

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

27 WRIT PETITION NO.10730 OF 2019

GAUTAM ANNASAHEB KALE AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr.N.L. Jadhav

AGP for Respondent No.1 : Smt.R.P.Gour

Advocate for Respondent2 to 7 : Mr.U.B.Bondar

...

**CORAM : S.V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATE : 12/03/2020.

PER COURT :-

1. Heard learned Counsel for the petitioners and the respondents. The petitioners are challenging the communication to the extent of recovery received by it.

2. It appears that the petitioners were initially appointed as Peon in year 2004, 2007 and 2009 on compassionate ground. Upon availability of Class III post, the petitioners were absorbed as Gramsevak in the year 2012. The petitioners were paid the pay-scale, however, according to the respondent, the petitioners were entitled for consolidated salary for the first

three years upon appointments as Gramsevak. The respondent has placed reliance on Government Resolution dated 28th August, 2015 and contended that those appointed on Class III posts subsequently are to be paid honorarium applicable to the Class III post. In normal course, at a time of absorption, the last salary drawn is protected. The petitioners herein were not getting salaries as per the pay-scale applicable to the Class III posts. They were promoted on Class III posts more than 4 years prior to absorption as Gramsevak. The period of Gramsevak on contractual/honorarium basis is three years and thereafter they are entitled for the pay scale.

3. As observed above when a person is absorbed on higher post, the last pay drawn is protected. However, we are not inclined to decide said issue in the present matter as only recovery is claimed.

4. Considering the aforesaid aspect that the petitioners herein were working much prior to their

appointment as Gramsevak and there was a bonafide dispute as to the pay-scale applicable and the fact that all those persons are working on Class III post, we set-aside the impugned order to the extent of recovery.

5. Writ Petition accordingly disposed of. No costs.

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA)
JUDGE