

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S
C I V I L A P P E A L N O (S) . 7 4 5 7 - 7 4 5 8 O F 2 0 0 3

STA T E O F MAHA R A S H T R A

Appellant (s)

V E R S U S

CHAND R A K A N T NAR A Y A N NAR V E K A R
(s)

Respondent (s)

(With appln(s) for permission to file counter affidavit and office report)

Date: 3 0 / 0 8 / 2 0 0 7 These Appeals were called on for hearing today.

CORA M :

HON' B L E MR. JUS T I C E H.K. S E M A
HON' B L E MR. JUS T I C E L O K E S H W A R S I N G H P A N T A

For Appellant(s) Ms. Asha Gopalan Nair, Adv.

For Respondent(s) Mr. Manish Pitale, Adv.
Mr. Chander Shekh a r Ashri, Adv.

UPON hearing counsel the Court made the following
OR D E R

The impugned order of the High Court dated 0 7 / 0 6 / 2 0 0 2
is
not sustain able in law and is, accordingly, set aside. The appeal
s are
allowed in terms of the signed order. Despite afores a
id, the respondents may, if so advised, approach the High
Court on administrative side for redressing their grievances by
filing a memor a ndu m of representation. If such memor a ndu m is filed, th
e
High Court may take up the matter with the State Government.

(Ravi P. Verm a) (Anand Singh)
Court Master Court Master

[Signed order is placed on the file]
IN TH E SU P R E M E C O U R T O F I N D I A

C I V I L A P P E L L A T E J U R I S D I C T I O N

C I V I L A P P E A L N O . 7 4 5 7 - 7 4 5 8 O F 2 0 0 3

STA T E O F MAHA R A S H T R A
(S)

.....A P P E L L A N T

Versus

CHAN D R A K A N T NAR A Y A N
(S)
NAR V E K A R

.....R E S P O N D E N T

OR D E R

Aggrieved by an order dated 07 / 06 / 2002 passed by the Division Bench of the High Court in Writ Petition No.1932 / 2001, these appeals are preferred by the State of Maharashtra.

We have heard the parties at length. The basic controversy raised before the High Court is with regard to pay disparity between Book Binders and Xerox Operators. Before the Fourth Pay Commission, the pay scale of Xerox Operators and Book Binders was the same, i.e. 220-375. However, in the Fourth Pay Commission, the pay scale of Xerox Operator was revised to 775-1150 whereas the pay scale of Book Binder was revised to 825-1200. Then Fifth Pay Commission came. In the Fifth Pay Commission, the pay scale of Xerox Operator was further revised to 2610 - 4000 whereas the pay scale of Book Binder was revised to 2750 - 4400.

Respondents, who are stated to be Xerox Operators, have

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filed the aforesaid writ petition before the High Court praying the following relief:-

(a) That, this Hon'ble Court may be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, Order or Direction under Article 226 of the Constitution of India, directing the Respondent No.1 to grant to the Petitioners the pay scale of Rs. 825 - 1280 or in the alternate the pay scale of Rs. 1200 - 1800 payable to a machineman (Xerox) in the Government Printing Press from the date of implementation of the 4th Pay Commission and thereafter pay the Petitioners all arrears of back wages due and payable, pursuant to their revised scale of pay.

(b) That, this Hon'ble Court may be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, Order or Direction under Article 226 of the Constitution of India directing the Respondent No.1 to grant to the Petitioners the pay scale of Rs. 2750 - 4000 or in the alternate the scale of Rs. 4000 - 6000 payable to a machineman (rota) in the Government Printing Press under the Maharashtra Civil Services (Revised Pay) Rules 1998 which came into force from 1st January 1996

and thereafter pay the Petitioners all arrears of back wages due and payable, pursuant to their revised scale of pay."

.....3.

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The High Court, in our view, without jurisdiction directed that the Xerox Operators be granted the pay scale as that of Book Binders w.e.f. the date of implementation of Fourth Pay Commission. The impugned order of the High Court, in our view, not only is passed without any jurisdiction but contrary to the prayer of the writ petitioners as noticed above.

By now, it is well settled principles of law that this Court is taking consistent view that fixation of pay scale is the handwork of expert committee which possesses expertise in fixing the pay scales taking the entire background facts into consideration such as responsibility of the employee, nature of work, requisite qualification possessed by the employee etc. We are surprised to notice that the High Court has not even discussed the recommendations of Fourth and Fifth Pay Commissions. The Fourth and Fifth Pay Commissions recommended the different pay scales between the Book Binders and the Xerox Operators. No reason whatsoever has been assigned by the High Court while directing the appellant to grant the pay scale of Book Binders to the Xerox Operators from the date of implementation of the Fourth Pay Commission. In our view, such drastic direction without supported by any reasons cannot be sustained in law. At the risk of repetition we reiterate that the different pay scales have been prescribed between the

.....4.

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Book Binders and the Xerox Operators in the recommendation of the Fourth Pay Commission and also in the recommendation of the Fifth Pay Commission. The High Court has not at all considered the recommendations of either Fourth Pay Commission or Fifth Pay Commission.

In the view that we have taken, the impugned order of the High Court dated 07 / 06 / 2002 is not sustainable in law and is, accordingly, set aside. The appeals are allowed. Despite aforesaid, the respondents may, if so advised, approach the High Court on administrative side for redressing their grievances by filing a memorandum of representation. If such memorandum is filed, the High Court may take up the matter with the State Government.

.....J .
(H.K. S E M A)

New Delhi;
August 30, 2007 .

.....J .
(LO K E S H W A R S I N G H P A N T A)