
(1999) 02 BOM CK 0065
In the Bombay High Court
Case No : Writ Petition No. 459 of 1994

R.D. Patkar

APPELLANT

Vs

Directorate of Agriculture and Another

RESPONDENT

Date of Decision : 02-02-1999

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (1999) 2 ALLMR 539

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

Bench : Division Bench

Advocate : D.P. Bhise, for the Appellant; H.R. Bharne, Government Advocate, for the Respondent

Judgement

R.K. Batta, J.—The petitioner was promoted to the post of Assistant Agricultural Officer Grade II on 27th September 1973. The posts of Assistant Agricultural Officer Grade 1) were in the scale of Rs. 1400-2300 in the Directorate of Agriculture. By Order dated 25th March 1992, the Government of Goa upgraded 29 posts out of 52 posts of Assistant Agricultural Officer Grade II into the scale of Rs. 1640-2900. This Order further provides that the upgraded posts will be filled only by agricultural graduates and the remaining posts of 23 Assistant Agricultural Officers will also be upgraded as and when holders of the posts, who are non-agricultural graduates, retire.

2. The petitioner in this petition seeks declaration that Exhibit "E" at page 22 of the record to the extent that it denies Assistant Agricultural Officers Grade II, who do not possess a degree in agriculture from recognised University or equivalent, to promotion to the post of Assistant Agricultural Officer Grade I, is ultra vires Articles 14 and 16 of the Constitution of India; that the petitioner should be provided with at least one promotional avenue and that he should be granted Time Bound Promotional Scale similar to the Assistant Agricultural Officer Grade II, who possess degree qualification.

3. To the Assistant Agricultural Officers Grade II holding the graduate

qualification in agriculture, the Time Bound Promotional Scale which has been given is Rs. 2000-3500.

4. The scope of the petition is restricted in view of the Division Bench judgment of this Court, to which one of us was a party (Batta, J.), wherein similar challenges as are put up in this petition had been rejected, In that case two Assistant Agricultural Officers in the same Department had sought similar declarations as sought by the petitioner in prayer Clauses (c) and (d), which were rejected by this Court.

5. The contention of learned advocate Mr. Bhise is that the petitioner, who does not hold graduate qualification in agriculture and is working as Assistant Agricultural Officer, should at least be given time bound promotional pay scale of Rs. 1640-2900, which is the regular scale which was being given to Assistant Agricultural Officers in the same cadre with graduate qualification, His further contention is that on the basis of qualification the Time Bound Scale of Rs. 1640-2900 cannot be denied to the Petitioner.

6. Learned Government Advocate Mr. Bharne argued that under the Time Bound Promotional Scale scheme if an employee does not get any promotion for 12 years, he is entitled to Time Bound Promotional Scale equal to the pay scale of the next higher post in the respective cadre or the hierarchy. However, in cases where the incumbent is not entitled for promotion to the next higher post due to educational qualification or otherwise, it was decided by the Government that the Time Bound Promotional Scale as contained in Annexure I to Memorandum dated 22nd December, 1989 should be granted. According to Annexure I, persons in the pay scale of Rs. 1400-2300 are entitled to Time Bound Promotional Scale of Rs. 1600-2660. This Time Bound Promotional Scale of Rs. 1600-2660 has already been given to the petitioner and that the petitioner is not entitled either to Time Bound Promotional Scale of Rs. 2000-3500 or to Rs. 1640-2900.

7. The Time Bound Promotional Scale scheme was introduced by the Government of Goa on account of stagnation of the employees in a particular post due to which they could not get next promotion. The said Office Memorandum dated 5th July 1989 provides that the Time Bound Promotional Scale under the scheme shall be equal to the pay scale of the next higher post in the respective cadre/ hierarchy and it can be given only once in the entire service. The posts of Assistant Agricultural Officer initially were in the scale of Rs. 1400-2300 but in the year 1992 the Government of Goa upgraded 29 posts out of 52 posts of Assistant Agricultural Officer Grade II in the pay scale of Rs. 1640-2900 were to be filled by the agricultural graduates. Non-agricultural graduates were to continue in the pay scale of Rs. 1400-2300. However, the remaining 23 posts which were not upgraded were ordered to be upgraded as and when the holders of the posts who are non-agricultural graduates retire. This classification of the Assistant Agricultural Officers in two pay scales on the basis of educational qualification cannot be faulted with and it does not violate either Article 14 or 16 of the Constitution. This position has been settled by the Apex Court in State of

Mysore and Another Vs. P. Narasing Rao, and The State of Jammu and Kashmir Vs. Shri Triloki Nath Khosa and Others, .

8. The Time Bound Promotional Scale scheme, as we have already pointed out, provides for time bound scale. Under this scheme the Time Bound Promotional Scale shall be equal to the pay scale of the next higher post in the cadre/ hierarchy is admittedly the post of Assistant Agricultural Officer Grade I which is in the pay scale of Rs. 2000-3500 and for this post B.Sc. Agriculture is essential qualification. The petitioner, who does not hold B.Sc. qualification, is not entitled to promotion to the next higher post and as such, the question of granting Time Bound Promotional Scale of Rs. 2000-3500 does not at all arise. In so far as the claim of the petitioner to Rs. 1640-2900 is concerned, this scale is in the same grade as Assistant Agricultural Officer II and this scale has been given to those Assistant Agricultural Officers who have graduate qualification. This scale cannot thus be said to be in the next higher post as contemplated under the Time Bound Promotional Scale scheme. Therefore, the claim of the petitioner to the said scale of Rs. 1640-2900 is without any merit. It was with a view to provide Time Bound Promotional Scale to such employees who did not fulfil the educational qualification for the next higher post that the Government of Goa had issued Officer Memorandum dated 22nd December, 1989. Annexure I to the said Memorandum provides that the employees in the pay scale of Rs. 1400-2300 would be entitled to Time Bound Promotional Scale of Rs. 1600-2600, which scale has already been given to the petitioner.

9. For the aforesaid reasons, we do not find any merit in this petition and the petition is, hereby, rejected. Rule is accordingly discharged. In the facts and circumstances, there shall be no order as to costs.