

MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION No.70 of 2021 (D.B.)

1. Shri Suresh s/o Madhaorao Morey,
Aged about 61 years, Occu: Service,
R/o Plot No. 123, Nirmal Classic Apartment,
Gajanan Nagar, Wardha Road, Nagpur.
2. Shri Sanjay s/o Bhaulal Agrawal,
Aged about 53 years, Occu: Service,
R/o Bhagwan Nagar, Bank Colony, Nagpur.

Applicants.

Versus

1. The State of Maharashtra
Through its Secretary,
Department of Medical Education and Research,
Administrative Building, 9th Floor,
Gokuldas Tejapak Hospital Campus,
Lokmanya Tilak Marg, Mumbai.
2. The Medical Education and Research Department,
through its Director, St. George Hospital Compound,
4th Floor, Government Dental College Building,
Near CST, Mumbai.
3. The Government Medical College and Hospital,
through its Dean, Medical Square, Nagpur.
4. The Indira Gandhi Medical College and Hospital,
through its Dean, Central Avenue, Nagpur.

Respondents.

**S/Shri S.S. Ghate, Ganesh Iyer, Advocates for the applicants.
Shri S.A. Sainis, learned P.O. for respondents.**

**Coram :-Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman and
Hon'ble Shri Nitin Gadre,
Member (A).**

Date of Reserving for Judgment : 25th November, 2024.

Date of Pronouncement of Judgment : 5th December, 2024.

JUDGMENT

Per : Member (A).

(Delivered on this 5th day of December, 2024)

Heard Shri. S.S. Ghate, learned counsel for the applicants and Shri S.A. Sainis, learned P.O. for the respondents.

2. The application is submitted on 16-1-2021. The applicant nos.1 and 2 were appointed on the post of Statistician on 26-11-1993 and 11-04-1997 respectively. They have submitted that scale for this post was Rs.2000-60-3500 and the pay scale of the post of Statistician - cum - Lecturer was Rs. 2200 -75 - 4000. They claim that even though the qualifications and duties for both positions were same, the pay scales were different. The Respondents have granted the status of Statistician - cum - Lecturer to the applicants by issuing a G.R. on 30-01-2017. However, the revised pay scale was given only prospectively. In view of this, the respondents have sought following reliefs:

(9) (I) hold and declare that the applicants are eligible for the pay scale of Statistician-cum-Lecturer from the date of their initial appointment.

(II) quash and set aside the para 2 of the impugned order dated 30.01.2017 to the extent it relates to declining grant of pay scale of the post of Statistician-cum-Lecturer to the applicants since the date of their initial appointment.

(III) Allow the instant original application filed by the applicants.

(10) (i) In the aforesaid facts and circumstances, it is respectfully prayed that the respondents be directed to consider the claim of the applicants for granting the pay scale of Statistician-cum- Lecturer since the date of their initial appointments within a stipulated time bound period, in the interest of justice and fair play.

(ii) Grant Ad-interim relief in terms of Prayer Clause (i).

3. The respondents have filed their reply on 13-1-2023. They have stated that the Government had taken a decision to merge the cadre of Statistician with Statistician-cum-Lecturer and granted benefit of this decision to Applicants and 9 other candidates on 30-1-2017. The decision was to give the new pay scale on prospective basis only. They have also stated that the Recruitment Rules for the Statistician - cum-Lecturer cadre have been framed in 2017 only. The relevant portion of the reply is as follows:

“ (4) It is submitted that in advertisement for the post of statistician annexed with this O.A. qualification is mentioned as "Candidates must possess (1) Bachelor's degree in second class with Mathematics or science and a post graduate diploma in statistics from the Indian Statistical Institute, Calcutta or Indian Council of Agricultural Research, New Delhi or any other recognized Institution or (2) Master's Degree in Statistics or Mathematics with statistics as special subject". Therefore it is crystal clear that for the post of Statistician -Cum -Lecturer a Masters' Degree in Statistics is a necessary qualification whereas for the post of statistician, a post-graduate diploma in statistics was a sufficient qualification. The Applicants had suppressed this fact from Hon'ble Tribunal Therefore, it is crystal

clear that the applicants have not approached to this Hon'ble Tribunal with clean hands."

