

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2673 OF 2017
AND
CIVIL APPLICATION NO. 935 OF 2017

Tracers Association,
Agriculture Department, Maharashtra
through its General Secretary
Shashikant M. Jadhav .. Petitioner/Applicant
vs.
The State of Maharashtra .. Respondent

Mr. N.P. Dalvi for the Applicant/Petitioner.
Mr. N.C. Walimbe, AGP for the Respondent – State.

**CORAM : SMT. V.K. TAHILRAMANI &
M. S. SONAK, JJ.**

DATE : 11 SEPTEMBER 2017.

P.C. :-

1] The petitioner-association challenges the judgment and order dated 29th January 2016 made by the Maharashtra Administrative Tribunal (MAT), Mumbai Bench dismissing Original Application No. 983 of 2015 in which the petitioner-association, had applied for certain reliefs concerning the first and second benefits under the Assured Career Progress Scheme (ACPS) for its members.

2] Mr. Dalvi, learned counsel for the petitioner, submits that the relief which the petitioner seeks for its members has already been granted by the MAT, Nagpur Bench in O.A. Nos.636, 733 and 599 of

2013 vide judgment and order dated 26th February 2015. Mr. Dalvi submits that there is no reason to deny similar benefits to the members of the petitioner-association. He submits that the State, on its own, must extend the benefits to the members of the petitioner-association or in any case, the State cannot deny the benefits to the members of the petitioner-association, merely because, they may not have instituted original applications before the MAT and obtained orders similar to the orders made by the MAT in O.A. Nos.636, 733 and 599 of 2013. Mr. Dalvi submits that the approach of the respondent- State is contrary to its own Circular dated 28th February 2017.

3] Mr. Dalvi submits that by Civil Application No. 935 of 2017, the petitioner seeks to include in its list of members annexed to the petition, several other employees, who have now been admitted to the Membership of the petitioner - association or who have now cleared the dues towards the membership. Mr. Dalvi submits that the all these employees also need the same relief as has been granted by the MAT in O.A. Nos.636, 733 and 599 of 2013.

4] Upon perusal of impugned judgment and order dated 29th January 2016, we find that the MAT has not adverted to the merits of the petition. Relief has been declined mainly because no specific order was challenged in the original application ; there was no clarity as regards facts in individual cases ; and there was no certainty about the pay band and grade pay awarded to Tracers at the stage of their appointments and the status of their pay after seven years. The MAT has basically held that it may not be possible to decide hypothetical questions at the instance of the association. The MAT has also noted the dispute raised by the respondent – State to the issuance of general directions in the matter.

5] From the aforesaid, it is quite clear that the impugned judgment and order dated 29th January 2016 will not operate as a bar to the Tracers individually putting forth their grievances concerning the receipt of first and second benefits under the ACPS, by providing details and factual foundation in support of their respective claims.

6] The respondent – State in its Circular dated 28th February 2017 has referred to the following principle laid down by the

Hon'ble Supreme Court in *State of Uttar Pradesh and ors. Vs. Arvind Kumar Srivastava* – 2015 (1) SCC 347:

“Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.”

7] The respondent - State relying upon the aforesaid principle has issued directions to all its departments to take action according to the principles laid down by the Hon'ble Supreme Court so that employees, whose case is identical to the case of other employees who may have been granted certain reliefs by Courts or Tribunals are not compelled to seek judicial redress from Courts or Tribunals.

8] Since, it is the case of the petitioner-association that its members or for that matter other similarly placed employees are entitled to the benefits under ACPS in terms of judgment and order dated 26th February 2015 in O.A. Nos.636, 733 and 599 of 2013 delivered by the MAT, Nagpur Bench, it will be appropriate if liberty

is granted to the members of the petitioner-association as well as other similarly placed employees to make representation to the respondent – State, setting out details relevant for obtaining relief as well as establishing parity / comparability with the petitioners in the matters disposed of by the Nagpur Bench. Such representations may be made within a period of two weeks from today. Upon receipt of such representations, the respondent – State is directed to dispose of the same in the light of the orders made by the MAT, Nagpur Bench in the aforesaid matters as also the Circular dated 28th February 2017. The respondent - State to complete this exercise within a period of ten weeks from the receipt of the representations. This is the outer limit fixed by us. However, the respondent – State to endeavor to dispose of the representations as expeditiously as possible.

8] In case any individual Tracers are declined relief, they shall obviously have the liberty to institute appropriate proceedings before the MAT seeking redress in the matter. In such proceedings, the Tracers will be in a position to challenge specific orders declining them relief and the question of any hypothetical challenge will also not arise.

9] We make it clear that we have not examined the merits of the Tracers' grievance and therefore, all contentions are left open for determination by the respondent – State, in accordance with law and on their own merits.

10] The petition as well as the civil application is disposed of in the aforesaid terms. There shall, however, be no order as to costs.

11] The parties to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)

(SMT. V.K. TAHILRAMANI, J.)