

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 370 OF 2020**

**DISTRICT : AURANGABAD**

**Shrimant s/o Maroti Ture,** )  
Age: 64 years, Occu.: Nil (Pensioner), )  
R/o: Plot No. 1081, Sai Nagar, N-6, )  
Cidco, Aurangabad. )

... **APPLICANTS**

**V E R S U S**

1. **The State of Maharashtra,** )  
Through its Secretary, )  
Skill Development and Entrepreneurship )  
Department, M.S., Mantralaya, )  
Mumbai - 32. )

2. **The Director,** )  
Vocational Education & Training, )  
3, Mahapalika Road, Post Box No. 10036, )  
Mumbai - 01. )

3. **The Joint Director,** )  
Vocational Education & Training, )  
Regional Office, Near Bhadkal Gate, )  
Aurangabad. )

... **RESPONDENTS**

**APPEARANCE** : Shri Avinash Deshmukh, Counsel for the  
applicant.

: Shri V.R. Bhumkar, Presenting Officer for  
respondent authorities.

**CORAM** : **Justice Shri P.R. Bora, Vice Chairman**  
**and**  
**Shri Vinay Kargaonkar, Member (A)**

**RESERVED ON** : **18.06.2024**

**PRONOUNCED ON** : **21.10.2024**

**ORDER**

*(PER : Shri Vinay Kargaonkar, Member (A))*

1. Heard Shri Avinash Deshmukh, learned counsel for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for respondent authorities.

2. Pleadings and arguments of the applicant :-

(i) The applicant, a retired Group Instructor, approached the Maharashtra Administrative Tribunal challenging the denial of a selection grade pay scale, citing a series of events and departmental actions leading to this claim.

(ii) Applicant was appointed by the State Government in the Vocational Education & Training Department as a Group Instructor on 20.02.1985, with an initial pay scale of Rs. 500-900 under the Third Pay Commission recommendations. This was revised to Rs. 1640-2900 in the IV Pay Commission and then to Rs. 6500-10500 under the V Pay Commission. The applicant was unique among his peers, as he was a fresh recruit while others were departmental candidates promoted to the post of Group Instructor. Applicant claims that his case is a specific case deserving equitable treatment in terms of pay progression.

After completing 12 years of continuous service, the applicant was awarded the "Senior Pay Scale" of Rs. 7500-12000, effective from 20.02.1997, as per Government Resolution (G.R.) dated 08.03.1999 by the State's Higher & Technical Education Department. This policy introduced a two-tier/three-tier pay scale system for eligible posts, providing senior and selection grade scales after completion of 12 and 24 years of service. The applicant's senior scale was later revised to the VI Pay Commission's recommended pay band of Rs. 9300-34800, with a Grade Pay increase from Rs. 4600 to Rs. 4800 in 2019.

(iii) In February 2009, the applicant completed 24 years of continuous service, thereby, he argues, qualifying him for a further "Selection Grade Scale" under the two/three-tier pay scale policy, effective from 20.02.2009. Despite fulfilling the eligibility requirements, the applicant did not receive this upgrade. He submits that the respondents failed to implement the selection grade, resulting in unfair treatment compared to other similarly placed employees.

(iv) The applicant points to the issuance of another G.R. dated 19.07.2010, which revised pay scales for Instructors, Group Instructors, and teachers in the Department. This G.R., however,

only referred to the senior scale for the Group Instructor post, not the selection grade scale. The applicant argues that this omission was inconsistent with the G.R. dated 08.03.1999, which, in his understanding, should have extended a three-tier pay scale (including selection grade) to Group Instructors upon completion of 24 years of service. He asserts that this failure to apply the full tier system violated the foundational recommendations of the Chattopadhyay Commission, which advocated for 3 tier and equitable pay structures in education.

In early 2010, the department initiated a proposal for the applicant's selection grade scale based on the applicant's qualifications and service record. This proposal, according to the applicant, was in line with the departmental understanding that Group Instructors could qualify for the selection grade under the three-tier policy. On 09.08.2011, Respondent No. 3 communicated with Respondent No. 2 to clarify which grade pay should apply to the applicant. However, on 03.04.2015, the State Government's Higher & Technical Education Department rejected the proposal, effectively denying the selection grade benefits to the applicant.

(v) Following the rejection of his selection grade proposal, the applicant filed Original Application No. 601/2015 with the

Tribunal, seeking a quash of the State Government's communication and requesting that the selection grade benefits or an alternative career advancement scheme be applied from 20.02.2009 until his retirement on 31.12.2014, including adjustments in pension. However, the Tribunal dismissed his application on 22.09.2017, suggesting the applicant may challenge the G.R. dated 19.07.2010 before the Division Bench of the High Court, if so desired.

