

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.7832 OF 2019

Omprakash S/o Sukhdeo Sathawane, Khutala, Chandrapur

-vs-

The Secretary, Social Justice and Special Assistant Dept. Govt. of Maharashtra, Mantralaya,
Mumbai and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Smt Shilpa P. Giratkar, Advocate for petitioner.

Shri A. M. Deshpande, Additional Government Pleader for
respondent Nos.1 to 4.

CORAM : A. S. CHANDURKAR AND PUSHPA V. GANEDIWALA, JJ.

DATE : January 04, 2022

The petitioner who is employed as a Gardener with the Social Justice and Special Assistance Department in the State of Maharashtra prays that appropriate pay-scale as admissible to the post of Gardener in the Department of Higher and Technical Education be applied so as to enhance the present pay-scale by which the petitioner receives salary.

2. It is the case of the petitioner that pursuant to the Government Resolution dated 08/03/2011 the pay-scales of employees of the Social Justice and Special Assistance Department have been revised in view of recommendations of the 6th Pay Commission and for the post of Gardener the pay-scale now admissible is Rs.4440-7440 with Grade-pay of Rs.1300/-. Since the post of Gardener with the Higher and Technical Education Department is entitled to the pay-scale of Rs.5,200-20,200 with Grade-pay of Rs.1800 pursuant to the Government Resolution dated 22/02/2019 in view of the

recommendations of the 7th Pay Commission, the petitioner seeks similar pay-scale.

3. In the reply filed by the respondent No.1 it has been stated that as per the policy decision of the aforesaid Department, the recommendations of the 6th Pay Commission have been made applicable with effect from 08/03/2011 and the petitioner has thereafter being paid salary as per aforesaid pay-scale which has been accepted without any protest. It is denied that there is any discrimination in the matter of applying pay-scale to the post of Gardener in different Departments.

4. After hearing the learned counsel for the parties and after perusing the averments in the writ petition, we find that the petitioner seeks application of better pay-scale to the post of Gardener in terms of the pay-scale being made applicable to Gardeners in the Higher and Technical Education Department. It is seen that by virtue of Government Resolution dated 08/03/2011, the Social Justice and Special Assistance Department has applied the recommendations of the 6th Pay Commission to its employees with effect from 01/04/2010. The petitioner relies upon Government Resolution dated 22/02/2019 issued by the School Education and Sports Department making applicable revised pay-scales to its employees from 01/01/2016. The pay-scale admissible for the post of Gardener is Rs.5200-20,200 with Grade-pay of Rs.1800. There is no challenge raised to the Government Resolution dated 08/03/2011 revising the petitioner's pay-scale on the post of Gardener. In absence of any such challenge, the pay-scale prescribed by a different

Government Resolution dated 22/02/2019 which is applicable to the Higher and Technical Education Department cannot be simplicitor applied to the case of the petitioner. Hence in the light of the averments made in the writ petition, we do not find any ground made out to grant the relief as sought for.

5. We also find that the matter of fixation of appropriate pay-scales is within the realm of policy making which can differ from one Department to another. The pleadings in the writ petition are insufficient to grant the prayers made therein. It is however open for the Gardeners as a cadre in the Social Justice and Special Assistance Department to take appropriate steps for seeking similar pay-scales as admissible to other Departments of the State Government if so advised and this adjudication shall not come in their way in seeking such relief.

The Writ Petition is accordingly dismissed.

(Pushpa V. Ganediwala, J.) (A. S. Chandurkar, J.)

Asmita

Digitally signed by ASMITA
ADWAIT BHANDAKKAR
Signing Date: 10.01.2022
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