

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1059 OF 2013

The State of Maharashtra
Through Public Health Department,
Government of Maharashtra,
Mantralaya, Mumbai 32.

..Petitioner

Versus

1. Shahar Palika Kamgar Union,
"Shramik", Tilak Road,
Ahmednagar
(Through Vice President).

2. The Chief Officer,
Ahmednagar Nagar Palika,
Ahmednagar.

3. The Regional Director,
Family Welfare & MCH & SH
Government of India,
257/11-B, Gultekadi,
Salisbari Park, Pune.

4. The Additional Director,
Health Services,
Family Welfare House,
Dr. Naidu Hospital Compound,
Pune 1.

..Respondents

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AGP for Petitioner : Smt. Shinde V.A.
Advocate for Respondent 1 : Shri Shelke Avishkar S.
Advocate for Respondent 2 : Shri Bedre V.S.
Advocate for Respondent 3 : Shri Kulkarni Bhushan
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CORAM : RAVINDRA V. GHUGE, J.
Dated: August 05, 2015
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ORAL JUDGMENT :-

1. Heard.
2. Rule.

3. By consent, Rule is made returnable forthwith and the petition is taken up for final disposal.

4. The petitioner - State has challenged the judgment and order dated 9.2.2012, delivered by the Industrial Court in Complaint (ULP) No. 74 of 2002, wherein the respondent No.1 - Union had claimed wages as per the V Pay Commission recommendations from 1.1.1996.

5. The petitioner is aggrieved since the Industrial Court has directed the Ahmednagar Municipal Council (presently, Municipal Corporation) to refer the proposal of the original complainants / employees to the Additional Director, Health Services, State of Maharashtra so as to enable the said authority to take a decision as regards the applying of the recommendations of V Pay Commission. Grievance is that the petitioner is in no way concerned with the Family Welfare Scheme, which is funded by the Union of India. By the impugned judgment, the petitioner is likely to face the financial burden without the petitioner in any way being concerned with the dispute between the parties.

6. The learned AGP has placed a copy of the Written Statement of the Public Health Department and Additional Director, Health Services, Government of Maharashtra on record. It is specifically pointed out from paragraph No.8 of it's Written Statement that the Government Resolution dated 24.3.2004 indicates that the Family Welfare Scheme is funded by the

Government of India to the fullest extent (100%) and those autonomous institutions or voluntary organizations under whose aegis the schemes are implemented, shall be entitled to such payment of salaries which are in the form of 100% grants by the Union of India. It is further declared through the Government Resolution, that the salary structure, as is prescribed by the Maharashtra Civil Services (Revised Pay) Rules, 1988, is made applicable to all the employees working under the Family Welfare Schemes from 1.4.2004.

7. It is, therefore, contended by the State that, as and when the State Government has taken a decision with regard to revising the pay scales, necessary Resolutions have been issued and have been made applicable to all such employees, who are exclusively working under the particular schemes.

8. The contention of the respondents / employees, represented by the Union is that because the employees mentioned in Annexure "A" to the Complaint are the employees of the Ahmednagar Municipal Corporation, if the salary as per the V Pay Commission recommendations is paid to the employees of the Corporation, these employees who are working under the Scheme should also be treated at par. Shri Shelke has vehemently contended that parity on account of the principal of "equal wages for equal work" needs to be maintained and hence the complaint was rightly allowed by the Industrial Court.

9. I find from the pleadings of the parties and the record available that there is no dispute as regards the appointment of the thirteen employees mentioned in Annexure "A" under the Family Welfare Scheme. They have not been appointed prior to the introduction of the Scheme. It is not their case that they were first appointed as employee of the Corporation and later on when the Family Welfare Scheme was introduced, they have been deputed to work under the Scheme.

10. It therefore, cannot be lost sight of that all these workers have been appointed purely under the Family Welfare Scheme and have always been treated with distinction in comparison to the other employees of the Municipal Corporation. It is submitted by the learned AGP that these employees have benefited from the Government Resolution dt. 24.3.2004, by which a decision was taken to give them the benefits of the V Pay Commission recommendations under the MCS (Revised Pay), Rules 1988. By the said Government Resolution, these benefits have been made available to these employees from 1.4.2004. There has not been an instance of any such employee working under the Family Welfare Scheme, to the knowledge of the petitioner, as having been given the benefits of the V Pay Commission recommendations from 1.1.1996.

11. The Industrial Court in the impugned judgment, in my view, has erroneously compared the said 13 employees with the other employees of the Municipal Corporation. The fact that these 13 employees have been recruited exclusively under the Scheme, which is funded by the Union of

India and who have acquired their employments only to work under the Family Welfare Scheme exclusively. They cannot equate themselves with the other employees of the Corporation, who were neither appointed under the Scheme nor have they been working under the said Scheme.

12. In the light of the above, I find that the Industrial Court has misdirected itself by expanding the scope of the principle “equal pay for equal work”. The conclusions of the Industrial Court are bound to create an economic imbalance, since all over the nation, such Family Welfare Schemes, which are being implemented under the 100% grants of the Union of India, will have to be treated on similar lines. I do not find that any parity can be struck in between these 13 employees and the rest of the employees of the Corporation.

13. As such, this petition is allowed. The directions of the Industrial Court in Clause (3) and the declaration under Clause (2) are quashed and set aside.

14. Nevertheless, since the Government Resolution dated 24.3.2004 has made the Revised Pay under the MCS (Revised Pay) Rules, 1988 applicable to the employees working under the Family Welfare Scheme, these 13 employees if as yet, have not been given the benefits of the said Government Resolution, they would stand to draw the said benefits. The Ahmednagar Municipal Corporation shall, therefore, ensure that the funds received by it from the Union of India for implementing the Family Welfare

Schemes, shall ensure that these employees are given the benefits strictly as per the Government Resolution dated 24.3.2004 w.e.f. 1.4.2004.

15. Rule is made partly absolute in above terms.

(RAVINDRA V. GHUGE, J.)

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