

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.666 OF 2009

Gurudas A. Kudalkar,
Shantinagar, Aquem,
Margao, Goa.

..... Petitioner.

Versus

1. State of Goa,
through its Chief Secretary,
Secretariat Complex,
Porvorim, Goa.

2. Secretary (Personnel)
through its Chief Secretary,
Secretariat Complex,
Porvorim, Goa.

..... Respondents.

Mr. Mahesh Amonkar, Advocate for the Petitioner.

Ms. Sapna Mordekar, Additional Government Advocate for the Respondents.

***Coram : M.S. Sonak &
C.V. Bhadang, JJ.***

Date : 5th November, 2019.

ORAL JUDGMENT: (Per M.S. Sonak, J.)

Heard Mr. Mahesh Amonkar for the Petitioner and Ms. Mordekar, Additional Government Advocate for the Respondents.

2. The Petitioner seeks benefits of the pay scale of Rs.6500-200-10500 for the period between 19.3.1996 to 8.10.2004 in the

cadre of Mamlatdar/Joint Mamlatdar/Block Development Officer/Asst. Director of Civil Supplies, Group 'B'.

3. The Petitioner was appointed to the post of Mamlatdar/Joint Mamlatdar in the pay scale of Rs. 2000-3200 with effect from 19.3.1996. The Respondent-State, by an order dated 27.10.1997 adopted revision of pay on par of the Central Government employees, based upon the recommendations of the Fifth Pay Commission, subject to the modifications set out therein. However, whilst fixing the pay scales in terms of the recommendations of the Fourth Pay Commission, certain anomalies arose, as a result of which, the pay scales applicable to the post of Mamlatdar/Joint Mamlatdar were prospectively revised from Rs.1640-2900 to Rs.2000-3200. This was in terms of the order dated 26/10/1992. The revision, in fact, took place before the Petitioner was appointed to the post of Mamlatdar/Joint Mamlatdar with effect from 19.3.1996.

4. Thereafter, the Fifth Pay Commission's recommendations came to be accepted and in terms thereof, the scale of Rs.6500-200-10500 is the one which corresponds to the pay scale of Rs.2000-3200. However, the Petitioner and several other persons in the cadre of Mamlatdar/Joint Mamlatdar were denied the benefit of the pay scale of Rs.6500-200-10500, but were rather fixed in the pay scale of Rs.5500-9000 on the basis of the pre-revised scale of Rs.1640-2900. Accordingly, one Shri Netto Derick Francis Pereira and Shri Narayan

Vishnu Prabhudessai instituted Writ Petition No.205/1999, seeking pay scale of Rs.6500-10500 in terms of the recommendations. This Petition was allowed vide Judgment and Order dated 29th July, 2003. In fact, the record indicates that the State Government conceded to the reliefs being granted in favour of the said Petitioners.

5. The aforesaid is evident from the perusal of paragraphs 2 and 3 of the Judgment and Order dated 29th July, 2003 in Writ Petition No.205/1999, which read as follows :

"2. On behalf of the respondents, Joint Secretary, (Personnel) Shri D.M. Borkar has filed an affidavit. In paragraph 6, it is set out as under :

" I state that the petitioners were appointed pursuant to advertisement issued by Goa Public Service Commission in which scale of Rs.2000-3200 was given. This was an apparent mistake. In view of this, the Government has presently in view of above decided to keep this pay scale of the petitioners, which is now equivalent to Rs.6500-10500 under V Pay Commission. However, the same presently shall be treated as being personal to them...."

There are other averments in which the respondents state that the pay scale of Mamlatdar/Joint Mamlatdar/BDO/Asst. Director of Civil Supply shall remain at Rs.5500-9000. It is further set out that upon further examination if the State Government is so advised or felt necessary to act in larger public interest and interest of public exchequer, the State Government while examining other cases would pass appropriate orders. We are really not called upon to consider that aspect of the matter as in law if the respondent State is

entitled to take appropriate steps, they shall be so entitled.

However, in so far as averments in paragraph 6 of the reply are concerned, the petition can be disposed of in view of the decision by the State Government to give the petitioners the revised pay scale of Rs.6500-10500, which corresponds to pay scale of Rs.2000-3200 given to them as personal to them.

3. In view of the above, the petition is allowed. Rule made absolute inasmuch as the respondents are directed to grant to the petitioners pay scale of Rs.6500-10500 and accordingly make payment in terms of the order dated 27.10.1997. The respondents are directed to complete the entire exercise within 8 weeks from today. No order as to costs."

6. Based upon the Judgment and Order dated 29/07/2003, the State Government extended all the benefits of pay scale of Rs. 6500-10500 to Shri Netto Derick Francis Pereira and Shri Narayan Vishnu Prabhudessai vide order dated 8/10/2003. However, in the said order it was stated that such extension is only personal to the said two Mamlatdars/Joint Mamlatdars.

7. The Petitioner has placed on record yet another order dated 27/03/2006 whereby the benefits of the pay scale of Rs.6500-10500 were extended to five other Officers, identically placed. The said five Officers had instituted Writ Petition No. 275/2005 and once again the State Government extended them the benefits on personal basis.

8. There is no difference in the case of the Petitioner herein

and the Petitioners in Writ Petitions No.205/1999 and 275/2005. However, Ms. Mordekar points out that the case of the Petitioner is not identical, inasmuch as the Petitioner herein is a promotee to the post of Mamlatdar/Joint Mamlatdar, whereas the Petitioners in other two petitions were direct recruits. According to us, this fact will make no difference. Ultimately, the records bear out that it is on the recommendation of the Goa Public Service Commission that the Petitioner was promoted on regular basis to the cadre of Mamlatdar/Joint Mamlatdar on 19.3.1996, in the pay scale of Rs.2000-3200 itself.

9. Accordingly, we see no reason as to why the Petitioner should be denied the benefits of the pay scale of Rs.6500-10500. In fact, the State Government on its own should have extended such benefits to the Petitioner, without requiring the Petitioner to institute the present petition.

10. Accordingly, we allow this Petition and direct that the Petitioner be granted the benefits of pay scale of Rs.6500-10500 for the relevant period i.e. 19/03/1996 to 08/10/2004. The Respondents are directed to issue consequential orders and pay the Petitioner financial benefits as a result of extension of this pay scale. This exercise should be completed within eight weeks from today.

11. Rule is made absolute in the aforesaid terms. There shall be

no order as to costs.

12. All concerned to act on the basis of an authenticated copy of this order.

C.V. Bhadang, J.

M.S. Sonak, J.