

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 6690 OF 2005

1. Central Instructional Staff Association of
VRC's (DGE&T) through its Vice President
Shri Sheshrao M. Bhongade;
Office of the Vocational Rehabilitation Centre
for the Handicapped; ATI Campus
V.N. Purav Marg, Mumbai 400 022
2. Shri D.S. Patil
3. Shri Anand R. Taide
4. Shri Sheshrao M. Bongade
5. Shri R.G. Nandanwar

No. 2, 4 and 5 working as
Vocational Instructors and
No.3 as Foreman at the Vocational
Rehabilitation Centre for the Handicapped;
ATI Campus; V. N. Purav Marg,
Mumbai 400 022.

... Petitioners

Versus

1. Union of India
Through the Secretary to
Government of India; Ministry of Labour,
Shram Shakti Bhavan,
New Delhi 110001.
2. Director General of Employment and
Training; Ministry of Labour,
Shram Shakti Bhavan;
New Delhi 110001.

3. Deputy Director General (Employment)
(Earlier Director of Employment Exchanges),
Directorate General of Employment and Training,
Shram Shakti Bhavan,
New Delhi 110001.
4. Deputy Director; Vocational Rehabilitation
Centre for the Handicapped;
ATI Campus, V. N. Purav Marg;
Mumbai 400 022. ... Respondents

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Mr. Amol P. Mhatre for the Petitioners.

Mrs. Anjali Helekar a/w Mr. N. D. Sharma for the Respondents-
Union of India.

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**CORAM : SMT. V. K. TAHILRAMANI, Acting C.J. &
M. S. KARNIK, J.**

DATE : 12th DECEMBER, 2017.

ORDER : [Per M. S. Karnik, J.]

1. Heard both sides.
2. The challenge in this petition is to an order dated 20/08/2004 passed by the Central Administrative Tribunal (hereinafter referred to as 'the Tribunal' for short). The Tribunal was pleased to dismiss the O. A. filed by the petitioners.

3. The petitioner Nos. 2, 4 and 5 are working as Vocational Instructors (for short - V.I's) and Petitioner No.3 is working as a Foreman at the Vocational Rehabilitation Centre for the Handicapped, at Mumbai. Before the Tribunal, the petitioners prayed for appropriate directions to the respondents to maintain the parity of pay scale between V.I's and equivalent posts of Employment Directorate on the one hand, and the V.I's and equivalent posts of Training Directorate on the other, from 01/01/1986 (from which date the V.I's of Training Directorates were brought on the scale of Rs. 1640-2900 (pre-revised)).

4. As indicated earlier, the petitioners are working as Vocational Instructors in Employment Directorate. It is the case of the petitioners that the Employment Directorate comes under Ministry of Labour, Central Government. There are in all three Directorates viz (i) Training Directorate (ATI); (ii) Woman Directorate (RVTI) and (iii) Employment Directorate (VRC). In all three Directorates, there are posts of V.I's. In the submission of the learned counsel for the petitioners the V.I's' in training Directorate train persons in Industrial Training Institute (ITI), the

V.I's in Woman Directorate in ITI and the V.I's in Employment Directorate train disabled and handicapped persons in ITI.

5. The learned counsel for the petitioners further submits that the Central Government had introduced the posts of Senior Draftsman in higher pay scale than V.I's inspite of the fact that the sphere of work of V.I was broader and much higher than senior Draftsman. Being aggrieved by the grant of higher pay scale to the Senior Draftsman, the V.I's in training Directorate challenged the grant of the said pay scale to Senior Draftsman and prayed for grant of same pay scale to them by filing proceedings before the Tribunal at Madras. The Madras bench of the Tribunal allowed the O.A. directing the respondents to consider revision of pay scale to V.I's in training Directorate.

6. The Tribunal further directed that the revision of pay scale of V.I. - Junior Technical Assistants shall be given effect to from 01/01/1986 without arrears and revisions since all the junior Draftsmen have been given the revised pay scale with effect from 13/05/1982 notionally and actually with effect from 01/11/1983. The said order was implemented by the Director General of

Employment and Training and by communication dated 09/12/1997 all the applicants therein were granted higher pay scale. The order further refers that the pay scales and the notification of pay scale was without demand of any arrears subject to the final judgment to be delivered by the Hon'ble Apex Court in SLP No. 10597 of 1997 filed in this respect.

7. The several other V.I's and even the union representing the V.I's filed applications before the Tribunal for similar reliefs, which reliefs came to be granted in favour of the applicants therein. In the challenge by the Union of India in Civil Appeal No. 2357 of 2000 and Civil Appeal No. 2261 of 2005 before the Apex Court against the order passed by the Tribunal as confirmed by the High Court, the Apex Court while disposing of the appeal by order dated 19/04/2006 has observed thus;

“.....

