

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO.**

**OF 2020**

**DISTRICT: PANVEL**

In the matter of Articles 12, 14, 16  
and 226 of the Constitution of India;

**AND**

In the matter of judgment dated  
02.08.2018 in IA No. 279 of 2010 in  
WP (Civil) No. 1022 of 1989 passed  
by the Hon'ble Supreme Court of  
India directing the State  
Governments to regularise the  
services of court managers;

**AND**

In the matter of communication  
dated 10.08.2010 informing the  
decision of the administrative judges  
of the High Court regarding the

payscale payable to the Court  
managers.

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**versus**

- 1 The Union of India, )  
Through its Secretary )  
(Expenditure), )  
Ministry of Finance, )  
New Delhi - 01. )
- 2 The State of Maharashtra, )  
Through its Secretary, )  
Law and Judiciary Department, )  
Mantralaya, Mumbai -32. )
- 3 The Secretary, )  
Finance Department, )  
Mantralaya, Mumbai -32. )
- 4 The High Court of )  
Bombay,Through the Registrar )  
General, )  
Fort, Mumbai - 01. )

**...RESPONDENTS**

**TO  
THE HON'BLE THE CHIEF  
JUSTICE AND OTHER HON'BLE  
PUISNE JUDGES OF THE HIGH  
COURT OF JUDICATURE AT  
BOMBAY**

**THE HUMBLE PETITION OF THE  
ABOVENAMED PETITIONER**

**MOST RESPECTFULLY SHEWETH:**

1. The petitioners are highly experienced professional  
MBA graduates, who are working as the Senior  
Court Managers and Court Managers in different

District and Family Courts in the State at district head-quarters.

2. The main grievance of the petitioners in the present petition is regarding regularisation and fixing of minimum pay-scale for the post held by them.
3. The respondents are the Union of India, State of Maharashtra and the High Court of Bombay on its administrative side. All the respondents are amenable to the jurisdiction of this Hon'ble Court.

#### **JUDICIAL EFFICIENCY AND THE NEED FOR COURT MANAGERS**

4. India has one of the largest judicial systems in the world with over 3 crores of cases and sanctioned strength of some 16,000 Judges. The system has expanded rapidly in the last three decades, reflecting India's social, economic and political development in this period.
5. The National Court Management Systems - Policy and Action Plan states that addressing these challenges will require substantial upgrading of court management systems. Today, data on cases filed in the Indian judicial system is still gathered and maintained in manual data systems by courts across the country (especially data of subordinate courts where nearly 90% of the litigation resides)

involving manual recording of case and court information in over 50-60 registers or manuals (or more). Each month, considerable time is spent by local courts compiling data from manual registers to submit reports to higher courts. Inconsistencies in data categories and criteria collected in different states makes it difficult to compare data across states similarly there is little real time data available.

**6.** Against the above background, the then Hon'ble Chief Justice of India, Hon'ble Justice S.H. Kapadia in consultation with the Minister of Law and Justice formulated the National Court Management Systems - Policy and Action Plan published on 27.09.2012 with a desire to establish comprehensive Court Management Systems for the country that will enhance quality, responsiveness and timeliness of courts, which states that the posts of Court Managers are necessary for professional working of Registries.

**7.** The concept of Court Managers was initiated by the then Hon'ble the Chief Justice of India by his letter dated 26.05.2010. This was an experiment for the better management of justice in the subordinate courts. It was conceived that professional Court

Managers should be appointed to assist the Judges. This was recorded in paragraph 8(n) [Annex P-1 at pp.50] as part of the Report of the Working Group for the Twelfth Five Year Plan (2012-2017), published in September, 2011 in the Department of Justice, Ministry of Law & Justice, Government of India.

- 8.** This issue was taken up for consideration in the proceedings of the Thirteenth Finance Commission, which was discussed under the heading “Improving Justice Delivery” in paragraphs 12.76 to 12.78. It was recommended on the proposal of the Department that the posts of Court Manager should be created in every judicial district to assist the judiciary in their administrative functions. The Commission agreed, after careful consideration, to support the proposal made by the Department of Justice to allocate budget. At paragraph 12.87 is the text of the report on the subject matter i.e. Creation of posts of Court Managers, which is reproduced as follows:

*“12.87 Creation of posts of court managers: Enhancing the efficiency of court management would result in improving case disposal. Providing support to judges for performing their administrative duties would allow them more time for their judicial functions. Adopting an*

*innovative approach, the Department of Justice has proposed that professionally qualified Court Managers, with MBA degrees, be employed to assist judges. These Court Managers will also be useful in feeding the proposed National Arrears Grid that would be set up to monitor disposal of cases in all the courts. We support this innovation, the impact of which may be evaluated after 2015. The post of a Court Manager would be created in each judicial district to assist the Principal, District and Sessions Judges in the administrative functioning of the courts. Similarly, posts of two Court Managers may be created for each High Court and one for each bench of the High Court. This is estimated to require Rs.60 crore per year and works out to Rs.300 crore for the period 2010-15. These amounts have been allocated to the states in proportion to the number of judicial districts in their jurisdiction.”*

9. The degree of Masters in Business Administration (MBA) was suggested as the suitable qualification not only to assist judges, but that they would also contribute in feeding the proposed National Arrears Grid that would be set up to monitor disposal of cases in all the courts. The 13th Finance Commission supported the innovation, however, with the caveat that the impact of the experiment may be evaluated after 2015. The stage was set for creation of the post pan India. The funds were

allocated, but the modalities were not formalized and were on the anvil with the respective Chief Justices/State Governments whose services were requisitioned by the Chief Justice of India informing that a budget of Rs.5000 crores have been earmarked to improve the Justice Delivery System and that a Monitoring Committee comprising of one or two Hon'ble Judges in the High Court be set up. This was by letter of the then Chief Justice S.H.Kapadia dated 26.05.2010. The Chief Justices were asked to take up the matter with the State Government to create and fill these cadre posts on a permanent basis at the earliest.

