

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CIRCUIT SITTINGS AT PANAJI (GOA)

Transferred Application No.93 of 1987

1. Shri Ramchandra Krishna Arlekar,
 2. Shri Parshuram Ramswamy Kalburgi,
 3. Shri Shamba Rauji Sawant,
 4. Vasudeva Babal Kudalkar,
Office of the
Inspector General of Police,
Panaji(Goa).
- .. Applicants

V/s.

1. Inspector General of Police,
Panaji(Goa)
 2. Administrator of Goa
Panaji(Goa)
 3. Union of India
through Ministry of Home Affairs,
New Delhi.
- .. Respondents.

Coram: Hon'ble Member(J), Shri M.B.Mujumdar,
Hon'ble Member(A), Shri M.Y.Priolkar.

Appearance:-

1. Shri F.Rebellow with
Shri A.C.Navelkar
Advocate for the
applicants.
2. Shri H.R.Bharne,
Advocate for the
respondents.

ORAL JUDGMENT:-

Dated: 14.4.1989

[PER: Shri M.B.Mujumdar, Member(J)]

The applicants' Writ Petition No.201 of 1985 filed in the Panaji Bench of the Bombay High Court, is transferred to this Tribunal under Section 29 of the Administrative Tribunals Act, 1985.

2. The applicants were appointed as Cobbler(Mochi), in the Police Department during the period from April, 1966 to October, 1966 in the pay scale of Rs. 85-110.

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They are still working as Cobblers(Mochi) in the Police Department. The Administrator of Goa, Daman & Diu in exercise of the powers conferred by the proviso to Article 309 of the Constitution had made rules relating to the recruitment to the non-gazetted post in the police department. The rules were called Goa Government Police Department(Non-gazetted Posts) Recruitment Rules, 1966 (briefly, the 1966 Recruitment Rules). According to Rule 3 of these rules, number of posts, classification of the post and the scales of pay attached thereto were to be as specified in columns 2 to 4 of the Schedule attached to the rules. Unfortunately in that schedule the post of Cobbler(Mochi) was not mentioned. However, by the rules called Goa Government Police Department, Class III (non-ministerial, non-gazetted) Posts and Class IV Posts Recruitment Rules, 1971 which were also framed in exercise of the powers conferred by the proviso to the Article 309 of the Constitution, (briefly, 1971 Recruitment Rules), the post of Cobbler(Mochi) was included in the Schedule of these rules. According to the Schedule the scale of Rs. 85-110 was given to the post of Cobbler(Mochi). The post was to be filled up by direct recruitment. After the report of the Third Pay Commission, the President made ~~the~~ rules regarding revision of pay scales. These were called Central Civil Service(Revised pay) Fifteenth Amendment Rules, 1974 (briefly, 1974 Revised Pay Rules). By these rules some 14 posts including the posts of Cobbler(Mochi), Barber, Dhobi and Tailor were grouped together on the assumption that their pay scale was Rs. 110-131. They were given

the revised pay scales of Rs. 260-350. In the entire schedule there was no other post of Cobbler(Mochi) having the old scale of Rs. 85-110. However, the post of Painter Class II was having pay scale of Rs. 85-110 and it was revised to Rs. 210-290. The applicants were fitted in that scale and given the revised scale of Rs. 210-290, with effect from 1.1.1973. It is the grievance of the applicant that as per provisions of the 1974 Revised Pay Rules, Cobblers were having only one old scale, namely, of Rs. 110-131 and it was revised to Rs. 260-350 and hence they should have been given the same revised scale.


3. In 1983 another development took place which induced the applicants to agitate their grievance by making representations. By order dated 6.5.1983 one Shri S.F.Harijan who was working as Sweeper was promoted to the post of Cobbler(Mochi) in the pay scale of Rs. 260-350. The order shows that he was promoted on the recommendation of the Departmental Promotion Committee(DPC). That was done according to the provision of Government of Goa, Daman & Diu, Office of the Inspector General of Police Group 'C' and 'D', Non-Ministerial, Non-Gazetted Posts Recruitment Rules, 1982(briefly, 1982 Recruitment Rules). In the schedule attached to the rules the post of Cobbler(Mochi) is at serial No.13. The post is a selection post. Essential qualifications prescribed are, (i) should be literate, (ii) good experience in the line, and (iii) should have knowledge of local languages. In the column regarding recruitment it is mentioned that the post was to be filled by promotion failing which by direct recruitment. However, the conditions