When these appeals were taken up for hearing, the learned counsel appearing for the Respondents in Civil Appeal No. 2357 of 2000 and in Civil appeal No. 2261 of 2006 informed us that the Respondents are not pressing for payment of arrears. In this view of the matter, nothing is required to be examined by this Court as the only issue of the limited notice issued by this Court is not being pressed by the Respondents.

In the result, nothing survives in these Appeals. The appeals are accordingly dismissed. There will be no order as to costs.

*The consequence of dismissal of these Appeals would be that the orders of the Tribunals are implementable from their respective dates, subject to the adjustment, if any, made as a result of the implementation of the 5th Pay Commission report.
.....”*

8. Learned counsel for the petitioners invited our attention to the Government of India orders of 1975 in respect of the posts under the Ministry of Labour and Employment. The relevant portion of the same reads thus;

“Vocational Instructors.

7.23.8 Vocational Instructors in Directorate of Training and Directorate of Women Occupation Training under DGET have been given the higher pay scale of Rs.5,500-9,000. However, similarly placed employees in Employment Directorate under DGET have not been extended a similar, higher pay scale. This has created an anomaly between the similarly placed posts in different Directorates under the same organisation. The Commission, accordingly, recommends that Vocational Instructors in Employment Directorate of DGET should be placed in the pay band PB-2 of Rs.8,700-34,800 along with a grade pay of Rs. 4,200 corresponding to the pre-revised scale of Rs. 6,500-10,500 with which the scale of Rs. 5,500-9000 is proposed to be merged.”

9. Learned counsel for the petitioners submits that with a view to remove the anomaly between the similarly placed posts in different Directorates under the same organisation that even in 1975 a decision was then taken to extend similar higher pay scale to those V.I's like the petitioners working under the DGET (Directorate General of Employment & Training).

10. On the other hand, learned counsel for the respondents vehemently contended that the nature of duties of the V.I's in these three directorates are different. She invited our attention to the eligibility criteria for appointment to the posts of V.I's in different directorates. In the submission of the learned counsel the Tribunal has rightly arrived at a finding that the petitioners cannot claim parity.

11. We have considered the submissions made by the learned counsel for the parties. As far back in 1975, the respondents by its decision had extended the benefit of higher pay scale to the V.I's in Employment Directorate of DGET like that of the Directorate of Training and Directorate of Woman occupation training and recognised that not granting the higher pay scale to the similarly

placed V.I's in the Employment Directorate has created anomaly between similar posts in a different directorates under the same organisation.

12. We also find from office orders dated 18/11/1988, 10/01/1994 which indicates that the employees are transferred from one Directorate to another. During the pendency of this petition an affidavit dated 05/10/2012 came to be filed by the Deputy Director (Rehab.) It would be material to quote the relevant portion of the affidavit dated 05/10/2012 filed by Shri S.Z.H. Zaidi, Deputy Director (Rehab.) The material portion of the affidavit reads thus:

“2) I say and submit that on the basis of recommendation of VIth Central Pay Commission and by the approval of Ministry of Finance, Govt. of India and after enactment of Central Civil Services (Revised Pay) Rules, 2008 the Vocational Instructors of Vocational Rehabilitation Centres for Handicapped working in the pre-revised pay scale of Rs.5000/- to Rs.8000/- under the administrative control of Employment Directorate of Directorate General of Employment & Training,

Ministry of Labour & Employment, Govt. of India has been equated with Vocational Instructors working in the pre-revised pay scale of Rs. 5500/- to Rs. 9000/- under the Training Directorate of Directorate General of Employment & Training Govt. of India with effect from 1.1.2006. Hereto annexed the copy of extract of Chapter 7-23 from Swamy's Sixth Pay Commission Report and marked as EXHIBIT-R-I.

- 3) *I say and submit that Consequent upon the implementation of the recommendations of VIth Central Pay Commission now the pay scale of both the cadre's viz. Vocational Instructors under Training Directorate & Vocational Instructor under Employment Directorate of Directorate General of Employment & Training, Ministry of Labour & Employment, Govt. of India is in pay band-2 Rs. 9300-34800 with Grade Pay of Rs. 4200/-, meaning thereby, that now there is no anomaly in Pay Scale of Two Cadres of Vocational Instructors working under two different Directorates of Directorate General of Employment & Training, Ministry of Labour & Employment, Govt. of India. Hereto annexed the copy of extract of Pay-Fixation Table under Sixth Pay Commission Report and marked as EXHIBIT-R-2.*

4) *I respectfully submit that, in aforesaid circumstances I submit that now when after implementation of the VIth Central Pay Commission, the prayer of applicants has already been redressed and relief granted w.e.f. 1.1.2006, hence the Writ Petition of the petitioner is no more sustainable and therefore the same is liable to be dismissed.”*

13. The position that emerges is that as far back as in 1975, the V.I's like the petitioners were recognised by the respondents as similarly placed to the V.I's in other Directorates. The V.I's working in the employment Directorate of DGET were thereby granted higher pay scale like V.I's of other Directorates. This was done to remove the anamoly between similarly placed persons in different Directorates under the same organisation. In the meantime, the Tribunal, Madras Bench has granted higher pay scale to the V.I's of the Training Directorate.