**10.** The petitioners submit that an independent and efficient judiciary is the backbone of a democratic nation. Upholding the rule of law and ensuring that disputes between parties are resolved through the judicial institution effectively, is fundamental to ensure order and stability in any society, the same holds true for India.

**11.** A working paper submitted by the National Institute of Public Finance and Policy has identified separating judicial and administrative functions focussing on process re-engineering as a fundamental step that can bring in a shift in the



judicial efficiency in the country. It has recommended engagement of the right professional talent necessary to improve court functioning through technology solutions. A copy of the working paper is annexed herewith and marked as **Exhibit “A”**.

**12.** The petitioner submits that DAKSH India which is a civil society organisation that undertakes research and activities to promote accountability and better governance in India by making an attempt to measure the political and judicial performance, has also prepared a report on the role of Court Managers in Indian judiciary, and given a detailed account of Court Managers appointed in other jurisdictions including UK, USA and Australia and lessons that can be learnt from their experience in making the scheme introducing Court Managers more effective. A copy of the report is annexed infra at Exhibit “A-8”.

**13.** The petitioner submits that the Central Government provides funds to develop infrastructure facilities for the judiciary, under the Centrally Sponsored Scheme. Amount received under the scheme is used to strengthen infrastructure and manpower for better access to

justice. In 2010 the 13th Finance Commission notified release of grant-in-aid to the state government for improvement in justice delivery. It recommended a grant of Rs. 5,000 crore over its award period 2010-15. This grant is aimed at providing support to improve judicial outcomes and allocated through the total eight activities, out of these one was creation of the post of Court Managers in every judicial district to assist the Judges in their administrative functions to enhance judicial efficiency. A copy of the communication dated 20.09.2010 by the Ministry of Finance of Central Government to Chief Secretaries of all the State Governments forwarding the guidelines for release and utilization of grant-in-aid for Improvement in Justice Delivery recommended by Thirteenth Finance Commission for information and seeking implementation thereof is annexed herewith and marked as **Exhibit "B" collectively.**

14. The petitioner submits that the annex I of the guidelines provide the state-wise allocation of grants for the eight changes introduced through the 13th Finance Commission for improving delivery of justice. It shows that 26.63 Crores are allocated to the State of Maharashtra for introducing the posts

of Court Managers. Further Annex III lays down the suggested functions, responsibilities and qualifications of Court Managers. The Court Managers are expected to undertake several complex and uncharted roles including setting of policies and standards applicable to the Courts and ensuring the compliance to such standards, planning in consultation with all stake-holders and implementation of the plans, collaboration and compilation of information and statistics on all aspects of the functioning of the Courts, developing standard systems of Court Management and ensure that the processes and procedures of the Courts are compliant of the policies established by the High Court, development and compliance of Case management systems, responsiveness management, quality management, Human resource management, Core systems management and IT systems management.

#### **CREATION OF POSTS IN MAHARASHTRA**

- 15.** The petitioners submit that in a communication dated 07.07.2010, the Registrar (Inspection) of the High Court of Bombay addressed to the Principal Secretary, Law and Judiciary Department of the State of Maharashtra seeking to create 45 posts of

Court Managers and ministerial staff of one stenographer and one typist cum peon for the said posts. A copy of the communication issued by the Registrar (inspection) seeking creation of 45 posts of Court Managers and ministerial staff attached thereto dated 07.07.2010 is annexed herewith and marked as **Exhibit "C"**.

- 16.** The petitioners submit that the then Registrar General of the Bombay High Court had addressed a communication dated 10.05.2010 to the Principal Secretary, Law and Judiciary Department of the State of Maharashtra proposing to create 46 post of Court Managers for different Courts including the High Court of Bombay and its benches, district Courts, family Courts, City Civil Courts, Small Causes Court and Chief Metropolitan Magistrate's Court. The communication unequivocally states that the Lordships have approved the creation of the aforesaid posts in pay scale of 15600-39100 +7600 grade pay, also stating the allocation for 5 years being 26.63 Crores whereas recurring expenditure per annum being approximately 2.11 Crores. A copy of the signed communication dated 10.05.2010 and its typed copy are annexed herewith and marked as **Exhibit "D"**.

**17.** The petitioners submit that the Registrar General on 10.08.2010 had made another communication to the Joint secretary to the Government of Maharashtra in its Law and Judiciary Department stating that there would be no hurdle in making urgent appointments of Court Managers even in absence of recruitment rules. It was further clarified that the salary structure for the post of Court Managers was approved by the Administrative Committee of Hon'ble five judges, with a liberty to increase the salary structure if considered to be on lower side. Detailed justification is provided for the pay-scale based on similar salaries drawn by other posts including Dy. Registrar, Dy. Secretary, Dy/Asst. Charity Commissioner, Associates in the High Court. It is further observed that since Court Managers would be persons holding MBA degree from reputed colleges who have to work at District Headquarters, their salary shall not be lower than the salary drawn by the Civil Judge Senior Division or Dy. Secretary in Mantralaya. It was lastly requested to take urgent steps to utilise the budgetary allocation made by the Central Government without any loss of time. A copy of the communication made by the Registrar General on

10.08.2010 to the Law and Judiciary Department justifying the pay-scale of 15,600-39,100 +7600 grade pay is annexed herewith and marked as **Exhibit “E”**.

