

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO.8533 OF 2009

| HARIBHAU | ... | APPELLANT(s) |  
|  
| Versus |  
| STATE OF MAHARASHTRA AND OTHERS | ... | RESPONDENT(s) |

O R D E R

We have heard Mr. Shivaji M. Jadhav, learned counsel for the appellant and Mr. Shankar Chillarge, learned counsel for the respondents.

2. It is not necessary to narrate the facts in detail. Suffice it to say that the appellant superannuated as Supervisor (Radio) on 30.11.1990 in the Directorate General of Information and Public Relations (for short "DGIPR"). At that time, the appellant was drawing pay-scale of 1400-2300. On the basis of that pay-scale, his pension was fixed at Rs. 1200/- p.m.

3. On and from 25.1.2002, the pay-scale of Supervisor has been enhanced to 1640-2900. The appellant claims that he is entitled to the fixation of his pay in the said pay-scale and, accordingly, the benefit of the enhanced pension should be given to him. A representation was made by the appellant to the concerned authorities. However, by the communication dated 7.8.2002, the appellant was informed that he was not entitled to revision of pay-scale as claimed by him.

4. The appellant challenged the above communication before the Maharashtra Administrative Tribunal, Nagpur Bench, Nagpur (for short "the Tribunal") but he was not successful there and his original application was dismissed on 9.6.2004.

5. The appellant challenged the order of the Tribunal before the High Court but he could not get any relief from the High Court as well. By a very brief order, the High Court on 18.6.2007 dismissed appellant's Writ Petition. It is from this order that the present appeal, by special leave, has arisen.

6. It transpires from the material available on record that subsequent to the above decisions, the matter was considered by the Divisional Pension Adalat on 13.1.2009. The Commissioner, Nagpur Division, Nagpur (for short "Commissioner") by his communication dated 16.1.2009 brought to the notice of the Director, Information and Public Relations as follows:

"Due to modification of rural broadcasting directorate 874 posts are declared excess and 253 posts returned to rural broad casting directorate and 58 posts are handed over to information and public relations directorate. The pay scale of Rs. 1400-2600 of fourth pay commission was applicable to both the offices. Since 1st January, 1986 the pay scale of Rs 1640-2900 was made applicable to the rural broadcasting directorate.

As per the decision taken on 2.3.1976 Shri Kayarkar was posted at Information and Public Relations Directorate but other personnel were returned to rural broadcasting on 26.9.1994. It means the said posts were not dissolved and retentative right of Shri Kayarkar for said post at rural broadcasting was permanent. But he was retired on 30.11.1990 from District Information Office, Wardha, otherwise his post

would have been returned to the rural broadcasting.

In the transfer order, said posts are not permanently transferred. It seems that the employees were transferred as temporary arrangement. Therefore, original establishment and post are not dissolved and revised, pay scale of Rs. 1640-2900 is applicable to Shri Kayarkar who was an employee of rural broadcasting because it appears that there was no order to absorb him permanently at information and public relations directorate." (emphasis supplied)

7. The above communication leaves no manner of doubt that pay-scale of 1640-2900 is applicable to the appellant from 25.01.2002. DIGPR ought to have acted on the information sent by the Divisional Commissioner and fixed appellant's pension accordingly.

8. We asked Mr. Shanker Chillarge, learned counsel for the respondents to show to us from the reply filed by the respondents before this Court as to why despite the above communication from the Divisional Commissioner, the appellant was not entitled to the pay-scale of 1640-2900. The reply filed by the respondents does not give any satisfactory answer. In our view, the stand of the respondents is not fair. In light of the communication dated 16.1.2009 as quoted above, we are satisfied that the impugned orders cannot be sustained and these orders are liable to be set-aside and set-aside accordingly.

9. Civil Appeal is allowed. The respondents are directed to revise the pension of the appellant by treating him in the pay-scale of 1640-2900 w.e.f. 25.1.2002. The arrears of enhanced pension up to the month of July, 2013 shall be paid to the appellant within three months from today and he shall be paid monthly pension from August, 2013 accordingly. No costs.

.....J.  
(R.M. LODHA)

.....J.  
(CHANDRAMAULI KR. PRASAD)

NEW DELHI  
AUGUST 1, 2013.

ITEM NO.13

COURT NO.3

SECTION IX

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS  
CIVIL APPEAL NO(s). 8533 OF 2009

HARIBHAU

Appellant (s)

VERSUS

STATE OF MAHARASHTRA & ORS.

Respondent(s)

(With office report )

Date: 01/08/2013 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA

HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD

For Appellant(s) Mr. Shivaji M. Jadhav, Adv.

For Respondent(s) Mr. Shanker Chillarge, Adv. for  
Ms. Asha Gopalan Nair, Adv.

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

Civil Appeal is allowed in terms of signed order. No  
costs.

|(Pardeep Kumar)  
|Court Master

| |(Renu Diwan)  
| |Court Master

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[SIGNED ORDER IS PLACED ON THE FILE]