



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8369 OF 2025

1. The State Of Maharashtra
Through its Secretary,
Skill Development and
Entrepreneurship Department
M.S. Mantralaya, Mumbai-32
Manisha Varma
E-mail: secy-msde@nic.in
Mobile No. 8554934333
2. The Director,
Vocational Education & Training
3, Mahapalika Road,
Post Box No. 10036, Mumbai-01.
Madhavi Sardeshmukh
E-mail: desk17@dvvet.gov.in
Mobile No. 9820071827
3. The Joint Director,
Vocational Education & Training
Regional Office,
Near Bhadkal Gate, Aurangabad
Purushottam s/o Tulshiram Devtale
E-mail: devtoabd@yahoo.in
Mobile NO. 9969618347

....PETITIONERS

VERSUS

Shrimant Maroti Ture

...RESPONDENT

.....
Mrs. V.S. Chaudhari, AGP for State/Petitioners
Mr. Avinash Deshmukh, Advocate for the respondent
.....

CORAM : NITIN B. SURYAWANSHI AND
VAISHALI PATIL JADHAV, JJ.

DATE : 09th MARCH, 2026

ORDER :

1. By this petition filed under Article 226 of the Constitution of India the State challenges the judgment and order dated 21.10.2024 passed by the Maharashtra Administrative Tribunal in Original Application No. 370 of 2020.

2. Brief facts leading to filing of this petition are that;

Respondent filed original application contended that he entered the service as Group Instructor on 18.02.1985. By Government Resolution dated 09.03.1999 two tier/three tier pay scale was made applicable on completion of 10 years or 24 years of service. Benefit of this Government Resolution was given to the respondent w.e.f. 20.02.1997. By Government Resolution dated 19.07.2010 respondent ought to have been granted selection grade scale w.e.f. 20.02.2009, upon completion of his 24 years of service. Option of the respondent was called upon on 09.11.2008 as to which pay band and grade pay should be made applicable to the respondent on completion of 24 years of service. Respondent opted for selection grade scale. However, the same was refused. The respondent, therefore, filed Original Application No. 601 of 2015 seeking following reliefs;

A) The impugned order/ letter dated 01.04.2015 issued by Respondent may kindly be quashed and set aside and the Applicant be granted benefits of Selection Grade Pay Scale or

Assured Career Advancement Scheme with effect from 20.02.2009 till the date of retirement i.e. 31.12.2014 with further commensurate pension from the date of retirement i.e. 31.12.2014 in continuity.

A-a) This Original Application may kindly be allowed thereby holding & declaring that the benefit of the scheme of 'Selection Grade Scale' with related pay scales of Rs. 4000-6000 and 9300-34800 with Grade Pay of Rs. 5400 must respectively be read in Item No. 2 in the table in G.R. dtd. 08/03/1999 and in Item No. 5 in the table in Annex. A to G.R. dtd. 19/07/2010 for being extended to the post of Group Instructor upon completion of total service of 24 years.

A-1) This Original Application may kindly be allowed thereby directing the Respondents to grant benefit of Selection Grade scale of Rs. 9300-34800 with Grade Pay of Rs. 5400 to the applicant w.e.f. 20/02/2009 till the date of his retirement i.e. 31/12/2014 with all consequential financial benefits of revision in pension alongwith arrears thereof.

B) The Respondent authorities may kindly be directed to grant Selection Grade Pay Scale or Assured Career Advancement Scheme benefits with effect from 20.02.2009 upon completion of 24 years in continuous service till the date of retirement i.e. 31.12.2014 and further release the aforesaid monetary benefits to the Applicant forthwith;

C) The Respondent authorities may kindly be directed to grant Pensionary benefits in accordance with the increased pay scale which the Applicant is entitled to and has further prayed for vide prayer clause "A" and "B" from the date of

retirement i.e. 31.12.2014 in continuity and further release the aforesaid monetary benefits to the Applicant forthwith;

D) In the alternative, pending hearing and final disposal of this original application the respondent authorities may kindly be directed to deposit the amount of arrears due when calculated as per Selection Grade Pay Scale with effect from 20.02.2009 till the date of retirement i.e. 31.12.2014 and further the Pensionary benefits as sought for in prayer clause "C" before this Hon'ble Tribunal and for that purpose issue necessary order;"