**18.** The petitioners submit that the State of Maharashtra vide Notification dated 07.10.2011 has published the “Maharashtra Court Manager Recruitment and Conditions of Service Rules, 2011” laying down the recruitment procedure, qualifications, duties and remuneration to the post of Court managers. For the purpose of remuneration three tiers are constituted as General Manager, Senior Court Manager and Court Manager with consolidated monthly emoluments as 76,600, 66,400 and 52,900 respectively. Consequently, Government Resolution was issued on 06.12.2012 creating 45 posts of the Court Managers providing the annual expenses on the posts as 3.06 Crores. A copy of the Maharashtra Court Manager Recruitment and Conditions of Service Rules, 2011 published vide Notification dated 07.10.2011 is annexed herewith and marked as **Exhibit “F”** whereas the Government Resolution dated 06.12.2012 creating 45 posts of Court Managers is annexed herewith and marked as **Exhibit “G”**.

### APPOINTMENT AND CONTINUATION OF COURT MANAGERS

19. The petitioners submit that the first advertisement for appointment of 45 posts of Court Managers was issued on 09.10.2012, whereas subsequently another advertisement for filling in 22 posts of Court Managers was issued on 16.06.2014. Copies of advertisement dated 09.10.2012 and 16.06.2014 issued by the respondent no. 4 are annexed herewith and marked as **Exhibit "H"** **collectively.**

20. The petitioners submit that all the petitioners are appointed in pursuance to either the advertisement dated 09.10.2012 and 16.06.2014. A detailed chart showing the appointments of the petitioners can be found below:

| Name of Petitioner                         | Advertisement | First Appointment | Post  |
|--|---------------|-------------------|---|
| <b>Panchksharayya Channayya Mathapati-</b> | RP1602/2012   | 16.09.2013        | Court Manager, Family Court Bandra, Mumbai              |
| Sanjay Kumar Singh                         | RP1602/2012   | 23.09.2013        | Senior Court Manager, District & Sessions Court, Nagpur |
| <b>Dr Rasika Prasad Kasture-</b>           | RP1602/2012   | 01.10.2013        | Court Manager, Family Court Nagpur                      |
| <b>Ashok Durgesh Darke-</b>                | RP1602/2012   | 07.09.2013        | Senior Court Manager, District & Sessions Court, Nashik |
| Dr Atul Pandharinath Zende                 | RP1602/2012   | 13.09.2013        | Senior Court Manager, District & Sessions Court, Pune   |

|  |             |            |  |
|--|-------------|------------|--|
| <b>Vandana Mahendra Kochar-</b>        | RP1602/2012 | 16.09.2013 | Court Manager, Family Court, Aurangabad                    |
| <b>Sachidanand Mohan Kulkarni-</b>     | RP1602/2012 | 13.09.2013 | Court Manager, District & Sessions Court, Sangli           |
| <b>Kishor Rambhau Talmale-</b>         | RP1602/2012 | 07.09.2013 | Court Manager, District & Sessions Court, Bhandara         |
| <b>Bhushan Manohar Amrute-</b>         | RP1602/2012 | 05.10.2013 | Court Manager, City Civil & Sessions Court, Mumbai         |
| <b>Jagdish Sahebrao Mali-</b>          | RP1602/2012 | 21.09.2013 | Court Manager, District & Sessions Court, Jalgaon          |
| <b>Harish Bhagwan Bhoite-</b>          | RP1602/2014 | 10.03.2016 | Court Manager, District & Sessions Court, Latur            |
| <b>Dhananjay Laxmikant Kshirsagar-</b> | RP1602/2014 | 10.03.2016 | Court Manager, Family Court, Amarawati                     |
| <b>Aniruddha Shrinivas Patki-</b>      | RP1602/2014 | 01.06.2016 | Senior Court Manager, District & Sessions Court, Amaravati |
| Mahesh Ramprasad Dayama                | RP1602/2014 | 03.05.2016 | Court Manager, District & Sessions Court, Raigad           |
| <b>Prashant Ramnath Kute-</b>          | RP1602/2014 | 20.06.2016 | Court Manager Family Court, Pune                           |
| <b>Manasi Rajiv Desai-</b>             | RP1602/2014 | 01.06.2016 | Court Manager, City Civil & Sessions Court, Mumbai         |

**21.** The petitioners submit that the Court Managers were appointed for a period of five years as per the Recruitment Rules, 2011. Thereafter, a communication was issued by the Registrar (Legal and Research) High Court of Bombay dated 31.03.2015 communicating the decision of the



Hon'ble Chief Justice to continue the service of the Court Managers on establishment of all the District and Family Courts, pending the decision of the Government, a copy of which is annexed herewith and marked as **Exhibit "I"**.

**22.** Subsequently, Government Resolution dated 14.07.2015 granting permanent extension to the posts of Court Managers whereas continuing the services of the Court Managers for a period of 5 years on contractual basis from 01.04.2015, came to be issued by the State of Maharashtra through its Law and Judiciary Department, a copy of which is annexed herewith and marked as **Exhibit "J"**.

**23.** At the end of the five year period on 01.04.2020, the State of Maharashtra has continued the services of the Court Managers for one year from 01.04.2020 or till the decision of the Rule Committee of the Hon'ble High Court whichever is earlier. A copy of the Government resolution dated 28.04.2020 is annexed herewith and marked as **Exhibit "K"**.