"(8) It is submitted that post of Statistician is a Group-B post and the recruitment rules for this post are framed on 26.4.1972, whereas Statistician-Cum-Lecturer is Group-A post. The recruitment rules for the Statistician-Cum-Lecturer were not framed till 2017. Applicants have annexed the copy of the letter dated 08.06.1978 by which the decision taken at the Directorate level regarding the Recruitment Rules for this post has been communicated to the Government. It is submitted that the Recruitment rules must be notified at the Government level in the exercise of the powers conferred by the proviso to article 309 of the Constitution of India. However, the Recruitment rules are now notified by Government vide Government Notification dated 02.01.2017. As per recruitment rules a Masters' Degree in Statistics is a necessary qualification whereas for the post of statistician a post-graduate diploma in statistics was a sufficient qualification."

4. The material portion of the reply is as follows:

5. As discussed in the earlier paragraphs, the two cadres were merged vide GR dated 30-1-2017. In the "प्रस्तावना" portion of this G.R.' it is mentioned that:

"वस्तुतः सांख्यिकी व सांख्यिकी-नि-अधिव्याख्याता या दोन्ही पदांसाठी आवश्यक असणारी शैक्षणिक अर्हता समान आहे, तसेच अध्यापनासह या दोन्ही पदांची कर्तव्ये व जबाबदा-या देखील समान आहेत. समान शैक्षणिक अर्हता धारण करून व समान स्वरूपाची कार्ये-कर्तव्ये पार पाडून भारतीय आयुर्विज्ञान परिषदेची मान्यता नसलेल्या अशैक्षणिक पदावर काम करावे लागणे व निम्न वेतनश्रेणीत वेतन घेणे ही बाब सांख्यिकी संवर्गातील अधिका-यांसाठी अन्यायकारक असल्याची बाब निदर्शनास आणून वैद्यकीय शिक्षण व संशोधन संचालनालयाने सांख्यिकी या संवर्गाचे सांख्यिकी-नि-अधिव्याख्याता या संवर्गात कायमस्वरूपी विलीनीकरण करण्यात यावे तसेच सांख्यिकी संवर्गात कार्यरत

असलेल्या व्यक्तींना विद्यापीठ अनुदान आयोगाच्या शिफारशीनुसार अनुज्ञेय असलेली सुधारीत वेतनश्रेणी लागू करण्यात यावी, असा प्रस्ताव शासनास सादर केला होता. सदर प्रस्ताव शासनाच्या विचाराधीन होता व या प्रस्तावाच्या अनुषंगाने शासनाने खालीलप्रमाणे निर्णय घेतला आहे. ”

6. The Government has then decided to merge the two cadres vide this GR as follows:

“शासन निर्णय :-

(१) राज्यातील शासकीय वैद्यकीय महाविद्यालये व रुग्णालयातील रोगप्रतिबंधक व सामाजिक औषधवैद्यकशास्त्र या विभागातील सांख्यिकी, गट-ब हा संवर्ग सांख्यिकी-नि-अधिव्याख्याता, गट-ब या संवर्गात या आदेशाच्या दिनांकापासून कायमस्वरूपी विलीन करण्यास शासनाची मंजूरी प्रदान करण्यात येत आहे. त्यामुळे या आदेशाच्या दिनांकापासून सांख्यिकी हा संवर्ग रद्द झाला असून सांख्यिकी-नि-अधिव्याख्याता या संवर्गातील मंजूर पदसंख्या २१ इतकी झाली आहे.

(२) सद्यस्थितीत सांख्यिकी या संवर्गातील मंजूर १५ पदांपैकी ११ पदे भरण्यात आली असून या सर्व कार्यरत अधिका-यांनी सांख्यिकी-नि-अधिव्याख्याता या पदासाठी भारतीय आयुर्विज्ञान परिषदेने वैद्यकीय संस्थांमधील अध्यापकासाठी किमान अर्हता नियम, १९९८ अन्वये वेळोवेळी निश्चित केलेली व या पदाच्या सेवाप्रवेश नियमानुसार आवश्यक असलेली शैक्षणिक अर्हता धारण केलेली असल्यामुळे व प्रत्यक्षात हे सर्व ११ अधिकारी सांख्यिकी-नि-अधिव्याख्याता यांच्याप्रमाणेच अध्यापनाचे कार्य पार पाडीत असल्याने त्यांना या आदेशाच्या दिनांकापासून सांख्यिकी-नि-अधिव्याख्याता या पदनामाने संबोधून विद्यापीठ अनुदान आयोगाच्या शिफारशीनुसार अधिव्याख्याता या पदास अनुज्ञेय असलेली रुपये १५६००-३९१००/- व ग्रेड पे रुपये ६०००/- ही सुधारीत वेतनश्रेणी लागू करण्यास शासनाची मंजूरी प्रदान करण्यात येत आहे. या आदेशाच्या दिनांकापूर्वी बजावलेल्या सेवेसाठी सुधारीत वेतनश्रेणीचा लाभ अनुज्ञेय असणार नाही. ”

7. The Applicants have submitted various Judgements supporting the "equal pay for equal work" principle. It is argued that since the

qualifications and duties of the Statistician -cum -Lecturer cadre and the Statistician cadre are same, the people working earlier in the Statistician cadre should be given pay scale of the Statistician cadre with retrospective effect.

