
**Shri R.D. Patkar Vs Directorate of Agriculture, Government of Goa and
another**

Writ Petition No. 459 of 1994

Court: Bombay High Court (Goa Bench)

Date of Decision: Feb. 2, 1999

Acts Referred:

Constitution of India, 1950 – Article 14, 16, 226

Citation: (1999) 3 BomCR 521

Hon'ble Judges: R.M.S. Khandeparkar, J; R.K. Batta, J

Bench: Division Bench

Advocate: D.P. Bhise, for the Appellant; H.R. Bharne, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

R.K. Batta, J.

The petitioner was promoted to the post of Assistant Agricultural Officer Grade II on 27th September, 1973. The posts of

Assistant Agricultural Officer Grade II were in the scale of Rs. 1400-2300 in the Directorate of Agriculture. By order dated 25th March, 1992,

the Government of Goa upgraded 29 posts out of 52 posts of Assistant Agricultural Officer Grade II into the scale of Rs. 1640-2900. This order

further provides that the upgraded posts will be filled only by agricultural graduates and the remaining posts of 23 Assistant Agricultural Officers

will also be upgraded as and when holders of the posts, who are non-agricultural graduates, retire.

2. The petitioner in this petition seeks declaration that Exhibit "E" at page 22 of the record to the extent that it denies Assistant Agricultural Officers

Grade II, who do not possess a degree in agriculture from recognised university or equivalent, to promotion to the post of Assistant Agricultural

Officer Grade I, is ultra vires Articles 14 and 16 of the Constitution of India; that the petitioner should be provided with at least one promotional

avenue and that he should be granted Time Bound Promotional Scale similar to the Assistant Agricultural Officer Grade II, who possess degree

qualification.

3. To the Assistant Agricultural Officers Grade II holding the graduate qualification in agriculture, the Time Bound Promotional Scale which has

been given is Rs. 2000-3500.

4. The scope of the petition is restricted in view of the Division Bench judgment of this Court, to which one of us was a party (Batta, J.), wherein

similar challenges as are put up in this petition had been rejected. In that case two Assistant Agricultural Officers in the same Department had

sought similar declarations as sought by the petitioner in prayer Clauses (c) and (d), which were rejected by this Court.

5. The contention of learned Advocate Shri Bhise is that the petitioner, who does not hold graduate qualification in agriculture and is working as

Assistant Agricultural Officer, should at least be given time bound promotional pay scale of Rs. 1640-2900, which is the regular scale which was

being given to Assistant Agricultural Officers in the same cadre with graduate qualification. His further contention is that on the basis of qualification

the Time Bound Scale of Rs. 1640-2900 cannot be denied to the petitioner.

6. Learned Government Advocate Shri Bharné argued that under the Time Bound Promotional Scale scheme if an employee does not get any

promotion for 12 years, he is entitled to Time Bound Promotional Scale equal to the pay scale of the next higher post in the respective cadre or the

hierarchy. However, in cases where the incumbent is not entitled for promotion to the next higher post due to educational qualification or

otherwise, it was decided by the Government that the Time Bound Promotional Scale as contained in Annexure I to Memorandum dated 22nd

December, 1989 should be granted. According to Annexure I, persons in the pay scale of Rs. 1400-2300 are entitled to Time Bound Promotional

Scale of Rs. 1600-2660. This Time Bound Promotional Scale of Rs. 1600-2660 has already been given to the petitioner and that the petitioner is

not entitled either to Time Bound Promotional Scale of Rs. 2000-3500 or to Rs. 1640-2900.

7. The Time Bound Promotional Scale scheme was introduced by the Government of Goa on account of stagnation of the employees in a

particular post due to which they could not get next promotion. The said Office Memorandum dated 5th July, 1989 provides that the Time Bound

Promotional Scale under the scheme shall be equal to the pay scale of the next higher post in the respective cadre/ hierarchy and it can be given

only once in the entire service. The posts of Assistant Agricultural Officer initially were in the scale of Rs. 1400-2300 but in the year 1992 the

Government of Goa upgraded 29 posts out of 52 posts of Assistant Agricultural Officer Grade II in the pay scale of Rs. 1640-2900. This

upgraded posts in the pay scale of Rs. 1640-2900 were to be filled by the agricultural graduates. Non-agricultural graduates were to continue in

the pay scale of Rs. 1400-2300. However, the remaining 23 posts which were not upgraded were ordered to be upgraded as and when the

holders of the posts who are non-agricultural graduates retire. This classification of the Assistant Agricultural Officers in two pay scales on the basis

of educational qualification cannot be faulted with and it does not violate either Article 14 or 16 of the Constitution. This position has been settled

by the Apex Court in State of Mysore and Another Vs. P. Narasing Rao, and The State of Jammu and Kashmir Vs. Shri Triloki Nath Khosa and

Others, .

8. The Time Bound Promotional Scale scheme, as we have already pointed out, provides for time bound scale. Under this scheme the Time Bound

Promotional Scale shall be equal to the pay scale of the next higher post in the cadre/hierarchy. The next higher post in the cadre/hierarchy is

admittedly the post of Assistant Agricultural Officer Grade I which is in the pay scale of Rs. 2000-3500 and for this post B.Sc. Agriculture is

essential qualification. The petitioner, who does not hold B.Sc. qualification, is not entitled to promotion to the next higher post and as such, the

question of granting Time Bound Promotional Scale of Rs. 2000-3500 does not at all arise. In so far as the claim of the petitioner to Rs. 1640-

2900 is concerned, this scale is in the same grade as Assistant Agricultural Officer Grade II and this scale has been given to those Assistant

Agricultural Officers who have graduate qualification. This scale cannot thus be said to be in the next higher post as contemplated under the Time

Bound Promotional Scale scheme. Therefore, the claim of the petitioner to the said scale of Rs. 1640-2900 is without any merit. It was with a view

to provide Time Bound Promotional Scale to such employees who did not fulfil the educational qualification for the next higher post that the

Government of Goa had issued office Memorandum dated 22nd December 1989. Annexure I to the said Memorandum provides that the

employees in the pay scale of Rs. 1400-2300 would be entitled to Time Bound Promotional Scale of Rs. 1600-2660, which scale has already

been given to the petitioner.

9. For the aforesaid reasons, we do not find any merit in this petition and the petition is, hereby, rejected. Rule is accordingly discharged. In the

facts and circumstances, there shall be no order as to costs.

10. Petition rejected.