(vi) After the Tribunal's dismissal, the applicant submitted a representation to Respondent No. 1 on 04.10.2017, reiterating his request for selection grade pay benefits. The representation was forwarded to Respondent No. 2, then to Respondent No. 3, but no decisive action was taken. Subsequent representations were filed:-

- (a) December 2017 to January 2018: The applicant received confirmation that Respondent No. 3 recommended extending the pay bands of Rs. 9300-34800 with Grade Pay of Rs. 5400 for the selection grade, but this recommendation was not acted upon.
- (b) June-August 2018: Additional representations and follow-ups occurred, with Respondent No. 1 directing Respondent No. 2 to consider the request, but without substantive response.

- (c) March-April 2019: The applicant submitted another request, emphasizing the need for a corrigendum to the 2010 G.R. This was again sent to Respondent No. 2, where it was seemingly stalled.
- (d) August-September 2019: Finally, the applicant independently reached out to Respondent No. 2, who on 17.09.2019 formally informed him that the selection grade was not applicable to the Group Instructor post, instructing him not to pursue further communication on the matter.
- (vii) The applicant argues that the denial of selection grade pay is discriminatory, as all other teaching positions in the department, whether at a higher or lower level than Group Instructor, are entitled to both senior and selection grade benefits. Citing Articles 14 and 16 of the Indian Constitution, he contends that the arbitrary exclusion of the Group Instructor post from the selection grade scheme constitutes a breach of the principles of equality and fairness.

### 3. Key Grounds for Relief and Injustice Claims :-

- (i) Arbitrary Inaction:- The applicant argues that the respondents' repeated inaction is arbitrary and violates justice, equity, and good conscience principles.

(ii) Failure to Modify G.R. 19.07.2010 :- He contends that the respondents should have issued a modification or corrigendum to the G.R. to include the selection grade for Group Instructors, which would align with the Chattopadhyay Commission's recommendations.

(iii) Disparity in Implementation:- By not fully implementing the Chattopadhyay Commission's recommendations, the respondents have partially applied the two/three-tier policy to Group Instructors, limiting them to the senior scale and not providing the selection grade, contrary to established policy for other educational posts.

(iv) Discrimination Against Group Instructors:- The applicant maintains that omitting Group Instructors from the selection grade violates the equality principle and leads to unjust discrimination, particularly as other instructors receive both senior and selection grade scales.

4. In the additional affidavit, the applicant further submitted that the respondents have extended the benefit of "Selection Grade Pay" to a large number of other Group Instructors. On 01/01/2012, Respondent No. 3 published the Provisional Seniority List for the Group Instructor cadre as of

21/10/2011. According to this list, Respondent No. 3 granted “Selection Grade Pay” to five other Group Instructors, despite the applicant being listed as Seniority No. 1. The benefit of “Selection Grade Pay” was instead extended to Group Instructors listed at Nos. 5, 14, 19, 22, and 36. Although all individuals were part of the same cadre, Respondent No. 3 selectively granted the “Selection Grade” benefit to these five individuals while denying it to the applicant.

5. The applicant argues that this action by Respondent No. 3 is in clear violation of the principles of equality enshrined in Articles 14 and 16 of the Constitution. Notably, each of the orders extending “Selection Grade Pay” to these individuals referenced the G.R. dated 08/03/1999, the foundational resolution issued by Respondent No. 1 implementing two-tier/three-tier pay scales based on the Chattopadhyay Commission’s recommendations for the State’s Higher & Technical Education Department.

6. As per the judgment of the Hon’ble Apex Court in a case of ***Union of India Vs Bijoy Lal Ghosh (AIR SC 1192; 1998 (3) SCC 362)***, the recommendations of the Chattopadhyay Commission, once accepted by the respective State Government,



became applicable to all members of the teaching fraternity. Therefore, when the State Government implemented these recommendations for its Higher & Technical Education Department, it is implicit that the two-tier/three-tier pay scale should also apply to the Group Instructor post.

7. Reliefs Sought :-

The applicant seeks the Tribunal's intervention to:-

(i) Order Immediate Action on Representations: Direct Respondent No. 1 to issue a necessary modification or corrigendum to G.R. dated 19.07.2010, granting Group Instructors the selection grade scale with a pay band of Rs. 9300-34800 and Grade Pay of Rs. 5400.

(ii) Provide Retrospective Benefits: Grant arrears and financial benefits, including arrears of pay from 20.02.2009 until his retirement on 31.12.2014 and a revised pension from 01.01.2015 onward, adjusting to reflect the selection grade scale benefits.