14. We may also note that the pay scales recommended by the Pay Commission for V.I's in the Employment Directorate and the Training Directorate is the same. Following is a chart annexed to the petition, which is not disputed by the respondents.

**PAY SCALES RECOMMENDED BY
PAY COMMISSIONS FOR V.I.'s.**

	2nd	Pay Commission Recommended	POST	Employment Directorate	Training Directorate
1.	2 nd Pay	Pay Commission Scale	V.I.	250-550	250-550
2.	3 rd Pay	Pay Commission Scale	V.I.	440-750	440-750
3.	4 th Pay	Pay Commission Scale	V.I.	1400-2600	1400-2600
4.	5 th Pay	Pay Commission	V.I.	5000-8000	5000-8000

15. No doubt, the Apex Court in the case of *Secretary to Govt. Vs. C. Muthu, 2001(10) SCC 454* has held that, in granting relief while applying the principle of “equal pay for equal work”, the court of Tribunal should be very circumspect and until and unless it is established that the two posts are almost similar in all aspects, the court or Tribunal should not venture to grant the relief sought for.

16. The learned counsel for the respondents as indicated earlier has pointed out that though the posts are of V.I's, but they are working in different Directorates may be under the same organisation. In her submission, the qualifications meant for the

posts are different. In ordinary course, we would not have ventured to grant parity to the petitioners who are working in the Employment Directorate of DGET with the pay scales of V.I's under the Training Directorate. However, in our opinion, having regard to the stand taken by the respondents themselves at different points of time, we feel that it would be unjust to deprive the V.I's working under the Employment Directorate the same benefits of pay that are being granted to the V.I's of the Training Directorate. We find the petitioners are working as V.I's in Employment Directorate who train disabled and handicapped persons in I.T.I. It is not as if the V.I's like the petitioners were never granted parity with the V.I's of the Training Directorate. The respondents have in the past by the instructions of 1975, referred to herein before for the purpose of removing anomaly has observed that similarly placed posts in different Directorates under the same organisation like V.I's of the Employment Directorate under the DGET have not been extended similar higher pay scale. This anomaly was removed by the respondents themselves and the V.I's of the Employment Directorate of DGET were then granted higher pay scale like V.I's of training Directorate.

17. It is in this light of the matter, in our opinion, the petitioners working as V.I's in Employment Directorate of DGET are similarly placed as the V.I's under the training Directorate and Woman Directorate. In fact, the respondents themselves have extended the benefits of higher pay scale to the V.I's under the Employment Directorate thereby virtually recognising that the posts of the petitioners are similarly placed as the posts of V.I's in different Directorates under the same organisation. Moreover, the affidavit dated 05/10/2012 referred to herein makes it very clear that insofar as the grant of benefits of sixth pay commission is concerned, the anomaly in the pay scale of two cadres of V.I's working under different Directorates is removed. The petitioners have started getting similar pay scale from from 01/01/ 2006. Even, the Madras Bench of the Central Administrative Tribunal has granted similar benefits to the applicants therein working in different Directorates. We have also found that even transfers of V.I's have been effected from one Directorate to the other.

18. Learned counsel for the respondents pointed out that having regard to the order passed by the Apex Court on 19/04/2006, the petitioners in any case are not entitled for any arrears from 01/01/1986 assuming this Court is inclined to allow this Petition.

19. Hence, the following order:

(A) The impugned order passed by the Tribunal dated 20/08/2004 in O.A. No. 494 of 2004 is quashed and set aside.

(B) The respondents are directed to maintain the parity of pay scales between the V.I's and equivalent posts of Employment Directorate on one hand; and the V.I's and equivalent posts of Training Directorate on the other from 01/01/1986 [from which date the V.I's of Training Directorate were brought under the pay scale of Rs. 1640-2900 (pre-revised)].

(C) Insofar as the arrears of pay from 01/01/1986 are concerned, the petitioners be granted similar benefits as may have been extended to the V.I's of Training Directorate from 01/01/1986.

20. The petition is allowed in the above terms with no order as to costs. Rule made absolute.

(M. S. KARNIK, J.)

(ACTING CHIEF JUSTICE)