

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

WRIT PETITION NO. 2209 OF 2005

Marg Lipik Karmachari Sanghatana,
Zilla Parishad, Parbhani ...Petitioner

VERSUS

The State of Maharashtra & ors. ...Respondents

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Shri S.B.Jadhav, advocate h/f
Shri M.B.Bharaswadkar, advocate for petitioner
Shri Vaishali Patil, A.G.P. for respondent no.1
Shri S.G.Shinde, advocate for respondent nos. 2 and 3
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CORAM : S.V.GANGAPURWALA & K.L.WADANE, JJ.

DATED : 4th January, 2017

PER COURT :-

Mr. Jadhav, learned counsel for the petitioner submits that the petitioner is an Association of Muster Clerks working in Zilla Parishad. The association requested the Chief Executive Officer on 28.9.1995 to give benefit of Government Resolution, dated 8.6.1995, which provides for time scale promotion after completion of 12 years of service. The respondent no.2 considered the representation and

granted time scale promotions as per Government Resolution dated 8.6.1995 vide its order dated 15.5.1996. The members of the petitioner Association were granted pay scale of Rs.1200-1440. The learned counsel submits that the Auditor submitted report stating that the pay fixation is wrongly made and asked to take appropriate action for correction of pay scale and for subsequent action of recovery.

2. The learned counsel submits that pursuant thereto the decision has been taken to withdraw the benefit given to the members of the petitioner Association. The Government vide Government Resolution dated 3.8.2001 has taken a decision to grant higher pay scale to those who are given time scale as per Government Resolution dated 8.6.1995, purportedly as per the 5th Pay Commission Report. The learned counsel submits that the auditor has wrongly interpreted the Government Resolution while considering pay scale awarded to the members of the petitioner Association.

3. The learned counsel for respondent nos. 2 and 3 submits that pay scale was rightly given to the petitioner, however, as objection was taken by the auditor, the same was recalled.

4. The learned A.G.P. submits that the auditor has rightly taken objection. The petitioners were, in fact, working in the pay scale of Rs.950-1500, and as such, would be entitled to the pay scale of Rs.3050-4590 and same is rightly considered.

5. We have considered the submissions canvassed by the learned counsel for the respective parties. It is not disputed that the petitioners, at the relevant time, were working as Class III employees. The benefit of Government Resolution dated 8.6.1995 was already accorded to the petitioners and as per the order, dated 4.11.1996 the petitioners were paid the pay scale of Rs.1200-1440 considering the benefit of time bound promotional pay scale. As per the Government Resolution, dated 3.8.2001 the employees who were in pay scale of Rs.1200-1440 and grade pay with efficiency bar Rs.30-1800 were awarded pay scale of Rs.4000-6000. The auditor in its objection, it appears, has erroneously observed that those

persons who were given pay scale of Rs.1200-1440 with efficiency bar Rs.30-1800 ought to have been granted pay scale of Rs.3050-4590. The said pay scale would be available to those who were in pay scale of Rs.950-1150. The petitioners were already given benefit of time bound promotional pay scale and were brought in the pay scale of Rs.1200-1440 with efficiency bar Rs.30-1800. For them, the salary would be in the pay scale of Rs.4000-6000 and not in Rs.3050-4590. The same would be abundantly clear as per the Government Resolution, dated 3.8.2001 and the benefit of Government Resolution dated 8.6.1995 is also to be accorded to the petitioners members who have completed 12 years of service. It is nowhere the case of the respondents that the members of the petitioner Association were erroneously given benefit of time bound promotional pay scale on completion of 12 years of service.

6. In the light of above, the impugned order is quashed and set aside. The respondents shall refund the amount recovered from the members of the petitioner Association within a period of six months from today, and so also, shall grant to the petitioners with effect from 1.1.1996 the pay scale of Rs. 4000-100-6000 as per the

Government Resolution dated 3.8.2001 and the pay scale of Rs.1200-1800 till 31.12.1995.

The further benefits, as would be permissible, in terms of the above order, shall also be accorded to the members of the petitioner Association.

Rule is accordingly made absolute in the above terms.

No costs.

(K.L.WADANE, J.)

(S.V.GANGAPURWALA, J.)

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