**24.** Though the initial appointment order was only till 2015 under the 13th Finance Commission, it was continued from time to time and lastly continued till 31.03.2021. Copies of the appointment orders of the

petitioners are annexed herewith and marked as **Exhibit “L” collectively.**

**25.** The petitioners submit that the Registrar General of the High Court of Bombay had circulated detailed duty list of Court Managers which included administrative functions to enhance efficiency of court management, assisting the Principal District Judges in exercising control over the subordinate Courts, establishing and maintaining performance standards and infrastructure for court management and case management, preparing and monitoring the implementation of the five year Court Development Plan, compiling statistics and completing reports amongst others. A copy of the detailed duty list of Court Managers circulated by Registrar General of this Hon’ble High Court vide communication dated 23.05.2014 is annexed herewith and marked as **Exhibit “M”.**

#### **UNSATISFACTORY IMPLEMENTATION OF THE COURT MANAGER SCHEME**

**26.** The petitioners submit that the Gujarat National Law University had published an overview of the grants allocated and utilised for each State for the purpose of appointment of Court Managers under the 13th Finance Commission (2010-2015), showing

that 26.63 Crores grants were allocated to the State of Maharashtra by the Central Government, however demand was made only of 7.99 Crores, out of which only 90 lakhs was utilised, leaving 90% of the grants allocated to the State unutilised. An unstarred question in this regard was asked in the floor of the Assembly, to which a statement was made by the Law Minister, Union of India on 19.03.2015 showing the funds allocated, released and utilised for improvement of justice delivery system under the 13th Finance Commission Award. A copy of the overview of the grants allocated and utilised for each State for the purpose of appointment of Court Managers under the 13th Finance Commission (2010-2015) published by the Gujarat National Law University and copy of the statement regarding the allocation and utilisation of funds in response to the unstarred question in the floor of the Assembly is annexed herewith and marked as **Exhibit "N" collectively**.

**27.** The petitioner submits that in the revised memorandum to the 14th Finance Commission a review was caused of the progress of the schemes introduced by the 13th Finance Commission to support the Courts. It was found that the progress

in appointment of the Court Managers is not satisfactory and utilisation of funds was nearly 14% of the allocation. A copy of the relevant extract of the revised memorandum to the 14th Finance Commission is annexed herewith and marked as **Exhibit "O"**.

**28.** The petitioners submit that the work undertaken by them and the changes brought in the system by their efforts were instrumental in streamlining the Case management system in District and Family Courts so also liasoning with other departments for allocation of grants and utilisation of the same. The Court Managers are members of various important committees along with Principal District Judges like e-Courts committee, State Court Management Systems Sub-Committee, Infrastructure Committee, Lok Adalat, Recruitment Process, Purchase Committee, Disaster Management Committee, Sexual Harassment Committee, etc. The system has witnessed historical changes including the introduction of e-Payment system for cashless transactions, case management systems, infrastructural upgradation in terms of mobile storage system for records, technological changes including security systems, CCTV and virtual

courtrooms as also workshops and programs for litigants and creche, feeding rooms and pre-litigation Counselling center in family courts, introduction of case information cards, Green building as an environmental friendly measures and CSR activities liaising with banks and other corporates. All these improvements introduced by the Court Managers have also been acknowledged and appreciated by Hon'ble Justice Roshan Dalvi (retd.) in her book titled *Tangible Justice*. A copy of the document showing the improvements made in infrastructure development, automation, record management and personnel management after appointment of Court Managers is annexed herewith and marked as **Exhibit "P"**.

### **ISSUE 1: REGULARISATION OF SERVICES OF PETITIONERS**

**29.** The petitioners submit that there have been consistent efforts not only on part of the petitioners but also the judiciary to ensure regularisation of the services of the Court Managers to ensure that the purpose for creation of posts is not in vain and efficiency in court functioning would be achieved by ensuring complete and undivided attention on part of the Court Managers if they are granted security of

service, so also their learnings are put to use of the Courts.

**30.** The petitioners submit that the Hon'ble Supreme Court of India in an interlocutory Application in the All India Judges Association v. Union of India matter has directed in paragraph 12(ix) thereof that the services of any person already working as a Court Manager in any district should be regularised by the State government based on their considered view that their assistance is needed for proper administration set up in a Court. A copy of the judgment dated 02.08.2018 in IA No. 279 of 2010 in WP (Civil) No. 1022 of 1989 is annexed herewith and marked as **Exhibit "Q"**.

**31.** The petitioners submit that in another Public Interest Litigation filed before this Hon'ble High Court at the principal seat by one Mr. Ahmad M. Abdi numbered PIL 57 of 2012, this Hon'ble Court in its judgment dated 22.01.2019, while reiterating and relying on the directions issued by the Apex Court in the judgment annexed Supra at Exhibit "P", has held as under:

*"The independence of judiciary is held to be a basic structure of the Constitution. If the State is to be treated as the sole judge to decide what*

*should be the infrastructure provided to this Court, it will directly affect the independence of Judiciary. Only the Judiciary can determine the infrastructure it needs for its effective functioning ... That is the essential part of the concept of independence of judiciary. In fact that is how the Apex Court has consistently held that financial constraints is no ground to deny adequate infrastructure to the Courts.”*

**32.** The petitioners submit that several representations were submitted by the Court Managers to the Hon’ble Chief Justice of the Bombay High Court requesting regularisation of their services as well as the fixation of pay-scales for the post of Court Managers. Copies of the representations dated 10.08.2017, 13.08.2018, 02.04.2019, 15.05.2019, 11.07.2019 and 25.10.2019 are annexed herewith and marked as **Exhibit “R”**.

**33.** The petitioners submit that it is the understanding of the petitioners that the issue of regularisation and fixing of appropriate pay-scales to the Court Managers is in active consideration of the Hon’ble High Court and this Hon’ble Court has infact forwarded the representation of the

petitioners regarding regularisation of services dated 10.08.2017 to the State Government and made a communication in that regard stating that since High Court is only the appointing authority and the financial powers rest with the Government, communication has been made to the State Government which has inturn issued some directions vide its letter dated 28.05.2018. The communication dated 28.05.2018 issued by the State Government to the Registrar Inspection I states that there can be no further process of regularisation until the staffing pattern is finalised and the approval from the High Power Committee is secured in that regard. A copy of the communication made by the Registrar (Inspection I) to the petitioners dated August 2018 and the communication of the Law and Judiciary department issuing directions in respect of the regularisation of petitioners is annexed herewith and marked as **Exhibit "S" collectively.**

**34.** The petitioners submit that subsequently vide communication dated 07.06.2019 the State Government is seeking details of the number of posts of Court Managers currently filled in and requesting the High Court to submit revised



proposal after finalising the staffing pattern and securing approval of the High Power Committee. A copy of the communication dated 07.06.2019 is annexed herewith and marked as **Exhibit "T"**.

