

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 620 of 2007

Razvi Mir Zulfeqar Ali s/o Mir Akbar Ali,
age 60 years, occupation : retired,
Resident of Block No. 4, Rauf Colony,
near Nehru Bhavan, Aurangabad .. Petitioner

versus

- 1) The State of Maharashtra,
through Government Pleader,
High Court, Aurangabad
- 2) The Registrar,
Dr. Babasaheb Ambedkar Marathwada
University, Aurangabad .. Respondents

Mrs. A N. Ansari, Advocate for petitioner
Mr. S.N. Morampalle, Asstt. Government Pleader for respondent no.1
Mr. K. M. Suryawanshi, Advocate for respondent no. 2

CORAM : SUNIL P. DESHMUKH AND
SANGINTRA S. PATIL, JJ.

DATE : 14-11-2017

JUDGMENT (PER : SUNIL P. DESHMUKH, J.)

1. Petitioner is before this court, purported to be aggrieved by communication from respondent no. 2 dated 7/13-1-2006 declining claim of the petitioner for grant of three annual increments pursuant to Government Resolution dated 11-04-2001. Benefits, it appears, had been demanded by petitioner in October, 2002 and in February, 2003 he had been communicated by University administration that the benefits would not be possible to be given to him and thereafter, after decision on 1-10-2005 by Pension Lok Adalat at Aurangabad in

the case of one P. A. Kulkarni, such benefit once again had been requested by petitioner from respondent no. 2 - University on 15-12-2005 and the University had declined the request, observing that the petitioner had never been working as junior assistant.

2. Learned counsel Mrs. Ansari on behalf of petitioner submits that petitioner had been initially appointed as a junior compositor in printing press of Marathwada University on 01-08-1967 and had been working as such till he was transferred as junior clerk in January, 1985 in the administration branch of the University. While the petitioner had been working as junior compositor the pay scale which had been given to petitioner had been revised from time to time and ultimately he had been given pay scale of Rs.260-10-390-15-420-Extn.15-495. While working as junior clerk, petitioner had been promoted to the post of accounts clerk in the pay scale of Rs. 335 - 680 in September, 1986. She submits, a similarly situated person namely Mr. P. A. Kulkarni who had been working along with petitioner as copy holder in the press had also been transferred to administrative branch of the University, had taken the matter to Pension Lok Adalat at Aurangabad as his request for grant of three annual increments on transfer to administrative branch had been declined by the University taking a stand that previous service in the press cannot be considered for working out pensionary benefits because earlier service was governed by Factory Act and not as per service conditions under the University service rules.

3. While granting claim of said Mr. P. A. Kulkarni, the Pension Lok Adalat had considered that the parties were ad-idem that transfer of Mr. Kulkarni had been on identical post.

4. Learned counsel for aforesaid purpose refers to claim of said Mr. P. A. Kulkarni before the High Court Legal Services Committee wherein Mr. Kulkarni refers to that he had been transferred as junior assistant from the post of copy holder. She submits that petitioner in the present matter be given similar treatment on parity, for, he has also been working in the press of University and subsequently had been transferred to administrative branch as junior clerk and had further been promoted as accounts clerk.

5. It is her case that while petitioner was promoted as accounts clerk, his pay had been scaled down rather than increasing it, pointing out that while the post of junior assistant and junior clerk are one and the same and when Mr. P. A. Kulkarni transferred as junior assistant has been given benefit of three annual increments of Rs.15/- each, fixing his pay at Rs. 540/- in January, 1986, benefit of such increments and fixation of pay at Rs.540/- is required to be given to the petitioner as well. She has submitted that revised pay scale of two posts viz. junior compositor and copy holder was the same i.e. Rs.260-490 and thus the benefit of three annual increments is legitimately due to the petitioner.

6. While aforesaid submissions are advanced by Mrs. Ansari on behalf of petitioner, learned counsel Mr. K. M. Suryawanshi appearing on behalf of respondent no. 2 - University points out that the University has denied in its affidavit in reply that while some of the employees had been working in University press were transferred to work on administrative side of the University, at that time petitioner's request to change his designation from junior compositor to junior clerk had been declined.

7. He submits, it has been further referred to in the affidavit that petitioner had been promoted as accounts clerk of University in September, 1986 and was further promoted to the post of assistant superintendent and he had retired on 31-01-2004. He submits that pursuant to government resolution dated 01-08-1979, pay scale of junior compositor and junior assistant had been Rs.260-295, however, the government had decided to grant three additional increments of Rs.15/- each year to those employees who had been working on the post of junior assistant on or before 26-10-1978 after having crossed maximum of their pay scale. He submits, under government resolution dated 11-04-2001, pay scale of Rs.975-660 is applicable with effect from 01-01-1986 to those employees who were working on the post of junior assistant/typist before 26-10-1978 and the government had granted three annual increments at the rate of Rs.15/- to said employees after them having crossed maximum of the

pay-scale. He submits that, it thus emerges that the petitioner had not been working as junior assistant in relevant year i.e. 1978.

8. Learned Assistant Government Pleader appearing on behalf of respondent no. 1-State purports to support the communication impugned.

9. The petition had been appearing for hearing often. Twice the matter had been adjourned for production of record. The parties had got the matter adjourned. The petitioner had not produced copies of relevant government resolutions of 1979 and 2001. Petition does not contain copies of appointments orders and/or transfer of petitioner on the post of junior clerk. In the face of such situation, relevant material not being made available to the court, simply relying on order rendered by Lok Adalat in the case of Mr. P. A. Kulkarni, it would not be proper for us to decide the claim under the petition.

10. We are thus constrained to dismiss writ petition. Writ petition, accordingly, is dismissed. Rule is discharged.

SANGINTRAO S. PATIL
JUDGE

SUNIL P. DESHMUKH
JUDGE

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