

BEFORE THE CENTRAL ADMINISTRATIVE  
TRIBUNAL, NEW BOMBAY BENCH, NEW BOMBAY

1. Mr. Gunwantbhai R. Patel,  
At. Dadra,  
Union Territory of Dadra  
and Nagar Haveli. .. Tr. Appln. No. 119/86  
Applicant.

V/s

1. The Union of India.
2. The Administrator/Collector  
Union Territory of Dadra  
and Nagar Haveli at Dadra.
3. Education Officer,  
Department of Education,  
Union Territory of Dadra and  
Nagar Haveli, Dadra. .. Respondents
2. Mr. R.P. Patel,  
At. Silvassa,  
Union Territory of  
Dadra and Nagar Haveli. .. Tr. Application No. 120/86  
Applicant.

V/s

1. The Union of India.
2. The Administrator/Collector  
of the Union Territory of  
Dadra and Nagar Haveli at  
Silvassa.
3. Education Officer,  
Department of Education,  
Union Territory of Dadra  
and Nagar Haveli,  
Silvassa. .. Respondents

Coram: Hon'ble Member (A) S.P. Mukerji  
Hon'ble Member (J) M.B. Mujumdar

Appearances

1. Mr. D.V. Gangal, Advocate for the applicants
2. Mr. M.I. Sethna, Advocate for the Respondents.

ORAL JUDGEMENT (Per S.P. Mukerji, Member) Dated 26.12.1986.

The petitioners in the aforesaid two cases moved the High Court of Bombay with a Writ Petition under Art. 226 of the Constitution of India on 8.10.1984 praying that as Agricultural Teachers in a High School in the Union Territory of Dadra and Nagar Haveli they should be given a pay scale of Rs. 450-750 instead of Rs. 425-640 right

from the dates of their appointment. The petitions stood transferred to this court under Section 29 of the Administrative Tribunals Act, 1985.

The brief facts of the case <sup>can be</sup> ~~are directed~~ narrated as below: The petitioners were originally appointed as Agricultural Teachers in a High School at Silvassa in the pay scale of Rs.160-300 by an order of competent authority issued on 18.7.75. On the basis of Govt's decision of the Report of IIIrd Pay Commission as Agriculture Teachers in a High School and with B.Sc (Agriculture) as educational qualifications they were given pay scale of Rs.450-750 by the order ~~on revised pay scale~~ notified on 30.7.75 (vide Exhibit 'A' of the petition). These revised payscales were given effect from 1.1.1973 but since the petitioners were appointed in July, 1975 they were allowed to get the revised pay scale from the date of their joining as Agriculture Teacher. The Recruitment Rules for the post of Agriculture Teacher were promulgated in 1978 whereby those agriculture teachers who have both degrees of B.Sc Agriculture and Bachelor of Education (B.ED) were to be given pay scale of Rs.450-750 and those who are recruited only with Degree in Agriculture <sup>were</sup> ~~are~~ to be given pay scale of Rs.425-640. Since the petitioners were not having Degree in B.ED their pay scales was reduced from Rs.450-750 to Rs.425-640 and recoveries of excess payment were made from them.

We have heard the arguments of learned Counsels of both the parties and gone through the documents and also the various statements and files put up by the learned Counsel for the parties. We have also gone through the notings in the office files regarding the reduction of pay scale of the petitioners. The main arguments of the learned

Counsel for the petitioners is that firstly the IIIrd Pay Commission did not make a distinction between the Agriculture Teacher with B.ED and those without B.ED qualification i.e.between trained and untrained Agriculture Teachers. Secondly, the recruitment rules which came into force in the year 1978 cannot be given retrospective effect to reduce the payscale to which the petitioners are entitled with effect from the date of their appointment in July, 1975.

We have seen the Exhibits of 'A' and 'B' which have been appended by the petitioners with their petitions. The statement ~~attached with~~ 'A' which is a Notification dated 30.7.75 indicates that the pay scale of Agriculture Teachers who were in the pay scale of Rs.190-425 was to be revised to Rs.440-750. The statement ~~attached with~~ 'B' on page 23 indicates that the Agriculture Teachers in the scale of Rs.250-550 were to be given revised pay scale of Rs.440-750.

Even if we accept the contention of the learned Counsel for the petitioners that the revised pay scale do not make any distinction between the trained and untrained Agriculture Teachers, the fact remains that the aforesaid two documents produced by the petitioners, clearly indicate that the revised pay scale of Rs.440-750 would be admissible only to those Agriculture Teachers who were in the pay scale of Rs.190-425 or Rs.250-550. Since the petitioners themselves have stated in the opening para of their petitions that they were appointed as Agriculture Teachers in July, 1975 in the scale of Rs.160-300 and since the petitioners could not show to us any document to the effect that the pay scale of Rs.160-300 for Agriculture Teacher trained or untrained was revised to Rs.440-750, we cannot accept the plea of the

petitioners that they have a right to be given the revised pay scale of Rs.440-750. The appointment order dated 8.7.1975 put up by the learned Counsel for the petitioners also indicates that they were appointed in the pay scale of Rs.160-300. We are one with the learned Counsel for the petitioners that the Recruitment Rules promulgated in 1978 cannot be given retrospective effect as it adversely affects their pay, but the petitioners have to establish that they have a legal and Constitutional right to the pay scale of Rs.440-750. From the office note and the statements put up by the learned Counsel for the petitioners we are convinced that the petitioners who had voluntarily accepted at the time of the original appointment the pay scale of Rs.160-300 when a higher pay scale of Rs.190-450 was available for trained Agriculture Teachers cannot have any claim to the revised pay scale of Rs.440-750.

However, in view of the fact that the pay scale of the petitioners was unilaterally reduced from Rs.440-750 to Rs.425-640, we feel that the actual <sup>R<sub>o</sub> pay</sup> basic, which they were getting in the erroneously awarded pay scale of Rs.440-750 should be protected even when their basic pay is fixed in the pay scale of Rs.425-640 to which scale only they are entitled as untrained Agriculture Teachers. Accordingly, we allow the petition in part and direct that though the petitioners may be continued in the pay scale of Rs.425-640 as untrained Agriculture Teachers, their basic pay which they had been given in Rs.440-750 should be protected in the scale of Rs.425-640 and that recoveries if any made from them should be made good. The aforesaid two petitions are dismissed on the above lines. There will be no orders as to costs. A copy of this order may be placed on both the files.

*S.P. Mukerji*  
(S.P. MUKERJI)  
Member (A)

*M.B. Mujumdar*  
(M.B. MUJUMDAR)  
Member (J)

26-12-86