

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO.7187 OF 2015

Rajendra s/o Ramaji Dhawale & Others ... Petitioners

**VERSUS**

The State of Maharashtra & Others ... Respondents

.....  
Miss P.S. Talekar, Advocate for Petitioner  
Shri A.B. Girase, Govt. Pleader for State  
Shri Rajendra S. Deshmukh, Senior Counsel with  
Shri Ajit B. Kadethankar, Shri Kunal Kale,  
Shri Raman Dodiya, Advocates for respondent No.2.  
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**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &  
KISHORE C. SANT, J.**

**DATE: 27th AUGUST, 2024.**

**P.C. :**

1. Heard learned counsel for the petitioners and learned Government Pleader representing the State. The Writ Petition concerns itself with certain discrepancies in the pay-scales being drawn by the Stenographers working in the District Judiciary in the State of Maharashtra.

2. Hon'ble Supreme Court, taking note of the recommendations made by Shetty Commission, rendered a judgment on 07/10/2009 and issued certain directions. One

of the directions issued was that the recommendations of Shetty Commission shall be implemented w.e.f. 01/04/2003. Apart from this, the Shetty Commission had also recommended that in the States where the pay-scales admissible to various categories of employees working in the District Judiciary was higher than what was recommended by Shetty Commission, the higher scale for any such State shall be implemented.

3. To give effect to the recommendations of the Shetty Commission in terms of the judgment of the Hon'ble Supreme Court dated 7/10/2009, the State of Maharashtra issued a Government Resolution dated 20/10/2011 which clearly provided that the pay-scales mentioned therein shall be applicable with effect from 01/04/2003 as directed by Hon'ble Supreme Court. However, there were certain discrepancies and the said Government Resolution was not in tune with the recommendations of Shetty Commission at least in one regard, that is to say, in respect of the pay-scales admissible to different categories of Stenographers the Shetty Commission had recommended that there has to be a Three-Tier or Three-Grades of pay-scales which need to be made available to the Stenographers working in the District

Judiciary, but the Government Resolution dated 20/10/2011 provided for Four Grades of pay-scales. After some correspondence with the High Court, the said discrepancy was removed by the State by issuing the Government Resolution dated 15/09/2018 and in place of Four Grades of pay-scales admissible to the Stenographers, the said Government Resolution provided for three Grades of pay-scales to be made available to the Stenographers working in the District Judiciary in Maharashtra.

4. On an earlier occasion it was pointed out to the Court that while removing the discrepancy which had occurred in the Government Resolution dated 20/10/2011, the State, though, had issued a fresh Government Resolution on 15/09/2018, however, the Government Resolution is silent as to with effect from which date the said pay-scales as mentioned in the Government Resolution dated 15/09/2018, will be made applicable.

5. Noticing the aforesaid, the Court passed an order on 27/11/2018 directing the State to file an affidavit to justify as to how the State is entitled to implement the Government Resolution dated 15/09/2018 from the date of its issuance

and not with effect from 01/04/2003 as observed by Hon'ble Supreme Court in its judgment dated 07/10/2009.

6. In response to the said order dated 27/11/2018 passed by the Court, the State has filed an affidavit-in-reply dated 18/12/2018 wherein reliance has been placed on an order passed by this Court on 31/01/2018 in Writ Petition No.2134/2014 filed by Association of Personal Assistants, Private Secretaries and Senior Private Secretaries, High Court, Bombay, wherein it was observed by the Court that fixation of pay-scale in the post of Private Secretary to be revised by merging the Special Pay of Rs.400/-, will be applicable with effect from 01/04/2005 i.e. the date from which the posts were upgraded and the benefits accruing thereof shall be paid to the petitioners as expeditiously as possible.

7. From the said affidavit, it does not transpire as to whether the order dated 31/01/2018 passed by this Court in Writ Petition No.2134/2014 was passed in respect of a subject relating to implementation of the recommendations made by Shetty Commission in the light of the judgment dated 07/10/2009 passed by Hon'ble Supreme Court. Prima

facie, the causes shown in the affidavit-in-reply dated 10/12/2018 do not appear to be tenable for the following reasons :-

- a) The subsequent Government Resolution dated 15/09/2018 cannot be said to be a decision of the State Government independent of the recommendations made by the Shetty Commission and the judgment rendered by Hon'ble Supreme Court on 07/10/2009.
- b) It is to be noted that the Government Resolution dated 15/09/2018 was issued with a view to rectify the defect in the earlier Government Resolution dated 20/10/2011 which was issued for the purposes of giving effect to the recommendations of Shetty Commission in view of judgment dated 07/10/2009 passed by Hon'ble Supreme Court and the direction was to the effect that the Shetty Commission had recommended Three-Grade pay-scales to be made available to the Stenographers, whereas the Government Resolution dated 20/10/2011 permitted the Four-Grade pay-scales to the Stenographers. It is thus clear that the Government Resolution dated

15/09/2018 was issued to rectify the said discrepancy/ mistake/ error which had occurred in the Government Resolution dated 20/10/2011 and this Government Resolution dated 20/10/2011 was made applicable with effect from 01/04/2003 which is the date with effect from which, in terms of the judgment dated 07/10/2009 the recommendations of the Shetty Commission are to be given effect to. Hence, the submission in the affidavit-in-reply that the provisions of the Government Resolution dated 15/09/2018 will be applicable with effect from the date of issuance of the said Government Resolution is absolutely untenable.

- c) In any case, it is not denied by the State that the Shetty Commission's recommendations are to be made effective and implemented with effect from 01/04/2003 as directed by Hon'ble Supreme Court and accordingly, giving effect to the Government Resolution dated 15/09/2018 which has been issued for the purposes of only removing the discrepancy in the Government Resolution dated 20/10/2011, therefore, implementing the Government Resolution

dated 15/09/2018 not with effect from 01/04/2003 but with effect from the date of issuance of Government Resolution i.e. 15/09/2018, in our opinion, does not bear any rationale.

8. At this juncture, learned Government Pleader states that, Shetty Commission itself had recommended that in the States where the pay-scale admissible to the Stenographers were higher than what was recommended by Shetty Commission, the higher pay-scale shall be implemented and since in the State of Maharashtra the higher pay-scales were admissible to the Stenographers in terms of the recommendations of Sixth Pay Commission w.e.f. 01/01/2006, therefore, at the most, the Government Resolution dated 15/09/2018 may be considered for being implemented with effect from 01/01/2006.

9. In our opinion, the said submission also does not bear any force for the reason that while issuing the Government Resolution dated 15/09/2018 the State Government was not considering implementation of recommendations of the Sixth Pay Commission, rather it was considering implementation of the recommendations of

Shetty Commission in view of the judgment rendered by Hon'ble Supreme Court on 7/10/2009 which in unequivocal terms clearly provides that Shetty Commission's recommendations are to be implemented with effect from 01/04/2003.

10. However, on the prayer made by learned Government Pleader, we grant three weeks time to seek clarification in respect of the observations made by the Court in the preceding paragraphs of this order.

11. On completing his instructions, he shall accordingly file an additional affidavit-in-reply within four weeks after serving a copy thereof upon the learned counsel for the petitioners.

12. Stand over to 24th September 2024. To be placed high on board.

(KISHORE C. SANT, J.)

(CHIEF JUSTICE)

fmp/-