

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 5834 OF 2014**

Gajanan K. Gokhale & Ors.

.. Petitioners

versus

The Secretary, Government of
India & Anr.

.. Respondents

Mr. Sanjay Kulkarni for petitioners.

Mr. Vinod Joshi for respondent nos. 1 and 2.

Mr. Pankaj Shah i/b. Hina Shah for respondent no. 3.

**CORAM: D. H. WAGHELA, C. J. AND
M. S. SONAK, J.****DATE : 07 APRIL 2016****P.C.:**

1] Rule. With the consent of and at the request of learned counsel for the parties, Rule is made returnable forthwith.

2] By this petition, the petitioners have applied for the following substantive reliefs :

“(a) By appropriate writ, order or direction this Hon'ble Court be pleased to call for record and proceedings in Original Application No. 521 of 2010 from Hon'ble Central Administrative Tribunal, Mumbai and after perusal of the impugned order dated 25th September 2013 passed by the learned CAT, Mumbai be pleased to quash and set aside the said impugned order dated 25th September 2013 passed in Original Application No. 521 of 2010;

(b) By a suitable writ, order or direction this Hon'ble Court be pleased to direct the respondents to fix the pay of the

petitioners in the pay scale of Rs.5000-150-8000 by extending the benefit under Fundamental Rule 22(I)(a)(1) retrospectively w.e.f. 1/1/1996 / from the respective date of promotion of the petitioners from the post of Head Clerk to the post of Deputy Accountants / Deputy Bullion Registrars with the Respondent no. 2 and pay the arrears to the petitioners accordingly with all consequential benefits;

(c) By appropriate writ, order or direction this Hon'ble Court be pleased to direct the respondents to pay interest at the rate of 12% per annum with effect from the respective date of promotion of the petitioners from the post of Head Clerk to the post of Deputy Accountants/ Deputy Bullion Registrars with the Respondent no. 2, within three months from the date of the order of this Hon'ble Court;"

3] Learned counsel for the petitioners states that the petitioners will not press relief in terms of prayer clause (a). This is because the Central Administrative Tribunal (CAT) by order dated 25 September 2013 has refused to entertain the petitioners original application no. 521 of 2010, only on the ground that it lacks jurisdiction to entertain the same. Further, necessary liberty was also granted by CAT to the petitioners to approach the appropriate judicial forum for redressal of their grievances in accordance with law. Learned counsel for the parties agree that the institution of petition before this court would be the only remedy for the petitioners to seek reliefs prayed for by them.

4] This petition was adjourned from time to time in order to enable learned counsel for the respondents to obtain instructions in the matter. The instructions were to be obtained mainly in the context of the petitioners case that the reliefs which they claim by way of prayer clause (b) in this petition, have already been extended to similarly placed employees at the government mints in Kolkata and Hyderabad. Finally, on 18 February 2016, this court made the following order :

“1. Learned Standing Counsel appearing for Respondent no. 1 has once again sought adjournment on the ground that she is not getting instructions from Respondent no. 1 in spite of previous order dated 28 September 2015.

2. In the circumstances, learned counsel appearing for Respondent no. 1 is requested to see that necessary instructions are received by her before the next date of hearing and failing that, the official concerned under Respondent no. 1, not below the rank of Deputy Secretary, shall remain personally present before this Court with necessary information for the purpose of deciding present petition. Stand over to 9th March 2016.”

5] Today, when the matter was taken up for final hearing, Mr. Vinod Joshi, learned counsel for respondent nos. 1 and 2, on basis of instructions from the Deputy Secretary concerned has not only confirmed that the benefits now claimed by the petitioners have already been extended to similarly placed employees at the government mints at Kolkata and Hyderabad, but further, the same benefits will also be extended to the petitioners herein within a reasonable period. Thus, Mr. Vinod Joshi, on the basis of instructions received by him, stated that respondents would have no objection to the Rule being made absolute in terms of prayer (b) of this petition.

6] Apart from the fair concession, we may note that in the affidavit in reply filed by and on behalf of the respondents also it is conceded that the reliefs which the petitioners claim in terms of prayer clause (b) of this petition have already been extended to similarly placed employees in the government mint at Kolkata and Hyderabad. This position is made clear at paragraphs 7 and 20 of the affidavit in reply dated 5 November 2014 filed by Shri V. Balaji, Chief Manager (HR) India Mint, Mumbai. If this be the position, then there is really no

justification in denying similar relief to the petitioners herein. Accordingly, we allow this petition and make the Rule absolute in terms of prayer (b), which reads thus :

(b) By a suitable writ, order or direction this Hon'ble Court be pleased to direct the respondents to fix the pay of the petitioners in the pay scale of Rs.5000-150-8000 by extending the benefit under Fundamental Rule 22(I)(a)(1) retrospectively w.e.f. 1/1/1996 / from the respective date of promotion of the petitioners from the post of Head Clerk to the post of Deputy Accountants / Deputy Bullion Registrars with the Respondent no. 2 and pay the arrears to the petitioners accordingly with all consequential benefits;

7] Further, we direct respondents to pay to the petitioners the arrears and consequential benefits as expeditiously as possible and in any case within a period of three months from today. In case, arrears and consequential benefits are not paid within three months from today, then, the same shall carry interest at the rate of 9% per annum which shall be computed from the dates upon which such amounts became due and payable to the petitioners.

8] There shall be no order as to costs.

9] All concerned to act on basis of authenticated copy of this order.

CHIEF JUSTICE

(M. S. SONAK, J.)