8. Pleadings and arguments of respondents:-

(i) The respondents did not submit an affidavit in reply, though ample opportunities were granted. However, the learned Presenting Officer (P.O.) argued that the applicant is ineligible for

the “Selection Grade Pay” under the provisions of G.R. dated 19.07.2010, which, according to the P.O, does not extend this benefit to Group Instructors. Consequently, the applicant was denied the selection grade benefit. In support of this position, the learned PO cited the judgment of the Hon’ble Supreme Court in Civil Appeal No. 8329 of 2011, Union of India v. Indian Navy Civilian Design Officers Association & others.

(ii) Upon further questioning, the learned P.O. was asked to explain the exclusion of Group Instructors from selection grade benefits, particularly when the State Government has explicitly adopted the Chattopadhyay Commission’s recommendations, which call for a three-tier pay scale for all eligible teaching staff, including instructional posts such as that of the applicant. The Chattopadhyay Commission’s recommendations, implemented by the State, provide a basis for three-tier pay progression, suggesting that the applicant should qualify for the selection grade pay. When asked to seek clarification from the respondents regarding this apparent inconsistency, the learned PO was unable to provide any further justification beyond reiterating that, under G.R. dated 19.07.2010, selection grade pay does not apply to the applicant’s post.

(iii) This limited response from the respondents leaves unresolved the key issue of why the Chattopadhyay Commission's three-tier scale, intended for broad application across eligible teaching roles, was selectively restricted by the G.R. dated 19.07.2010. The respondents' failure to address this question raises concerns about the arbitrary exclusion of Group Instructors from the selection grade, especially when similar benefits have been extended to other teaching and instructional staff within the Department.

9. **Analysis of facts and conclusion:-**

(i) The State Government, through its G.R. dated 08/03/1999, adopted the Chattopadhyay Commission's recommendations with the intent of establishing fair and uniform pay scales within the Higher & Technical Education Department. The Chattopadhyay Commission's framework specifically endorsed two-tier and three-tier pay scales to ensure career progression and equitable treatment of employees in educational posts. Following the Hon'ble Apex Court's interpretation in **Union of India v. Bijoy Lal Ghosh (AIR SC 1192; 1998 (3) SCC 362)**, the recommendations, once adopted by the State, became binding for all eligible teaching and instructional staff. As a Group

Instructor, the applicant falls squarely within the scope of this policy and thus qualifies for the selection grade pay scale as a matter of equity and principle.

(ii) We feel that the G.R. dated 19.07.2010 is inherently discriminatory in excluding Group Instructors from the selection grade benefit. Despite all instructors being similarly situated within the Department, the resolution restricts Group Instructors to a two-tier scale, thereby arbitrarily withholding the third-tier selection grade scale. This exclusion stands contrary to the Chattopadhyay Commission's recommendation and the principles of equality under Articles 14 and 16 of the Constitution. The implementation of the Chattopadhyay Commission's recommendations was aimed at uniformity and fairness across the educational cadre, without unjustified exclusions for certain designations. The applicant's argument highlights that the selective limitation placed on Group Instructors by the G.R. dated 19.07.2010 effectively creates two classes within the teaching cadre: those who can access full three tier-based progression and those unjustifiably denied it, leading to a differential treatment that lacks any rational basis or justification. In light of the submissions, the applicant justifies a

clear eligibility for the “Selection Grade Pay” based on the policy recommendations of the Chattopadhyay Commission.

(iii) Further, the applicant’s claim is reinforced by the fact that Respondent No. 3 granted “Selection Grade Pay” to five other Group Instructors listed lower in seniority (Nos. 5, 14, 19, 22, and 36). This selective grant of benefits, despite the applicant’s higher seniority, violates the seniority principles that typically govern promotional and pay-related benefits. The applicant’s position at Seniority No. 1 in his cadre entitled him to at least equal consideration, if not priority, in extending selection grade pay. The respondent’s action of extending this benefit to lower-ranked instructors, while denying the same to the applicant, exemplifies an arbitrary exercise of discretion that contravenes established norms of fairness and equity within public employment.

(iv) The applicant’s claim is both reasonable and grounded in an unambiguous interpretation of the Chattopadhyay Commission’s recommendations. The State’s initial acceptance of these recommendations, as well as its implementation for similar posts within the Department, confirms that extending “Selection Grade Pay” to the applicant is both justified and necessary. By

adhering to principles of equal treatment and seniority, the applicant deserves to be granted selection grade pay from 20.02.2009, the date on which he completed 24 years of continuous service, consistent with the provisions granted to similarly situated employees. Hence the following order:-

**ORDER**

- (i) Respondents shall grant "Selection Grade Pay" to the applicant and extend all consequential financial benefits to the applicant with effect from 20.02.2009. This shall be done within a period of 2 months from the date of this order.
- (ii) Original Application is allowed in above terms without any order to costs.

**MEMBER (A)**

**VICE CHARIMAN**

**PLACE : Aurangabad.**

**DATE : 21.10.2024**