
(2004) 12 BOM CK 0004
In the Bombay High Court
Case No : Writ Petition No. 476 of 1990

Vinayak Shenwai (Dr.)	Vs	APPELLANT
State of Maharashtra and Others		RESPONDENT

Date of Decision : 05-12-2004

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2005) 2 MhLj 667

Hon'ble Judges : M.G. Gaikwad, J;D.D. Sinha, J

Bench : Division Bench

Advocate : C.S. Kaptan, for the Appellant; A. Fulzele, Asstt. Government Pleader for respondent Nos. 1 and 2 and G.R. Agrawal, holding for M.G. Bhangde, for the Respondent

Final Decision : Dismissed

Judgement

D.D. Sinha, J.—Heard Mr. Kaptan, learned counsel for the petitioner, Mr. Fulzele, learned Asstt. Govt. Pleader for Respondent Nos. 1 and 2 and Mr. Agrawal, learned Advocate, holding for Mr. M. G. Bhangde, counsel for the respondent No. 3.

2. Learned counsel for the petitioner states that the petitioner was appointed as a Lecturer on 23rd August, 1954 in the pay-scale of Rs. 175-400. In 1966 first revision in the pay-scale was effected and three-tier pay-scales were evolved, namely (1) for Lecturer - Rs. 300-600, (2) Lecturer (Senior Grade) -Rs. 400-800, and (3) Senior Lecturer - Rs. 700-1100. Senior Grade pay-scale was given to those Lecturers, who had completed 15 years" service with post graduate teaching experience. On 1st September, 1969, petitioner was placed in the pay-scale of Rs. 700-1100/

3. Mr. Kaptan, learned counsel, states that in the year 1973, further revision of pay-scale was effected and though the petitioner was placed in the pay-scale of Rs. 700-1600, but according to his placement, he was getting Rs. 1150-00. It is

further submitted that in the year 1974, petitioner acquired Ph.D., and was a recognized Guide for Ph.D. students. In 1981, petitioner reached the pay-scale of Rs. 1600-00. In the year 1987, the Malhotra Committee was appointed and the recommendations made by the said Malhotra Committee in respect of revision of pay-scales were accepted with effect from 1st January, 1986. As per the Malhotra Committee's recommendations, again three-tier pay-scales were evolved, namely (1) Lecturer -- Rs. 2200-4000, (2) Senior Lecturer -- Rs. 3000-5000, and (3) Lecturer (Selection Grade) Rs. 3700-5700. It is submitted that the petitioner, as per his entitlement, was placed in the pay-scale of Rs. 3700-00. It is further submitted that the petitioner received the maximum pay in view of his previous pay-scale, which is minimum in the new pay-scales recommended by the Malhotra Committee and there is no further chance of the petitioner getting any higher pay-scale and, therefore, the petitioner was stagnated in the said pay-scale.

4. Mr. Kaptan, learned counsel, states that the State of Maharashtra issued a Government Resolution, dated 14th October, 1988, whereby the recommendations of the Fourth Pay Commission in respect of grant of stagnation increments to Central Govt. employees stagnating at the maximum of their scales of pay were accepted by the State Government and the State Government granted its employees, who opted for the revised scales of pay under the Maharashtra Civil Services (Revised Pay) Rules, 1988, in whose case the maximum pay-scale did not exceed Rs. 6700-00 and who reached the maximum of their revised scales of pay, one Stagnation Increment on completion of every two years at the maximum of their respective scales. It is further contended that the stagnation increment was equated to the rate of increment last drawn by them in the pay-scales and was treated as "Personal Pay". The maximum of three such increments were permissible. The pay plus stagnation increments should, in no case, exceed Rs. 7300-00 per month.

5. Mr. Kaptan, learned counsel, states that though the above referred Government Resolution is in respect of Government employees, however, the same can be extended to the employees of private colleges affiliated to the University, since the Teachers, as a Class, are one and the same, irrespective of the fact whether they are discharging duties as Teachers in the Government Colleges or private colleges affiliated to the University. It is submitted that restricting the application of the Government Resolution by the State Government only in respect of Govt. employees, i.e. teachers, amounts to discrimination with the equally situated Lecturers or teachers, who were serving in the private colleges affiliated to the University and, therefore, appropriate direction be given to the State Government to extend the same benefit and grant Stagnation Increments to the petitioner as per Govt. Resolution, dated 14th October, 1988.

6. Asstt. Govt. Pleader contended that the petitioner was the employee of a private college. The service conditions of the petitioner as well as nature of

duties required to be discharged by the petitioner are not identical to one in respect of Lecturers or employees of State Government and, therefore, question of extending the benefit of Government Resolution to the petitioner does not arise.

7. We have considered the contentions canvassed by the learned counsel for the petitioner as well as Respondent-State.

8. It is, no doubt, true that so far as petitioner is concerned, he was given revised higher pay-scale of Rs. 3700-00 in the Lecturer (Selection Grade) as recommended by the Malhotra Committee, which was, though minimum, but as per the entitlement of the petitioner, he could only get this much as maximum pay-scale and was stagnated at that stage. However, that by itself, in our considered view, is not enough to hold that the petitioner, as a class, would fall within the category of "Government Employees". There is nothing on record to show the nature of duties discharged by the teaching employees of the private colleges, the service conditions of such employees, their retirement age etc., as well as that of Govt. employees are identical. In absence thereof, it will not be possible for us to adjudicate the issue of discrimination, since a reasonable classification is permissible, which does not offend Article 14 of the Constitution.

9. There is no dispute that vide Govt. Resolution, dated 14th October, 1988, stagnation increments to the maximum of three and which should not exceed Rs. 7300-00 per month were given to Govt. employees, who were stagnated in the relevant pay-scales. However, merely because the Government has given these increments to its employees does not entitle the petitioner as a Class to get this benefit, unless it is shown that he belongs to the same class of employees to which the increments are given by the State Government vide the said Govt. Resolution. The petitioner belongs to a category of employees in private colleges affiliated to the University and, therefore, it is an independent and distinct class, which, in our view, cannot be equated with that of Govt. employees for want of above referred adequate material, and in absence thereof, in our view, the benefit of stagnation increments given to the employees of the State Government vide Govt. Resolution, dated 14th October, 1988, cannot be extended to the petitioner.

In the circumstance, the petition is misconceived, and devoid of substance. No case is made out for interference. Writ Petition is dismissed with no order as to costs.