**35.** The efforts towards regularisation of the petitioners is also evident from the Government Resolution dated 01.04.2020 annexed supra at Exhibit "K". However, these efforts are being taken at a snail's pace, at the cost and expense of the petitioners.

**36.** The petitioners submit that the current situation of being continued from time to time on contractual basis, with consolidated salaries is in the nature of exploitation. The petitioners are brought to first basic consolidated salary drawn at the time of re-appointment after the cessation of their first contractual appointment despite the annual 6% increment granted as per the Rules, 2011. Similarly, the petitioners are deprived of leave and service benefits as available to other employees in the service of the judiciary or the Government. The petitioners are allowed only 8-days casual leave, which makes it very difficult to manage their personal and professional lives. A copy of the representation made by the petitioners in this

regard to the respondent no. 4 on 25.11.2014 is annexed herewith and marked as **Exhibit “U”**.

## **ISSUE 2: CONTINUATION IN SERVICE**

- 37.** The petitioners submit that their proposal for regularisation of service is positively recommended by the Hon'ble High Court, so also there is a Supreme Court directive to regularise services of all the existing Court Managers who are appointed on contract basis. However, the Government is acting at snails' pace in regularisation of the services of the petitioners, leaving the sword of damocles hanging on their heads every day.
- 38.** The petitioner submits that in several petitions filed in other High Courts with regards to the issue of regularisation of the services of Court Managers, the petitioners therein are continued in service during the pendency of the petitions by the High Courts. One such order was passed by the High Court of Madhya Pradesh on 31.03.2015 in WP No. 4670 of 2015 and High Court of Jharkhand on 20.04.2015 in WP (S) No. 1421 of 2015, copies of which are annexed herewith and marked as **Exhibit “V” collectively**.

**39.** The petitioners submit that it is therefore necessary to continue the services of the petitioners during the pendency of this petition.

### **ISSUE 3: MINIMUM PAY-SCALES**

**40.** The petitioners submit that the pay-scale to be made applicable to the posts of Court Managers is required to be determined after considering the budget demarcated by the 13th Finance Commission, the decision of the Hon'ble administrative judges communicated on 10.08.2010 as well as the nature of duties, responsibilities, qualification, nature and length of experience of the Court Managers.

**41.** The 13th Finance Commission in the year 2010, had demarcated a budget of 26.63 Crores for a period of 5 years for establishing the post of Court Managers in all judicial districts of Maharashtra as well as the principal seat and benches of the Hon'ble High Court. If considered for 45 posts this amount would come to nearly 12 lakhs p.a. for each post. This would be a rough equivalent to the payscales applicable to other administrative posts including the Dy. Secretary or Dy. Registrar at High Court and Civil Judge Senior Division.

**42.** The petitioners submit that the Hon'ble Administrative judges after giving due consideration to the entire factual matrix including the fact that the Court Managers would be required to hold MBA degrees from reputed colleges and be taking up administrative functions at district headquarters. It was further observed that the salary payable to Court Managers shall be equivalent to the salary drawn by Civil Judge Senior Division or the Dy. Secretary in the Mantralaya. Otherwise, it would be the same thing like taking work from the Superintendent or Registrar which are promotional posts in the hierarchy of ministerial staff on the establishment of District Courts.

**43.** Subsequent to the communication by the Registrar General dated 10.08.2010 specifying the pay-scale and the justification for the same, the Desk Officer of Law and Judiciary Department has prepared a note dated 11.08.2010 stating the appropriateness of the explanation of the High Court with regards the pay-scale equivalent to the pay-scale of Civil Judge Senior Division or Dy. Secretary in Mantralaya. The same is affirmed by the Joint Secretary as well as the Principal Secretary on 11.08.2010 and the proposal is

forwarded to the Finance Department with a request to approve the same. A copy of the notings dated 11.08.2010 of the Law and Judiciary Department is annexed herewith and marked as **Exhibit "W"**.

**44.** The petitioner submits that it is rather curious that on 18.08.2010, a fresh noting is prepared by the Desk Officer, Law and Judiciary Department proposing that possibility of deputation IAS officers with MBA degree and 10 years experience to assist in handling administrative functions and work as Court Managers. Consequently relying on said noting, the Jt. Secretary, Law and Judiciary Department has made a communication to the respondent no. 4 to consider the proposal to depute existing officers of State Government with law and /or MBA degree on experimental basis in selected big district Courts vide communication dated 08.09.2010. Copies of the noting dated 18.08.2010 and communication dated 08.09.2010 are annexed herewith and marked as **Exhibit "X" collectively**.

**45.** The petitioners submit that immediately thereafter it is communicated by the respondent no. 4 that queries raised by the State departments are impracticable and not consistent with the Central Government scheme of providing assistance of the

Court Managers to ensure administrative functioning in Courts. The communication specifically notes that the scheme contemplates relieving the Principal District Judge of the administrative work which would be undertaken by officers with MBA degrees. A copy of the communication dated 08.09.2010 is annexed herewith and marked as **Exhibit “Y”**.

