनांमधून सेवाजवळ झालेल्या कमळाप्याना जवळ वेतन वषयक लाभ पुढील आदेशापयत महाराष्ट्र राज्य समाज कल्याण संचालागार बोडाकडीलच पदान करण्यात येतील.”

11. From the aforesaid circumstances, it would be clear that the applicants were drawing the pay scale of Class-IV at the time of absorption and their pay scale has been protected as per policy decision taken by the Government. The applicants have not challenged the G.R. dated 5.4.2003 so also their absorption orders within limitation and, therefore, I do not find any merit in these O.As. Hence, I proceed to pass the following order:-

The O.A. Nos. 378, 379 and 380 of 2010 stand dismissed with no order as to costs.

(J.D.Kulkarni)
Vice-Chairman(J)