regarding age and educational qualifications are not applicable if the post is to be filled up by promotion. After the promotion of Shri Harijan, the applicants started making representations. By memo dated 9.11.1983, Superintendent of Police(TRG), Panaji informed applicant No.1 in reply to this representation that a proposal had been sent to the Government to enhance the pay scales of the Cobblers of Police Department to Rs. 260-350. Again by Memo dated 15.12.1987, the Superintendent of Police (Training) informed applicant No.1 that it was necessary to take up the proposal for enhancing the pay of Cobbler(Mochi) at the time of review of the pay scales by the 4th Pay Commission. But nothing has happened thereafter and the applicants were not given the revised pay scale of Rs. 260-350 and hence they have filed Writ Petition in the Panaji Bench of the Bombay High Court on 10.9.1985. Their prayer is for giving them the revised pay scale for the post of Cobbler(Mochi), namely, Rs.260-350 with effect from 1.1.1973 and to fix their pay in that scale with all consequential benefits such as annual increment, arrears of salary etc.

4. The respondents have resisted the application by filing the affidavit in reply of Shri Premanand Vishnu Borkar, Deputy Superintendent of Police, Panaji.

5. We have heard F.Rebellow along with Mr. A.C.Navelkar, learned advocates for the applicants and Mr.H.R.Bharne, learned advocate for the respondents. We have also carefully gone through the relevant rules and record.

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6. It is not clear to us as to on what basis the applicants were appointed in the scale of Rs. 85-110. ~~There~~^{were} ~~are~~ No recruitment rules in existence at that time. In the 1966 Recruitment Rules, the post of Cobbler(Mochi) was not covered. However, by 1971 Recruitment Rules, the post of Cobbler(Mochi) was covered and the scale of that post was mentioned as Rs. 85-110. May it be noted that there are only four posts of Cobbler(Mochi) in the police department from the beginning and those are held by the applicants. Since 1966, probably because they were getting the scale of Rs. 85-110, the same scale is mentioned in the 1971 Recruitment Rules. After the Third Pay Commission report of 1973, the Government granted 1973 revised pay rules. They were given effect from 1.1.1973. In the schedule of these rules the post of Cobbler(Mochi) was shown. Its present scale was shown as Rs. 110-131 which was revised to Rs. 260-350. As already pointed out the post of Cobbler(Mochi) was not shown anywhere else in that schedule. In other words the schedule does not show that there were two separate posts of Mochi having different pay scales-one of Rs.85-110 and the other of Rs. 110-131. If elsewhere the position was that the post of Mochi was having the scale of Rs. 110-131 there is no justification for not giving that scale to the applicants before us who are the only persons holding ~~four~~ such posts in the Police Department in Goa. To treat them differently would amount to discriminate ~~them~~ arbitrarily ~~them~~ from other persons holding the same post of Cobbler(Mochi) in other parts of the country. The position is fortified by the promotion of Shri Harijan


in the scale of Rs. 260-350. Previously he was serving as a Sweeper, but on the recommendation of the Departmental Promotion Committee, he was promoted to the post of Cobbler. In para 12 of the petition, petitioners have alleged that Shri Harijan is doing the same duties and functions which they are doing. We find that this allegation is not specifically denied by the respondents in their reply. After all the Cobblers are doing the duties of repairing leather shoes and belts of the police officers and polishing them. We were told at the bar on behalf of the applicants that applicant No.1 Shri Arlekar has passed second standard, applicant No.2 Shri Kalburgi has passed seventh standard, applicant No.3 Shri Sawant has studied upto second standard and applicant No.4 Shri Kudalkar has passed fourth standard. They are having knowledge of both the local languages, namely, Marathi and Konkani. Hence they fulfil the essential qualifications prescribed for the post of Cobbler as per 1982 Recruitment Rules for direct recruits. When they are doing the same duties and functions as Shri Harijan, we find no reason why they should not be given the same scale.

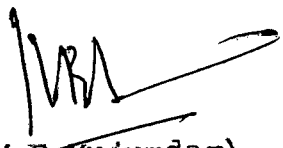
7. We, therefore, hold that the applicants are entitled to the scale of Rs. 260-350 with effect from 1.1.1973. However, they will be entitled to the arrears for the period of three years prior to the filing of the writ petition only. We may point out that in the famous case Randhir Singh v. Union of India, the Supreme Court had given the pay scale to the petitioner in that case with effect from 1.1.1973 by applying the doctrine of equal pay for equal work.

8. In result, we pass the following order:-

O R D E R

The petition is allowed and the respondents are directed to give the scale of Rs. 260-6-326-EB-8-350 for the post of Cobbler(Mochi) to the applicants with effect from 1.1.1973. Their pay should be re-fixed accordingly. However, they should be given arrears due to them according to rules from 1.10.1982 only. There will be no order as to costs.


(M.Y. Priolkar)
Member(A)


(M.B. Mujumdar)
Member(J)