**46.** The petitioner submits that relying on the aforesaid communication, revised notings were prepared however again raising queries about creation of posts particularly when the Central Government funding would be provided only for a period of 5 years, thereby seeking a revised proposal in this regard. Copy of notings of the Finance Department prepared on 28.09.2010 is annexed herewith and marked as **Exhibit “Z”**.

**47.** Thereafter the Law and Judiciary Department has prepared notings seeking clarification on the conflict in the draft Service regulations prepared for post of Court Managers and the decision taken in the meeting of Hon’ble Chief Justice of the Bombay High Court and Hon’ble Chief Minister of the State regarding engagement of a consultancy firm. The same was communicated to the respondent no. 4

vide communication dated October 2010. A copy of the notings prepared by the Law and Judiciary Department on 18.10.2010 and communication dated October 2010 is annexed herewith and marked as **Exhibit “A-1” collectively.**

**48.** The petitioner submits that a clarification was issued by the Director of Finance Commission Division under the Ministry of Finance of the Union of India to all the Finance Secretaries of the State Governments regarding the budget that could be expended on the clerical staff to support the Court Managers with average expenditure not exceeding 20,000 p.m. A copy of the communication dated 10.07.2013 in this regard is annexed herewith and marked as **Exhibit “A-2”.**

**49.** The petitioner submits that the Annual Confidential Reports of the petitioners are reviewed by the Registrar General as evident from communication dated 08.07.2014, a copy of which is annexed herewith and marked as **Exhibit “A-3”.**

**50.** The petitioner submits that the post of ‘Marriage Counsellor’ in the family Courts is created with the pay-scale of 15,600 to 39,100 plus grade pay of 5400, whereas the qualification required is masters degree in social work and two years experience, as

is evident from the advertisement dated 16.03.2016 issued by respondent no. 4 inviting applications for the post of 'Marriage Counsellor', copy of which is annexed herewith and marked as **Exhibit "A-4"**.

**51.** The petitioners submit that the Association of Marriage Counselors approached this Hon'ble High Court by filing petition being WP No. 208 of 2016 seeking fixation of pay-scale, which exercise was undertaken by the Government during the pendency of the petition, Thereafter the petitioners sought a higher pay-grade of 6600 since all the other posts wearing the basic qualification was Master of Social Work, the grade pay of 6600 was granted. Since the said claim was made orally and did not form part of the substantive petition, the High Court has after recording all the submissions directed the respondents to take a necessary decision within 6 months from the date of the judgment. Copy of the judgment and order dated 19.01.2018 in WP no. 208 of 2016 is annexed herewith and marked as **Exhibit "A-5"**.

**52.** The petitioners submit that an analogy can be drawn in the present situation, since the lowest pay-scale afforded to the post with the basic qualification of MBA degree is 37,400 to 67,000 with



pay grade of 8700 (General Manager - Maharashtra State Seeds Corporation), whereas all other posts with minimum qualification of MBA are granted much higher pay-scales. Thus the minimum payscale that ought to be made applicable in the case of the petitioners is 15,600 to 39,100 with pay-grade of 7600 as was recommended by the High Court in 2010, with necessary increments. A copy of the chart showing the different posts in the Government with a minimum qualification of MBA and their respective pay-scales and copies of the relevant extracts showing the pay-scales of these posts are annexed herewith and marked as **Exhibit "A-6" collectively.**

**53.** Following is a comparative chart showing the pay-scales of different administrative posts along with the appointing authority and qualification required:

| Post designation                              | Pay-scale (VI)           | Promotion/ direct appointment | Educational Qualification        |
|---|--------------------------|-------------------------------|----------------------------------|
| Registrar (Civil) City Civil Court, Mumbai    | 15600 - 39100<br>GP 6600 | Promotion                     | Graduation & LL.B. for promotion |
| Registrar (Criminal) City Civil Court, Mumbai | 15600 - 39100<br>GP 6600 | Promotion                     | Graduation                       |

|  |                             |                       |            |
|--|-----------------------------|-----------------------|------------|
| Addl.<br>Registrar<br>City Civil<br>Court,<br>Mumbai | 15600 -<br>39100<br>GP 6600 | Promotion             | Graduation |
| Marriage<br>Counsellor in<br>Family Court            | 15600 -<br>39100<br>GP 6600 | Direct<br>appointment | M.S.W.     |

Following is a chart showing the pay-scales of the posts as determined to be equivalent to the pay scales to be made applicable to the post of Court Manager:

| Sr. No. | Designation  | Pay band    | Grade pay | Revised in VII Pay Scale |
|---------|--|-------------|-----------|--------------------------|
| 1       | Deputy Registrar IT (1), Inspection I & II, (1) each, and Deputy Registrar Protocol (1) of Bombay High Court, Bombay | 15600-39100 | 7600      | S-25 :<br>78800-209200   |
| 2       | Deputy Secretary, Mantralaya   | 15600-39100 | 7600      | S-25 :<br>78800-209200   |
| 3       | Deputy Secretary, Law and Judiciary, Govt of Mah   | 15600-39100 | 7600      | S-25 :<br>78800-209200   |
| 4       | Joint Charity Commissioner   | 15600-39100 | 7600      | S-25 :<br>78800-209200   |
| 5       | Registrar of Firms   | 15600-39100 | 7600      | S-25 :<br>78800-209200   |

The relevant extracts showing the pay-scales to the post of Dy. Registrar, Dy. Secretary, Dy/Asst. Charity Commissioner and Civil Judge Senior Division is annexed herewith and marked as **Exhibit "A-7"**.

**54.** Thus it is clear that the minimum pay-scale to be made applicable to the petitioners shall be 15600-39,100 +7600 grade pay as in 2010, and increased as per the VI and VII pay-commission, as was determined by the Hon'ble senior most judges of this High Court.

