

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

ORIGINAL APPLICATION NO.398 OF 2017

DISTRICT : MUMBAI

1. Hrishikesh Bhagwat Desai,)
R/at Room No.209, B-Wing,Rajbhavan Complex,)
Walkeshwar, Mumbai 400035)
2. Lahanu Dattatray Ambre,)
R/at Room No.207, B-Wing,Rajbhavan Complex,)
Walkeshwar, Mumbai 400035)
3. Vishal Sudhir Shinde,)
R/at Room No.206, B-Wing,Rajbhavan Complex,)
Walkeshwar, Mumbai 400035)
4. Yogesh Gangaram Kamble,)
R/at Room No.506, B-Wing,Rajbhavan Complex,)
Walkeshwar, Mumbai 400035)
5. Jogesh Arjun Ghegadmal,)
R/at Room No.409, B-Wing,Rajbhavan Complex,)
Walkeshwar, Mumbai 400035)
6. Sandesh Arjun Gaikwad,)
R/at Shree Ganesh Chawl,)
Anna Bhau Sathe Nagar, Wagle Estate,)
Road No.22/34, Thane (W) 400604)

7. Prashant Dhondiram Sawant,)
R/at Room No.202, B-Wing,Rajbhavan Complex,))
Walkeshwar, Mumbai 400035)
8. Tushar Kishor Hile,)
R/at Room No.B-102, Bhagirathi Coop. Soc.,)
Diva Village, Sector 9, Airoli, Navi Mumbai)..Applicant

Versus

1. The State of Maharashtra,)
Through the Comptroller of Household to the)
Governor of Maharashtra, Rajbhavan,)
Malbar Hill, Mumbai 400035)
2. The Secretary,)
General Administration Department,)
Mantralaya, Mumbai 400032)..Respondents

Shri S.S. Dere – Advocate for the Applicants

Ms. S.P. Manchekar – Chief Presenting Officer for the Respondents

CORAM : Smt. Justice Mridula Bhatkar, Chairperson
Smt. Medha Gadgil, Member (A)

RESERVED ON : 11th July, 2024

PRONOUNCED ON: 1st August, 2024

PER : Smt. Medha Gadgil, Member (A)

J U D G M E N T

1. The applicants are working as Sahayak in the office of Comptroller the of Household to the Governor of Maharashtra under the administrative control of the General Administration Department (GAD) as Class-IV posts in the pay band of Rs.4440-7440 with Grade Pay (GP) of Rs.1300/-. They pray for revision of pay scale at par with the pay scale of Gardner (Malee) considering their qualification and nature of duties.

2. The post of Assistant Khidmadgar is at Sr. No.48 and in the same rules the post of Malee is at Sr. No.50. He further pointed out that both were shown as Class-IV Group-D post having identical pay scale. However, respondent no.1 issued GR dated 12.10.2015 and upgraded the pay scale of Malee from Rs.4440-7440 with GP of Rs.1300/- to Rs.5300-20200 with GP of Rs.1800/- as the qualification to the post of Malee was increased by amended Recruitment Rules dated 24.11.2010.

3. Both the applicants and the Malees as well as Sahayak (Bearee) are Class-IV servants. As per the Recruitment Rules for the various posts in the office of the Secretary to the Governor of Maharashtra and the Comptroller of the Household to the Governor of Maharashtra dated 22.1.1969, the rules for Class IV servants reads as under:

“Appointment to the posts shall be made by the Secretary to the Governor of Maharashtra/ Comptroller of the Household to the Governor of Maharashtra by nomination from among candidates who-

- (i) are not less than 18 years and more than 25 years of age;*
- (ii) have passed at least IV standard of primary school.*
- (iii) possess good physique.”*

4. In the GR dated 10.2.2009 the qualification for appointment to the post of Malee, Group-D was challenged which reads as follows:

“23. Appointment to the posts of Malee, Group D shall be made by nomination from amongst the candidates who,-

- (i) are not more than thirty-three years of age; and*
- (ii) have passed at least Standard VII Examination; and*
- (iii) have adequate practical knowledge and experience in gardening.”*

