

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD**

WRIT PETITION NO.6973 OF 2014

Dilip s/o Usman Shah and  
Others.

- PETITIONERS

VERSUS

The State of Maharashtra and  
Others.

- RESPONDENTS

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Mr.Avinash Deshmukh, Advocate for Petitioners

Mr.VH Dighe,AGP for State.

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**CORAM : S.S.SHINDE &  
P.R.BORA, JJ.**

**DATE OF RESERVING ORDER: 24<sup>th</sup> March, 2015.**

**DATE OF PRONOUNCING ORDER :- 8<sup>th</sup> SEPTEMBER, 2015**

**PER COURT**

1)           Heard.    Being aggrieved by the Judgment and Order dated 28.2.2015, passed by Aurangabad Bench of Maharashtra Administrative Tribunal, (for short, the Tribunal) in Original Application No.108/2014, the petitioners have presented the present Petition. Petitioners have also sought directions against Respondent Nos.1 to 4 to implement recommendations of Hakeem Committee in relation to up-gradation of the

cadres of unskilled and semi-skilled Artisans from Group-D/Class-IV category of the State Services to Group-C/Class-III category of State Services with consequential grant of applicable higher/revised pay scales of Rs.5200-20200/- with Grade Pay of Rs.2400/- and Rs.5200-20200/- with Grade Pay of Rs.2500/- respectively. The petitioners have also sought issuance of a corrigendum to Government Resolution dated 11.2.2013 in regard to granting of higher/revised pay scales to the cadres of unskilled and semi-skilled Artisans.

2) The aforesaid reliefs were sought by the petitioners in Original Application No.108/2014 before the Tribunal. The Tribunal, at the stage of admission of the Original Application, dismissed the same, observing that mere higher qualification or experience cannot be a criterion for grant of higher pay band.

3) Shri Avinash Deshmukh, learned Counsel appearing for the petitioners, assailed the impugned judgment of the Tribunal on several grounds. The learned Counsel submitted that hearing of Original

Application No.108/2014, by learned Single Judge of the Tribunal, itself was impermissible in view of the fact that the matter was pertaining to fixation of pay. The learned Counsel, relying upon the judgment of the Hon'ble Apex court in the case of Union of India Vs. P.V.Hariharan – (1997) 3 SCC 568; and office order dated 1<sup>st</sup> July, 2011, issued by the Tribunal, submitted that the aforesaid original application must have been heard by Division Bench of the Tribunal.

4) The learned Counsel further submitted that the learned Tribunal has failed in appreciating the recommendations of the Hakeem Committee. The learned counsel further submitted that the Tribunal must have considered the recommendations of Pay Anomaly Committee headed by Shri Bakshi in the light and in reference to the recommendations of the Hakeem committee. The learned Counsel further argued that the Tribunal utterly failed in appreciating that the applicants were entitled for higher pay scales as recommended by the Hakeem Committee since they were discharging the duties of higher posts and were also possessing qualifications, which are required for the

said higher posts. The learned Counsel also submitted that on some hypothetical grounds situation, the Tribunal has rejected the contentions raised by the petitioners/applicants. The learned Counsel further submitted that the Tribunal must have called say of the respondents before hearing the original application and deciding the same. He further added that, without there being any submission on record on behalf of the respondents, it was not possible to know the stand of the respondents pertaining to the demand made by the applicants for grant of higher pay scales. The learned Counsel, therefore, prayed for setting aside the order passed by the Tribunal and further prayed for directions to the respondents for implementing the recommendations of the Hakeem Committee in relation to the up-gradation of the cadres of the petitioners, i.e. of unskilled and semi-skilled artisans.

5) Learned AGP supported the order passed by the Tribunal and prayed for dismissal of the petition.

6) We have carefully considered the submissions

advanced on behalf of the petitioners as well as the respondents. We have also perused the impugned judgment of the Tribunal and the documents placed on record along with the petition, more particularly, the relevant recommendations made by the Hakeem Committee and the relevant observations of Bakshi Committee. After having considered the submissions so advanced by the respective parties, apparently, it appears to us that present was not the matter, which could have been summarily dismissed by the Tribunal.

7) We also find substance in the submission made on behalf of the petitioners that the matter, in question, must have been heard by Division Bench of the Tribunal and not by learned Single Judge of the Tribunal. The office order dated 1<sup>st</sup> July, 2011, which was issued in view of the observations made by the Hon'ble Apex court in the case of Union of India Vs. P.V.Hariharan (cited supra), prescribes that all pay fixation matters are required to be placed before the Division Bench. In the instant matter, precise prayer of the petitioners/applicants was grant of higher pay scales to them in view of the recommendations of the Hakeem Committee and in such

circumstance, it was advisable that the matter should have been heard by the Division Bench of the Tribunal and not by the learned Single Judge.

8) Secondly, perusal of the impugned order passed by the Tribunal reveals that the Tribunal has not at all considered the submissions made on behalf of the applicants that in several other departments of the State and other Government entities, the similarly placed employees are receiving the higher pay scales and on parity basis, the petitioners/applicants were seeking higher pay scales at par with the said employees. This aspect has been considered by the Hakeem Committee and that was the reason that the said Committee has recommended for up-gradation of the unskilled and semi-skilled employees like petitioners falling in D category. The petitioners/applicants have provided sufficient material in support of their contention that similarly placed employees in other Departments were placed in the pay scales of Rs. 5200-20200 with grade pay of Rs.2,400/-. The material on record show that the similarly placed employees in the Water Resources Department; Department of Vocational Training;

Ordinance Factories run by the Central Government; and the employees of Konkan Agricultural University at Dapoli, have been awarded with the higher pay scales. It was the specific contention of the petitioners/applicants that the educational qualifications and nature of duties of the petitioners/applicants were as similar to the employees of the aforesaid Departments, and as such, their request ought to have been considered for grant of higher pay scales to them.

9) In the above circumstances, we find it appropriate to remit back the matter to the Tribunal for its fresh decision with further direction that the Tribunal shall call for say of the respondents and thereafter, by giving full opportunity to the petitioners/applicants as well as the respondents, shall record its findings on the contentions raised in the petition and the prayers made therein. We further direct that in view of the Judgment of the Hon'ble Apex court in the case of Union of India Vs. P.V.Hariharan (cited supra) and the office order dated 1<sup>st</sup> July, 2011, it will be advisable that the matter is heard by Division Bench of the Tribunal.

10) With the observations, as above, the writ petition stands disposed of.

**sd/-**  
**(P.R.BORA)**  
**JUDGE**

**sd/-**  
**(S.S.SHINDE)**  
**JUDGE**

bdv/

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