### **COMPARISON PAY SCALE FROM 2010 TO PRESENT-**

The Maharashtra Government Employee with pay scale 15600-39000 Grade Pay 7600 Salary as as compared to Court Manager:

| <b>Period - w.e.f</b>  | <b>Total Pay: (Basic + Grade Pay)</b> | <b>Dearness Allowance :</b> | <b>House Rent Allowance: (@ 30 % of Total Pay)</b> | <b>Transport Allowance: Rs. 0.00 + *DA thereon)</b> | <b>Gross Salary:</b> |
|------------------------|---------------------------------------|-----------------------------|--|---|----------------------|
| 01-07-2010<br>(5th PC) | Rs. 34,720                            | Rs. 15624<br>*(@ 45%)       | Rs. 10416  | Rs. 4640  | Rs. 65400            |
| 01-01-2016<br>(6th PC) | Rs. 40,280                            | Rs. 50350<br>*(@ 125%)      | Rs. 12084  | Rs. 7200  | Rs. 109914           |
| 01-01-2016<br>(7th PC) | Rs. 105,900                           | -                           | Rs. 25416  | Rs. 7200  | Rs. 138516           |

### **Court Managers Salary since 2013**

| <b>Year</b> | <b>Total</b> | <b>Basic</b> | <b>6% increment</b> | <b>Increment in Rs</b> | <b>Incremental Basic</b> | <b>Gross</b> |
|-------------|--------------|--------------|---------------------|------------------------|--------------------------|--------------|
| 2013        | 52900        | 40000        | 0                   | 0                      | 40000                    | 52900        |
| 2014        | 52900        | 40000        | 6%                  | 2400                   | 42400                    | 55300        |

|      |       |       |    |      |       |       |
|------|-------|-------|----|------|-------|-------|
| 2015 | 55300 | 42400 | 6% | 2544 | 44944 | 57844 |
| 2015 | 52900 | 40000 | 0% | 0    | 40000 | 52900 |
| 2016 | 52900 | 40000 | 6% | 2400 | 42400 | 55300 |
| 2017 | 55300 | 42400 | 6% | 2544 | 44944 | 57844 |
| 2018 | 57844 | 44944 | 6% | 2697 | 47641 | 60541 |
| 2019 | 60541 | 47641 | 6% | 2858 | 50499 | 63399 |
| 2020 | 63399 | 50499 | 6% | 3030 | 53529 | 66429 |

### Senior Court Managers

| Year | Total | Basic | 6% increment | Increment in Rs | Incremental Basic | Gross |
|------|-------|-------|--------------|-----------------|-------------------|-------|
| 2013 | 66400 | 51500 | 0            | 0               | 51500             | 66400 |
| 2014 | 66400 | 51500 | 6%           | 3090            | 54590             | 69490 |
| 2015 | 69490 | 54590 | 6%           | 3275            | 57865             | 72765 |
| 2015 | 66400 | 51500 | 0%           | 0               | 51500             | 66400 |
| 2016 | 66400 | 51500 | 6%           | 3090            | 54590             | 69490 |
| 2017 | 69490 | 54590 | 6%           | 3275            | 57865             | 72765 |
| 2018 | 72765 | 57865 | 6%           | 3472            | 61337             | 76237 |
| 2019 | 76237 | 61337 | 6%           | 3680            | 65018             | 79918 |
| 2020 | 79918 | 65018 | 6%           | 3901            | 68919             | 83819 |

\*In 2015, the Contract was renewed without a break in service, however, the salary was brought back to initial Payment.

**55.** All the academic works and reports prepared on the functioning of Court Managers in India so also the tenor of the Supreme Court judgment and order dated 02.08.2018 suggests that security of service with lucrative pay-scales are likely to enhance the performance of Court Managers and aid in the effective dispensation of justice by Courts, wherein unified processes and technology as planned and recommended by the Court Managers who are qualified and equipped to do it, can aid the judges in undertaking administrative functions as well as

use the data driven mechanism to take up cases in a manner to aid speedy disposal. Copy of the paper published by Daksh India titled the Role of Court Managers in Indian Judiciary pointing out that regularisation, high pay-scales recommending the model used by the Patna High Court at INR 37,400 to 67,000 with grade pay of 8700 for High Court Managers, whereas 27700-770- 33090 for subordinate Courts. This is also similar to the payscales approved by the Hon'ble Administrative judges vide communication dated 10.08.2010. Copies of the paper published by Daksh India titled Role of Court Managers in Indian Judiciary is annexed herewith and marked as **Exhibit "A-8"**.

**56.** The petitioners submit that several High Courts have approved reasonable pay-scales to the Court Managers including the High Court of Allahabad, Punjab and Haryana, Madras, Assam, Patna and Madhya Pradesh, details of which are given below:

| <b>Name of High Court</b> | <b>Pay-scale for Civil Court Managers</b> |
|---------------------------|---|
| High Court of Allahabad   | 15600 -39100 +7600                        |
| Punjab and Haryana        | 15600 -39100 +6600                        |
| Madras                    | 15600 -39100 +6600                        |
| Assam                     | 30000 - 1,10,000 + 14500                  |
| Patna                     | 27000 - 770 - 33090                       |
| Madhya Pradesh            | 15600 - 39100 + 5400                      |

Copies of documents showing the pay-scales approved for Court Managers by the High Court of Allahabad, Punjab and Haryana, Madras, Assam, Patna and Madhya Pradesh are annexed herewith and marked as **Exhibit "A-9" collectively.**

**57.** The petitioners submit that each of them has left well paying jobs in the corporate sector while taking up service to the post of Court Managers, with the expectation that since these posts are on the establishment of Civil Courts, they are bound to be regularised with attractive pay-scales looking at the object of creation of these posts and the High Court communication in 2010, so also the scope of work would be extremely challenging and fulfilling.

