

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

4 WRIT PETITION NO.11429 OF 2023

Vijaykumar s/o Laxmanrao Bhosale
and Others. ...Petitioners

Versus

The State of Maharashtra and
Others ...Respondents

.....
Advocate for Petitioners : Mr. V. G. Salgare
AGP for Respondents-State : Mr. P. S. Patil

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**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ.
& ARUN R. PEDNEKER, J.**
DATE : 14th SEPTEMBER, 2023.

P.C. :

1. Heard the learned Counsel representing the petitioners and the learned AGP for respondents.

2. Instituting this petition under Article 226 of the Constitution of India, the petitioners who are the retired drivers having worked with Zilla Parishad, Osmanabad have prayed to issue direction to the State Government to grant them the benefit of revised Grade Pay of Rs.2800/- instead of Rs.1900/- in the pay band of Rs.5200-20200 at par with

the staff car drivers serving /served under the Bombay High Court and its Benches at Aurangabad and Nagpur, in view of the Government Resolution dated 11/01/2023.

3. The learned Counsel representing the petitioner has submitted that the aforesaid Government Resolution dated 11/01/2023, so far as the staff car drivers are concerned, has been made applicable with retrospective effect i.e. 01/04/2011 and staff car drivers of Bombay High Court and its Benches have been given the benefit of Grade pay of Rs.2800/- in pay band of Rs.5200-20200, and since the petitioners had been discharging their functions while they were in service akin to the functions of the High Court drivers, they are also entitled to the benefit of the Government Resolution dated 11/01/2023.

4. Opposing the prayer made in the writ petition, the learned AGP has vehemently argued that the said Government Resolution dated 11/01/2023 has been issued only in respect of the staff car drivers of the High Court of Judicature at Bombay and its Benches at Nagpur and Aurangabad, and hence, the same is not applicable so far as the retired drivers of the Zilla Parishad are concerned.

5. Our attention has been drawn by the learned AGP to an order dated 19/05/2023, passed by the Sub-Divisional Officer, Irrigation Division, Zilla Parishad, Osmanabad, whereby claim of the petitioners has been rejected citing two reasons, namely :-

(1) The Government Resolution dated 11/01/2023 has been issued in respect of the drivers of Mumbai High Court and its Benches at Nagpur and Aurangabad, and hence, it is not applicable to the petitioners, and

(2) The Government Resolution dated 11/01/2023 is applicable to staff car drivers whereas the petitioners had retired as drivers.

6. The learned Counsel for the petitioners, in support of the submissions has relied upon two Judgments of the Hon'ble Supreme Court, firstly *Randhir Singh Versus Union of India*, decided on 22/02/1982, (Writ Petition No.4676 of 1978), and secondly, *Union of India and Ors. Versus Dineshan K.K.*, decided on 04/01/2008, (Civil Appeal No.25 of 2008) (Arising out of SLP(C)No.21222 of 2005), and has submitted that the doctrine of equal pay for equal work in this case is applicable with full force, and hence, the petitioners are also entitled to be given the benefit of the

Government Resolution dated 11/01/2023.

7. Having considered the rival submissions made by the learned Counsel representing the respective parties, we are afraid we are not in agreement with the submissions of the learned Advocate representing the petitioners for the reason that it is not a case where a working employee is claiming pay parity with the pay being made available to another employee discharging the same functions; rather it is a case where benefit of Government Resolution dated 11/01/2023 is being sought which manifestly has been issued by the Government in respect of the Staff Car Drivers working with the Bombay High Court and its Benches Nagpur and Aurangabad.

8. So far as the doctrine of equal pay for equal work is concerned, it is now well established doctrine of service jurisprudence, however, it has to be applied in a context. This principle has no application in the facts of the present case for the reason that it is a case where benefit of pay revision has been extended to staff car drivers of Bombay High Court and its benches. The Government Resolution dated 11/01/2023 cannot be said to be of general

application to all the drivers (working or retired) in other organization or bodies like Zilla Parishad.

9. The petitioners have already retired and in fact the writ petition is based on the Government Resolution dated 11/01/2023 which admittedly has been issued specifically for a class of employees working as 'Staff Car Drivers' of Mumbai High Court and its Benches. Thus, in the fact of the present case, the said doctrine is not applicable.

10. We are also satisfied with the reason given by respondent No.4 in his order dated 19/05/2023, whereby claim of the petitioners for grant of enhanced grade pay has been rejected stating that the Government Resolution dated 11/01/2023 is not applicable to the petitioners.

11. For the reasons aforesaid, we are not inclined to interfere in this Writ Petition, which is hereby dismissed.

12. There will be no order as to costs.

(ARUN R. PEDNEKER, J.)

(CHIEF JUSTICE)