8. From this discussion it seems that, earlier there were two cadres with different pay scales, Statistician and Statistician -cum – Lecturer. They were merged in 2017 by giving same pay scale on prospective basis. The Applicants desire that the new pay scale of the merged cadre should be given retrospective effect.

9. The qualifications for the post of Statistician is given in Annexure A-2 (Maharashtra Public Service Notification dated 5th May,1993) as follows:

Qualifications- Candidate must possess.-(1) Bachelor's degree in second class with Mathematics or Science and a post-graduate diploma in Statistics from the Indian Statistical Institute, Calcutta or the Indian-Council of Agricultural Research, New Delhi or any other recognised Institution or

(2) Master's degree in Statistics or Mathematics with Statistics as a Special subject.

Provided the preference may be given to candidates having experience as evidenced by published reports and papers to his credit of training or experience in planning, survey and investigation in the field of medical or public health and experience in analysis of data or experience of teaching at graduate level, or field experience in research projects.

2. *Pay.-Rs.2,000-60-2,300-E.B.-75-3,200-100-3,500 plus Dearness, House rent and Compensatory Local Allowances as admissible under Government Orders from time to time. (Total initial emoluments approximately Rs.4,210 per month).*

10. The qualifications for the post of Statistician -cum –Lecturer is given in Annexure A-3 (letter dated 8th June, 1978 by Dy. Director, Medical Education and Research, Bombay) as follows:

“ *The qualification required for the said post is as under:-*

a) either a master degree in Statistics or Mathematics with Statistics as a Special subject or

b) a bachelor degree in second class with Mathematics or science and a post-graduate diploma in Statistics from the Indian Statistical Institute, Calcutta or Indian Council or Agricultural Research, New Delhi.

Other qualification: *Preference will be given to candidates possessing experience and/or teaching experience of a Graduate's level and/or field experience in Research Projects.*

Government have created one post of Statistician-cum-lecturer in the pay scale of Rs.325-880 at S.R.T.R., Medical College, Ambajogai vide G.R. U.D. & P.H.D. No.HOA/1675/1581/PH-3, dated 31-7-1976.

11. It can be seen that for the post of Statistician, preference was given to candidates who have published reports, experience in planning, survey and analysis of data. For the post of Statistician -cum –Lecturer, preference was given to candidates with teaching experience.

12. The duties of the Statistician-cum–Lecturer post (Annex-A-3) include - To teach statistics to under-graduate Students.

13. This shows that even though, both posts may be of similar nature, they are not exactly same.

14. The qualifications for the post of Statistician -cum –Lecturer as mentioned in the Recruitment Rules notification dated 2-1-2017 is as follows:

“3. Appointment to the post of Statistician-Cum-Lecturer, Group B (Gazetted) shall be made by nomination through Selection Board from amongst the candidates, who.-

(i) are not more than forty years of age :

Provided that, the upper age limit may be relaxed upto five years in case of candidate already in the Service of Government ;

and

(ii) Possess Master's Degree in Statistics :

Provided that, the preference shall be given to candidate having three years teaching experience in Statistics in a Recognized Medical College ;

Provided further that, the educational qualification essential for recruitment to the post of Statistician-Cum-Lecturer as mentioned in this sub-rule (ii) shall be deemed to have been amended, from time to time, in accordance with the recognition or de-recognition thereof by the Medical Council of India, from time to time.”

15. The new Recruitment rules require that the candidate possesses a Master’s degree in statistics, whereas, for the earlier post

of Statistician, Bachelor's degree or post-graduation diploma in statistics was sufficient. The Applicants were absorbed on the newly created posts as they possessed the Master's degree. However, this does not mean that the post of Statistician -cum –Lecturer created in the year 2017 and earlier post of Statistician are same. Also, the posts of Statistician and Statistician -cum –Lecturer that existed prior to year 2017 are also not same as an additional duty of teaching the undergraduates was required to be performed by the later. Hence, there seems to be no justification to give the new pay scale a retrospective effect.

ORDER

O.A. is dismissed with no order as to costs.

(NitinGadre)
Member(A).

(Justice M.G.Giratkar)
Vice Chairman.

Dated :- 05/12/2024.

*dnk.

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

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman and
Member (A).

Judgment signed on : 05/12/2024.