**58.** The petitioners were appointed after due process of selection. The advertisements were issued by the respondent no. 4, with tenure post uptill 2015, subject to extension on continuation of scheme. Thereafter, written examination, pre-personal interview and viva-voce were conducted and after the three stage evaluation the petitioners came to be appointed. The interview was conducted by a panel of the then Hon'ble administrative judges of this High Court, and the petitioners were assured of

regularisation as well as lucrative pay-scales. The petitioners submit that having acted to their detriment to take up temporary positions with consolidated pay, on the assurance of being regularised as reasonable pay-scales, the petitioners have a legitimate expectation for fixing of reasonable pay-scales which are in tune with their qualifications and nature of responsibilities.

**59.** Being aggrieved by the inaction of the respondent no. 2 in regularising the services of the petitioners and fixing pay-scale of 15600-39,100 +7600 grade pay despite communication in that regard from the High Court in 2010 as also Supreme Court direction in 2018, the petitioners challenge the same inter-alia on the following grounds:

**GROUNDS:**

**I.** At the outset, the plea of the petitioners for regularisation is long due and justified since the posts of the petitioners are sanctioned, and the petitioners were appointed after following due selection procedure as prescribed in the Maharashtra Court Manager Recruitment and Conditions of Service Rules, 2011, so

also their services are necessary and they are in continuous service for more than 5-7 years.

- II.** The petitioners ought to be regularised in light of the direction in that regard passed by the Hon'ble Supreme Court in paragraph 12(ix) of the judgment and order dated 02.08.2018 in IA No. 279 of 2010 in WP (Civil) No. 1022 of 1989.
- III.** The regularisation of the petitioners ought to date back to the initial date of appointment in light of the settled position of law, a case in point being **S. Sumnyan and others vs. Limi Niri and others**, reported in **(2010) 6 SCC 791**.
- IV.** The emoluments due to the petitioners shall be fixed in the minimum pay scale of 15600-39,100 +7600 grade pay, from the date of initial appointment in strict compliance of the decision of the administrative judges of the Hon'ble High Court in 2010.
- V.** The lowering of the salaries fixed for the post of Court Managers by the decision of the seniormost administrative judges of the



Hon'ble High Court in 2010, amounts to nothing but interference with the independence of judiciary by the Government, using their power to determine finances to circumvent the needs and demands of the Hon'ble High Court.

**VI.** The petitioners are entitled to be paid pay-scales equivalent to other posts with similar qualifications and similar functions to bring about change management and undertake the administrative functions of the Principal District Judge, in aspects of infrastructure, planning, record, personnel, automation and processes amongst others. The High Court had rightly decided that the Court Managers shall be entitled to pay-scales equivalent to that of Dy. Secretary (Mantralaya) or Civil Judge Senior Division.

**VII.** The petitioners are entitled to parity in pay-scales to other posts in the Government with minimum qualification of MBA from reputed colleges.

- VIII.** The petitioners are entitled to be paid pay-scales in parity to the pay-scales granted by the other High Courts keeping in view the nature of duties and responsibilities of the Court Managers.
- IX.** The petitioners are working with rather undignified conditions of service with consolidated salaries with little or no leaves and expected to perform not only diligently but creatively to ensure change management to increase efficiency in justice delivery in the Courts. Even during COVID-19 pandemic the petitioners have attended Courts daily despite there being no medical insurance or protection granted in their service conditions. Such working conditions can be termed as exploitation, and are certainly not expected in the services of the High Court or subordinate Courts.
- X.** All the studies and reports with regards to the role and functioning of Court Managers are unanimous about the direct correlation between regularisation and decent pay-scales granted to them vis-a-vis their

efficiency and impact. Thus it is also in the best interest of the system to regularise and grant decent pay-scales to the petitioners.

**60.** The petitioners seek liberty to add, amend or delete any of the submission/grounds of the present writ petition as and when it is necessary.

**61.** The petitioners undertake to supply the English translation of Marathi documents as and when it is necessary.

**62.** The petitioners have not filed any other appeal or application in any other Court including the Hon'ble Supreme Court of India touching the subject matter of the present writ petition.

**63.** The petitioners have not received the notice of caveat from the respondents till the date of filing of the present writ petition.

**64. PRAYERS:**

**In view of the above circumstances this Hon'ble Court shall be graciously pleased under Article 226 of the Constitution of India: -**

- A.** To direct the respondents to regularise the services of the petitioners on the post of Court Manager, and benefits of regularisation including continuation of service, arrears of salary etc be granted from the date of initial appointment, by issuing a writ of mandamus or any other writ, order or direction as the case may be;
- B.** To direct the respondents to fix the pay-scales of the petitioners in the scale of 15600-39,100 +7600 grade pay, by issuing a writ of mandamus or any other writ, order or direction as the case may be;
- C.** To direct the respondents to grant the pay scale of 15600-39,100 +7600 grade pay, from the date of initial appointment along with necessary increase in VI and VII pay-scales and arrears of payment in that regard, by issuing a writ of mandamus or any other writ, order or direction as the case may be;
- D.** To direct the respondents to continue the petitioners, pending hearing and final disposal of this petition;
- E.** To direct the respondents not to stall the process of regularisation and fixing of pay-scales on the ground of matter being sub-judice, pending hearing and final disposal of this petition;

**F.** To grant any other relief, as may be deemed necessary in the peculiar facts and circumstances.

**AND FOR THIS ACT OF KINDNESS AND JUSTICE,  
THE PETITIONER AS IN DUTY BOUND SHALL EVER  
PRAY.**

**PLACE: MUMBAI (TALEKAR AND ASSOCIATES)  
DATE: /09/2020 ADVOCATE FOR PETITIONERS**