3. By order dated 22.09.2017 the original application was dismissed by the Single bench by making following observations;

"12. The learned counsel for the applicant submits that the post of Group Instructor was isolated post and, therefore, the Government thought it proper to bring that post under the scope of G.R. dated 8.3.1999 for grant of benefit of the scheme after completion of 24 years of continuous service. However granting 3 tier pay scale to the officers, the post of Group Instructor has been deleted inadvertently, as will be seen from the chart in the said G.R. This was a mistake done on the Part of respondent No. 1.

13. The learned counsel for the applicant then invited my attention to the G.R. dated 19.7.2010, a copy of which is placed on record at page Nos. 29 and 30 of the O.A. (both inclusive). In the said G.R. also, mistake committed in the G.R. dated 8.3.1999 has been perpetuated wrongly. In fact, in both the G.Rs, senior scale should have been granted to the post of Group Instructors. This has

defeated the reason for which both the G.Rs were issued, as will be seen from introductory clause (पारस्परिक) It is not disputed that the applicant is not qualified for promotion.

14. I have perused the impugned communication vide which the applicant's name has been rejected, such as impugned letter dated 2.1.2012, 2.7.2014 and 1.4.2015. Through all these letters, it has been stated that there is no provision for granting 3 tier pay scale i.e. selection grade pay scale to the post of Group Instructors and that seems to be correct. Had the applicant been aggrieved by an action of not including the post in the G.R. dated 19.7.2010, it was open for the applicant to challenge the said G.R. However, the applicants are coming with a case that there was a mistake of not including the name of the applicant's post in the G.Rs and the said mistake should have been corrected. It is true that unless and until such mistake, if it is really there, is not corrected, the applicant will not be entitled to claim Assured Career Advancement Scheme benefit after completion of 24 years of service and, therefore, it was necessary for the applicant to challenge the validity of the G.Rs for not including the applicant's post for the benefit of such scheme in the said G.Rs. If for want of non inclusion of the applicant's post in the G.R, the respondent authorities have refused to grant benefit of the scheme to the applicant, I do not find any illegality in the impugned communication. The applicant will be at liberty to challenge those G.Rs, if he desires to do so before the Division Bench of this Tribunal or before the Hon'ble High Court, as the case may be."

4. Respondent thereafter preferred representation dated

04.10.2017 for grant of benefit of selection grade scale on completion of 24 years of continuous service. Respondent, thereafter, preferred various representations praying for taking action on the representations filed by him. The second respondent by communication dated 17.09.2019 informed the petitioner that selection grade pay scale was not applicable to the post of Group Instructor and the same cannot be granted. Thereafter, again respondent preferred representation dated 27.09.2019, which was not considered. Hence, he filed Original Application No. 370 of 2020 with following prayers:

"A) This Original Application may kindly be allowed thereby directing the Resp. No. 1 to forthwith act upon applicant's representations and issue requisite modification in or a corrigendum to the G.R. dated 19/07/2010 introducing the scheme of 'Selection Grade Scale' with related pay scale of Rs.9300-34800 with Grade Pay of Rs.5400 in Item No. 5 in the table in Annexure A to said G.R.

B) This Original Application may kindly be allowed thereby directing the Respondents to extend to the applicant all the benefits flowing from afore-said modification/ corrigendum to G.R. dated 19/07/2010.

C) This Original Application may kindly be allowed thereby directing the Respondents to extend all consequential financial benefits (s.a. arrears of revised pay w.e.f. 20/02/2009 to 31/12/2014), arrears of revised pension w.e.f. 01/01/2015 onwards) to the applicant to which

he would become entitled in view of grant of Prayer Clauses "A" and "B" in his favour."

5. The Tribunal after hearing the parties was pleased to allow Original Application No. 370 of 2020. The State is aggrieved by the said decision. Hence, the petition.

