

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

WRIT PETITION NO. 3176 OF 2015

Ramesh Kakad Gavit & Others	..	Petitioners.
v/s.		
Union of India & Others	..	Respondents.

Mr. Rahul Walia along with Ms. Asmita Pendharkar, for the Petitioners.
Mr. Shrishailya S. Deshmukh, for the Respondent Nos. 1 and 2,

**CORAM: A.S.OKA &
M.S.SANKLECHA, JJ.**
DATE : 25th APRIL, 2019.

ORAL JUDGMENT (Per A.S. Oka, J.):-

Submissions were heard on the earlier day and the Petition is kept today for passing of orders.

2 **Rule.** The learned Counsel appearing for the Respondent Nos. 1 and 2 waives service.

3 By this Petition under Article 226 of the Constitution of India, the Petitioners have challenged a part of judgment and order dated 19th September, 2014 passed by the Central Administrative Tribunal (for short 'the Tribunal') on the original application filed by the Petitioners.

4 The Petitioners are working either as Police Inspectors or Police Sub-Inspectors on the establishment of the Union Territory of Dadra and Nagar Haveli. It is the case of the Petitioners that there is no parity between the pay scales prescribed by the Union Territory of the Dadra and Nagar Haveli with the pay scales prescribed by the other Union Territories such as erstwhile Union Territory of Delhi, Union Territory of Pondichery etc. The Petitioners made several representations for making this grievance. As the grievance was not dealt with, the original application was filed by the Petitioners before the Tribunal. The contention raised in the original application was that, as far as Sub-Inspectors on the establishment of Union Territory of Dadra and Nagar Haveli are concerned, they are similarly placed in all respects on par with the Sub-Inspectors on the establishments of the other Union Territories in the matters of recruitment, promotion, duties entrusted to them etc. The contention of the Petitioners in the original application was that, the Petitioners were discriminated against and, therefore, denial of pay scales which are applicable to the Sub-Inspectors on the establishments of the other Union Territories amounted to violation of their rights under Article 14 of the Constitution of India.

5 The prayers were opposed by the learned Counsel appearing for the Respondents by filing a reply. The original application was partly allowed. The Tribunal directed that the Petitioners will be entitled to similar a pay scale as their counterparts in the other Union Territories except Delhi with a grade pay of Rs.4200/- with effect from 1st January, 2006. The consequential directions about the pay fixation and payment along with consequential benefits were issued in the impugned order. The grievance in this Petition under Article 226 of the Constitution of India is

only to the extent of denial by the Tribunal of the prayer of the Petitioner for grant of pay scales as provided in 4th and 5th Pay Commission on par with the similarly ranked Officers of the other Union Territories.

6 The learned Counsel appearing for the Petitioners has taken us through the findings recorded by the Tribunal on the aspect of denial of benefits of 4th and 5th Pay Commission. He also invited our attention to the additional affidavit filed on behalf of the Respondent – Shri S. Krishna Chaitanya, Deputy Secretary (Home), dated 22nd March, 2018. The learned Counsel appearing for the Respondents after inviting our attention to the said affidavit, has submitted to the orders of the Court.

7 We have considered the submissions. From the impugned order, it appears that the Tribunal was of the view that it is reasonable to assume that 4th and 5th Pay Commissions would have examined the matter of disparity and that 6th Pay Commission specifically granted parity in pay scales to the Police Personnel for all Union Territories except Delhi.

8 In the additional affidavit of Shri S. Krishna Chaitanya, in paragraph 5, he stated that by a letter dated 1st June, 2017, the Ministry of Home Affairs, New Delhi directed that the issue of applicability of pay scales can be decided by the Union Territory Administrations in accordance with existing guidelines/ Pay Commission's Reports. Paragraph 6 of the said affidavit filed on behalf of the Dadra Nagar and Haveli reads thus:-

“ I submit that, the Respondents are therefore, of the view that there may be parity in the pay scales of Police Sub-Inspector in Dadra & Nagar Haveli when compared to other Union Territories in 4th and 5th CPC's.”

9 Thus, the Government of India has left it to the Union Territories to take call on granting parity of pay scales to Police Sub-Inspectors. In the said affidavit filed on behalf of the Dadar Nagar and Haveli administration, it is stated that the Union Territory was of the view that there must be a parity in the pay scales of Police Sub-Inspectors in Dadra and Nagar Haveli when compared to the other Union Territories even in respect of 4th and 5th pay commissions.

10 Coming to the finding in the impugned order of the Tribunal, we find that the Tribunal has not rejected the case of the Petitioners regarding disparity between the pay scale of Sub-Inspectors employed on the establishment of Dadra and Nagar Haveli and the Sub-Inspectors employed on the establishment of the other Union Territories. The Tribunal was impressed by the fact that in the 6th Pay Commission, parity was granted except for the Union Territory of Delhi and, therefore, 4th and 5th Pay Commissions must have considered these aspects.

11 Perusal of the reply filed to the original application before the Tribunal shows that it was not disputed before the Tribunal that the Sub-Inspectors employed on the establishment of the Union Territory of Dadra and Nagar Haveli were similarly placed with the Sub-Inspectors employed on the establishment of other Union Territories when it comes to recruitment, promotion and duties. Therefore, apart from the statement which is now made in the additional affidavit in reply, it appears to us that the Tribunal ought to have taken into consideration the violation of Article 14 of the Constitution of India when the Sub-Inspectors working on the establishment of Union Territory of Dadra and Nagar Haveli were

denied the same benefits which are available to their counterparts in other Union Territories.

12 Now as per the guidelines of the Government of India, Union Territory of Dadra and Nagar Haveli has taken a decision that there must be a parity in the pay scales. Therefore, to that extent, the impugned judgment and order needs modification. We must note here that, there was a specific prayer made in terms of prayer clause (b) for granting a benefit as per the 4th and 5th Pay Commissions.

13 Accordingly, the Petition succeeds and we pass the following order:-

- (i) The impugned judgment and order of the Tribunal is modified by granting additional relief in addition to what is already granted under the impugned judgment and order .The said additional relief shall be in terms of prayer clause (b) of the original application in respect of pay scales of 4th and 5th Pay Commission; and
- (ii) The directions issued under the impugned order for pay fixation and grant of other consequential benefits will equally apply to the above directions granting relief as per the 4th and 5th Pay Commissions.
- (iii) Rule is made absolute in the above terms.

(M.S.SANKLECHA,J.)

(A.S.OKA,J.)