

(1998) 04 BOM CK 0004
In the Bombay High Court
Case No : Writ Petition No. 17 of 1993

Mrs. Marina Sequeira and others

APPELLANT

Vs

The State of Goa and others

RESPONDENT

Date of Decision : 22-04-1998

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226, 309

Citation : (1998) 3 ALLMR 702 : (1998) 3 BomCR 886 : (1999) 81 FLR 229 :
(1999) 1 MhLj 173

Hon'ble Judges : R.M.S. Khandeparkar, J; R.K. Batta, J

Bench : Division Bench

Advocate : G.R. Sharma, for the Appellant; H.R. Bharne, Government Advocate,
for the Respondent

Judgement

R.K. Batta, J.—The petitioners are working as Data Entry Operators in the Computer Centre of the respondent Government. The first five petitioners joined the Computer Centre in the year 1986 and the sixth petitioner joined in the year 1987. Their pay scale at the time of appointment was Rs. 260-400, which was revised to Rs. 950-1500, on account of acceptance of Fourth pay Commission recommendations with effect from 1-1-1986. Vide Order No. 4/3/89-PLG(CC) dated 15-1-1992, the Government of Goa revised the pay scale further to Rs. 1150-1500 with immediate effect.

2. The petitioner's case is that after recommendations of the Fourth Pay Commission, a Committee was set up by the Department of Electronics, Government of India in November, 1986 to examine and suggest re-organisation of existing Electronic Data processing posts and prescribe uniform pay scales and designations in consultation with the Department of Personnel, Government of India. The said Committee made recommendations and the Government of India decided to introduce various pay structures for Electronic Data Processing posts. The Committee recommended that the Data Entry Operators Grade "A" be given pay scale of Rs. 1150-1500 in case the incumbents had Higher Secondary

qualification, with knowledge of Data Entry work. In case such incumbents were Graduate with knowledge of Data Entry work, they should be designated as Data Entry Operators Grade "B" and given pay scale of Rs. 1350-2200, Subsequently, by Office Memorandum No. F. 7(1)/IC/86(44) dated 12-1-1990, the Government of India took decision that the revised pay scales recommended by such Committee will take effect from 11-9-1989, irrespective of the date of Notification issued by Ministries/Departments. The Government of Goa accepted the recommendation of the Central Government in relation to the pay scale of Data Entry Operators in the Computer Centre, Panaji and revised the existing/ pay scale of Rs. 950-1500, to Rs. 1150-1500 for the incumbents who possessed Higher Secondary qualification and knowledge of Data Entry work and the pay scales were to come into effect from 15-1-1992 i.e. the date of the said order. In case of the incumbents who did not possess the Higher Secondary qualification, the revised scales were made applicable to them from the date they would acquire Higher Secondary qualification.

3. The case of the petitioners in that in many other cases, the Government of Goa has revised the pay scales even after revision of Fourth Pay Commission and in many such cases, the revised pay scales by the Government have been made effective from 1-1-1986. This proposition is not disputed by learned Government Advocate, as, admittedly in some cases even after revision of pay scales by the Fourth Pay Commission, the scales have been further revised by Goa Government and the revision has been made effective from 1-1-1986.

4. The petitioners likewise seek that the revised pay scale of Rs. 1150 -1500 which has been agreed to be given by the Government to them with effect from 15-1-92 should made applicable to them with effect from 1-1-1986. However, we have to bear in mind that the recommendations of revision of pay scales in respect of Electronic Data Processing posts have been made in pursuance of the recommendation of the Central Government, on the recommendation by the Committee which was appointed in November, 1986 for the said purpose. Government of India itself had accepted the revision of pay scales to take effect from 11-9-1989. Therefore, in such a situation, the petitioners have no case for granting them revision of pay scale with effect from 1-1-1986. Nevertheless, once the Goa Government had accepted the recommendation of the Central Government to revise the pay scale of Electronic Data Processing posts and the Central Government had given effect to the revised pay scale with effect from 11-9-89, there was absolutely no reason as to why the Goa Government should also not have given effect to the revision of pay scale with effect from the same date i.e. 11-9-1989. The decision of Goa Government to implement the scale with immediate effect i.e. to say from 15-1-1992 is thus arbitrary and no justification has been placed before us as to why the pay scales have not been given effect from 11-9-1989, as recommended by the Central Government and why the same are made effective from the prospective date of the order i.e. 15-1-1992.

5. The next point which has been urged by learned Advocate for the petitioners is that since it is a case of mere revision, the increment due to the petitioners in the revised pay scales shall be on the basis of the date on which the increment was due to them in the old scale and the petitioners are not required to wait for a period of 12 months w.e.f. the date of revision of pay scale to earn next increment. There is considerable merit in this submission of the Advocate for the petitioners, which is based upon the judgment of the Apex Court in the matter of Union of India (UOI) and Another Vs. Shyama Pada Sidhanta and Others, . In case of revision of pay scale, the date of increment remains the same as it is in the old unrevised pay scale and the incumbents who are put in the revised pay scales would be entitled to the increment on the same date on which it would have been due in the old pay scale and the increment is not required to be shifted by 12 months from the date of coming into effect of the revised pay scale.

6. For the reasons mentioned above, the writ petition succeeds partly. The petitioners are entitled to the revised pay scale in the pay scale of Rs. 1150-1500 with effect from 11-9-1989. The date of increment in the revised pay scale shall be the same as it was in the unrevised pay scale. Rule made absolute in the aforesaid terms. The arrears which will become due to the petitioners under this order shall be paid to them within a period of four months. In the facts and circumstances, no order is made as to costs.

7. Petition succeed partly.