6. Heard learned AGP for State and learned advocate for the respondent at length. Perused the record and impugned order.

7. Learned AGP submits that the impugned decision is hit by the principle of res-judicata. Since the Tribunal had already dismissed the earlier original application filed by the respondent, it should not have allowed the subsequent original application. Without challenging the Government Resolution and without setting it aside, the Tribunal could not have granted relief to the respondent. The Tribunal has taken contrary view, which it could not have taken in the case of the respondent. Therefore, she submits that the impugned order cannot be sustained.

8. Per contra, learned advocate for the respondent submits that prayers in both the original applications were different. While dismissing the earlier original application liberty was granted to the respondent to approach before the Division bench of the Tribunal. Respondent repeatedly approached for issuing corrigendum, as his request was not acceded to, he was constrained to file second original

application. He supported the impugned order of the Tribunal submitting that the Tribunal has rightly come to a conclusion that there was hostile discrimination. According to him, respondent's case is an isolated case as the respondent was the only person appointed by way of direct recruitment. Thereafter, all the posts of Group Instructors were filled in by the department by way of promotion only. It is further submitted that senior grade pay scale was granted to the respondent on completion of 12 years of service. However, selection grade scale was denied on completion of 24 years of service, which is arbitrary action and same was unsustainable. He submits that, the Tribunal is therefore justified in allowing the original application and directing the State to grant benefit to the respondent.

9. It is evident from the record that the respondent was the only person who was appointed by way of direct recruitment. All other colleagues of the respondent were appointed by way of promotion. Admittedly, on completion of 12 years of service, senior grade scale was granted to the respondent, so also to his colleagues who were promoted on the post of Group Instructor. Therefore, denying selection grade pay scale to him on completion of 24 years of service, which was granted to his promoted colleagues amounts to hostile discrimination and therefore, same is unsustainable. Admittedly, promoted Group Instructors and the respondent both were drawing same salary and

discharging same duties.

10. While allowing the original application, the Tribunal has rightly made following observations;

(ii) We feel that the G.R. dated 19.07.2010 is inherently discriminatory in excluding Group Instructors from the selection grade benefit. Despite all instructors being similarly situated within the Department, the resolution restricts Group Instructors to a two-tier scale, thereby arbitrarily withholding the third-tier selection grade scale. This exclusion stands contrary to the Chattopadhyay Commission's recommendation and the principles of equality under Articles 14 and 16 of the Constitution.....

(iii) Further, the applicant's claim is reinforced by the fact that Respondent No. 3 granted 'Selection Grade Pay' to five other Group Instructors listed lower in seniority (Nos. 5, 14, 19, 22, and 36). This selective grant of benefits, despite the applicant's higher seniority, violates the seniority principles that typically govern promotional and pay-related benefits. The applicant's position at Seniority No. 1 in his cadre entitled him to at least equal consideration, if not priority, in extending selection grade pay. The respondent's action of extending this benefit to lower-ranked instructors, while denying the same to the applicant, exemplifies an arbitrary exercise of discretion that contravenes established norms of fairness and equity within public employment.

(iv) The applicant's claim is both reasonable and grounded in an unambiguous interpretation of the Chattopadhyay Commission's recommendations. The State's initial acceptance of these recommendations, as well as its implementation for similar posts within the Department, confirms that extending "Selection Grade Pay" to the applicant is both justified and

necessary. By adhering to principles of equal treatment and seniority, the applicant deserves to be granted selection grade pay from 20.02.2009, the date on which he completed 24 years of continuous service, consistent with the provisions granted to similarly situated employees.”

11. We find no merit in the contention of the State that the impugned order is hit by the principle of res-judicata as apparently the prayers made in both the original applications are different and earlier original application was dismissed by the Single bench and subsequent original application was preferred before the Division Bench by making different prayers. Even otherwise the Tribunal has power of review under Section 22 of the Administrative Tribunals Act, 1985.

12. Since the respondent's case is an isolated case, we do not find any merit in the submission of State, that, without challenging the Government Resolution the reliefs sought by the respondent could not have been granted by the Tribunal.

13. The Tribunal has passed a well reasoned order, which is not liable to be interfered with in the extra ordinary writ jurisdiction. No case is made out by the State to interfere in the impugned order. Writ petition being devoid of merit is dismissed.

(VAISHALI PATIL JADHAV, J.)

(NITIN B. SURYAWANSHI, J.)