5. Rule 19 of the new Rules of 2010, reads as below:

“19. Appointment to the post of Sahayak, Group D, shall be made by nomination from amongst the candidates who,

- (i) are not more than thirty-three years of age; and*
- (ii) have passed one year’s certificate or diploma course in Hospitality Service or Hotel Management from a recognised institution.*

6. According to GAD’s notification dated 24.11.2010, the qualification of Malee again changed as Rule 23 of the new Rules of 2010 reads as under:

“23. Appointment to the post of Malee, Group D, shall be made by nomination from amongst the candidates who,-

- (i) are not more than thirty-three years of age;*
- (ii) have passed at least Standard VII Examination;*
- (iii) have adequate practical knowledge and experience in gardening; and*
- (iv) Have completed Diploma or one year Certificate Course in gardening from the Recognised institutions.”*

7. Ld. Advocate for the applicants prays for revision of pay scale of Malee of Rs.5200-20200 with GP of Rs.1800 on the ground of discrimination. The applicants seek parity with the pay scale of the Gardeners on the ground that their educational qualifications are the same as that of the Gardeners.

8. Ld. CPO opposes the contentions raised by the Ld. Advocate for the applicants. She points out that comparing their pay scales with other staff members in the Government is not justified as their service conditions and hardships to the post are different as compared to the applicants. The contention of the applicants that they are not equally paid as compared to other class IV employees is denied as there are different pay scales for different posts based on the duties and responsibilities attached to the particular post. Furthermore, she pointed out that the pay scales of the applicants were revised in the year 2020.

9. Considered the submissions of both the sides. In this case the main issue revolves around whether there has been discrimination against the applicants as compared to the Malees whose pay scales were revised in 2015 on account of raising higher educational qualification.

10. The educational qualification of Class IV employees at Governor House as per the Rules of 1969 for Malees & Sahayak (Bearee) was same. In the year 2009-2010 the Government changed the recruitment rules of the Class IV employees working in the Governor House. It appears that in the year 2009 the educational qualification of Malee was raised up to 7th Standard. The Rules were again amended in 2010 and GAD by notification dated 24.11.2010 added educational qualification that a person who wants to applied for Malee should have completed Diploma or one year Certificate Course in gardening from the Recognized institutions. On the other hand the educational qualification of Sahayak was raised

after 1969. That was not in 2009 but it was raised in 2010 requiring that if a person wants to be appointed as Sahayak should have passed one year's certificate or diploma course in Hospitality service or Hotel Management from a recognized institution. Thereafter there is no change in the educational qualification of Sahayak like Malees whose educational qualification was raised higher twice i.e. in the year 2009 and then in 2010. However, the educational qualification of Sahayak was raised only once i.e. in 2010. His Excellency the Governor after considering the change in the educational qualification of Malee in 2009 as well as 2010 and considering the nature of their duties has raised their pay scale and pay band from 2015. The pay scale and pay band of the applicants was also increased in 2020. So as of today the Sahayaks do not have any grievance that they have been given the discriminatory treatment in pay scale and pay band as compared to Malee. The salary is increased within the powers of His Excellency the Governor. However, Bakshi Committee has earlier rejected the prayer of the Sahayaks to increase the salary. Under such circumstances we are not inclined to increase the pay scale and pay band of the applicants from the year 2015.

11. Merely asking for enhanced compensation on the ground of their qualification is not justified as the conditions and work load of the post and level of hardship of these posts is different. As per the Recruitment Rules for the post of Malee in Raj Bhavan, the appointee requires practical knowledge and experience in gardening. The experience, nature of work, duties and responsibilities attached to a particular post determines the pay scale of the post. Moreover, it is to be noted that Bakshi Committee has considered their request for enhancement of pay scale and did not accept their request. However, it is seen that the pay scale of the applicants were revised in the year 2020 and their grievance is now been redressed.

12. In view of the above facts, we are of the opinion that there has been no discrimination against the applicants. Hence, the Original Application is dismissed. No order as to costs.

Sd/-

(Medha Gadgil)
Member (A)
1.8.2024

Sd/-

(Mridula Bhatkar, J.)
Chairperson
1.8.2024

Dictation taken by: S.G. Jawalkar.

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