

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

**902 WRIT PETITION NO.9764 OF 2010
WITH CA/14843/2018 IN WP/9764/2010**

BABURAO SAMBHAJIRAO DHONGADE ..PETITIONER

VERSUS

THE VICE CHAIRMAN AND MANAGING DIRECTOR MSRTC
MUMBAI AND ANR ..RESPONDENTS

...

Mr. Mukul Kulkarni h/f Mr. Yuwaraj R. Barahate,
Advocate for the Petitioner.
Mr. D. S. Bagul, Advocate for the Respondent Nos.1
and 2.

...

**CORAM : S. V. GANGAPURWALA &
R. G. AVACHAT, JJ.**

DATED : 11th DECEMBER, 2018.

PER COURT:-

1. Mr. Kulkarni, learned counsel for the petitioner submits that the petitioner was promoted to the post of Regional Manager. He was getting pay scale as Rs.3100/- in April 1989 less than one Mr. P. P. Nimsarkar, who was promoted subsequent to the petitioner. Mr. Nimsarkar was getting salary of Rs.3300/-. According to learned counsel, the same is not permissible. Right since 1984 there was disparity in the pay scale.

2. Mr. Bagul, learned counsel for respondents submits that the petitioner was promoted as DTO/DM (Senior) on 31.07.1982 and Mr. P. P. Nimsarkar was

promoted on 11.10.1984. Mr. Nimsarkar was getting salary of Rs.960/- and petitioner was getting salary of Rs.920/-. The same was because Mr. Nimsarkar had officiated on the lower post for two years more than the petitioner and was given one increment. The same is legal and proper.

3. There is no dispute that the petitioner was senior to Mr. Nimsarkar. When all circumstances are equal, junior cannot be paid more than the senior. The law is well settled. The reference can be had to the judgment of the Apex Court in a case of **Gurucharan Singh Grewal and Another Vs. Punjab State Electricity Board and Others** reported in (2009) 3 Supreme Court Cases 94.

4. In light of the above, the respondent-Authority shall pay the petitioner same pay and scale as was paid to Mr. Nimsarkar from 11.10.1984 till the petitioner retired from service. The same shall be done expeditiously and preferably within a period of six (06) months.

5. Writ Petition accordingly allowed. No costs.

(R. G. AVACHAT)
JUDGE

(S. V. GANGAPURWALA)
JUDGE