

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

**REVIEW APPLICATION NO.212 OF 2016
IN
WRIT PETITION NO.5158 OF 2013**

Ambadas S/o Bhimrao Wangikar
and another ... Applicants.

Versus

The State of Maharashtra
and others. ... Respondents.

...

Mr.A.G.Godhamgaonkar, advocate for the
petitioners.
Mrs.A.V.Gondhalekar, Additional Government
Pleader for the State.

...

**CORAM : S.V.GANGAPURWALA AND
V.K.JADHAV, JJ.**

Date : 17.03.2017.

PER COURT :

1. Heard.

2. Mr.Godhamgaonkar, learned counsel for
the Review Applicants submits that this Court

while passing the order on 13.7.2015, has not considered the principle that a senior can not be paid less than his junior. The learned counsel relies on the judgment of the Apex Court in the case of **"State of Hariyana Vs. Ram Sarup Ganda"** reported in **(2012) 15 SCC 772**. According to the learned counsel, the petitioners are appointed as Clerk on 21.10.1961 and 1.11.1961, whereas Respondent No.3 is appointed as a Clerk on 22.9.1965. The petitioners were placed in the pay-scale of Rs.950-1500 that of a Clerk on 1.1.1986 and Respondent No.3 is placed in the pay-scale of Rs.1200-1800 i.e. of Revenue Inspector. The Respondent No.3 could not have been given higher pay-scale and only because there was prohibitory order of this Court, the same can not be a consideration to give lower pay-scale to the petitioners. According to the learned counsel, after 1992, the disparity has been resolved but the grievance is for the period 1986 to 1992.

3. We have heard learned Additional Government Pleader also.

4. The Review can not be considered as an appeal in disguise. The jurisdiction of this Court in entertaining the review is in a narrow compass. There can not be any dispute with the proposition that a senior can not get less pay than his junior. After the year 1992, there is no disparity in the pay-scale between the petitioners and the Respondent No.3. The disputed period is from 1986 to 1992. The difference in pay-scale was on account of the posting of the petitioners and the Respondent No.3. The petitioners were appointed as clerk. In 1984 Respondent was posted as Revenue Inspector and was given pay-scale of Revenue Inspector, i.e. Rs.1200-1800, whereas the petitioners were working as clerk in the pay-scale of Rs.950-1500. In 1990, the petitioners are reverted as clerk, whereas Respondent No.3 remained as Revenue Inspector in view of the orders of the Court. On 17.9.1992, the petitioners are promoted as Awal Karkoon, whereas Respondent No.3 is promoted subsequently on 1.1.1994. As such on and from 7.9.1992, there is no dispute about the pay-scale also. The

disparity in the pay-scale from 1986 to 1992 was on account of the post that was held by Respondent No.3 and because of the orders of stay, Respondent No.3 continued on the post of Revenue Inspector for which he was given the pay-scale as applicable to the Revenue Inspector. It was because of the orders of stay granted by this Court he was required to be paid the pay-scale of the post he was discharging his function. Considering the said aspect, we have not entertained the grievance of the petitioner.

5. Considering above, no case for review. The Review Application is rejected. No costs.

(V.K. JADHAV, J.)

(S.V. GANGAPURWALA, J.)

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