

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

**ORIGINAL APPLICATION NO. 194 OF 2017
(Subject – ACPS)**

DISTRICT : SATARA

1. **Ibrahim Mahibub Pathan,**)
Age : 60 years, Occu. : Retired,)
R/at – AF-3, Budhawar Peth,)
Kacchi Apartment, Satara.)
2. **Prakash Anant Chiklage,**)
Age : 59 years, Occu. : Retired,)
2 A, Gurudev Apartment,)
Flat No. 27, Satara.)
3. **Jagannath Shankarao Kadam,**)
Age : 60 years, Occu. : Retired,)
Gurukrupa Niwas, Near Ramchandra)
Complex, Umbraj, Tal. Karad,)
Dist. Satrar.)
4. **Anil Jaysinhrao Jadhav,**)
Age : 57 years, Occu. : Retired,)
'Sujay', 1 Parajiat CHS, Godoli,)
Shahunagar, Satara.)
5. **Arun P. Chitnis,**)
Age : 60 years, Occu. : Service,)
Ashoka Park, Raigad Apartment,)
S-13, Koyana Vasahat, Karad.)
6. **Sou. Kalpana Vijay Chavan,**)
Age : 57 years, Occu. : Retired,)
Hirathi, Near Jaimalhar Society,)
Jarandheshwar Nagar, Sadar Bazar,)
Satrar.)
7. **Vitthal Maruti Jadhav,**)
Age : 62 years, Occu. : Retired,)
407, Vetalpura, Near Rajni Classes,)
Mardi Road, Post – Dahiwadi,)
Tal. Mann, District - Satara.)

8. **Vijaykumar Rajaram Mardhekar,**)
Age : 59 years, Occu. : Retired,)
Lane No. 5, Telco Nagar,)
Dattanagar, Ambegaon (Bk))
Tal. Haveli, District – Pune.)
9. **Gajanan Raghunath Jadhav,**)
Age : 59 years, Occu. : Retired,)
S.No. 5, J-5, Gurunandan,)
Residency, Samarth Nagar,)
Malacha Odha, Satara.)
10. **Shashikant Balchandra Dhawle,**)
Age : 59 years, Occu. : Retired,)
R/at – Shruti Shri Niwas,)
Koteshwar Vihar, Koteshwar Colony,)
Shukrawar Peth, Karanj Turf, Satara.)
11. **Changdeo Santu Jagtap,**)
Age : 59 years, Occu. : Retired,)
Jagtap Vasti, M/post- Yawali,)
Taluka, Mohol, District – Solapur.)
12. **Jagannath Baburao Ohal,**)
Age : 60 years, Occu. : Retired,)
Gurukrupa Niwas, Rahimatpur,)
Tal – Koregaon, District - Satara.)
13. **Gajanan Bhairavnath Dixit,**)
Age : 53 years, Occu. : Service,)
R/at Flat No. 13, Jijamata Colony,)
54 B, Shukurwar Peth, Near Badami)
Well, Satara.)
14. **Pramod Laxman Gurav,**)
Age : 52 years, Occu. : Service,)
13/1A, Flat No. 4, Adarsh Colony,)
Tamjainagar, Karanje Tarf,)
Taluka and District- Satara.)
15. **Sou. Manjiri Madan Kulkarni,**)
Age : 57 years, Occu. : Service,)
R/at-105, Ramacha Got, Niranjana)
Niranjana Apartment, Satara.)

- 16. Maheshkumar Ramchandra Ambarage,**)
 Age : 56 years, Occu. : Service,)
 R/at – Flat No. 11, Swami Vivekanand)
 Nagar, Near Bhosale Park, Phaltan.)
- 17. Tanaji Kashaba Chavan,**)
 Age : 56 years, Occu. : Service,)
 M/Post – Jambhulani, Tal - Maan,)
 District - Satara.)
- 18. Premkumar Shirang Kharat,**)
 Age : 56 years, Occu. : Service,)
 M/Post – Dahigaon (Bidal Road),)
 Tal – Maan, District - Satara.)
- 19. Vilas Natha Devkule,**)
 Age : 55 years, Occu. : Service,)
 M/ Post – Bhavani Nagar,)
 Tal – Indapur, District – Pune.)
- 20. Avinash Bhairu Kurlekar,**)
 Age : 48 years, Occu. : Service,)
 R/at – 1060 B, Shaniwar Peth,)
 Flat No. 15, Shivshankar Residency,)
 Satara.)
- 21. Smt. Anuradha K. Bagal,**)
 Age : 54 years, Occu. : Service,)
 Sayali Sadan, Flat No. 13, Sr. No. 13)
 Gangapuri, Wai, Tal. Wai, Dist. Satara.)
- 22. Shri Sunil Vishnu Rahate,**)
 Age : 55 years, Occu. : Service,)
 At/Post – Patan, Dist. Satara.)
- 23. Pandhurang Shankar Bendake,**)
 Age : 54 years, Occu. : Service,)
 M/Post – Debewadi, Tal. – Patan,)
 Dist. Satara.)
- 24. Sambhaji Nivruti Bamane,**)
 Age : 55 years, Occu. : Service,)
 M/Post – Mangalmurit Nagar,)
 Goleshwar, Tal. Karad, District- Satara.)

- 25. Jaisingh Pandurang Phadtare,**)
 Age : 55 years, Occu. : Service,)
 M/Post – Lalagun, Tal. Khatav,)
 District- Satara.)
- 26. Shri A.B. Gaikwad,**)
 Age : 50 years, Occu. : Service,)
 Gangadham App. Flat No. 17,)
 First Floor, 12/B, 2/2 Newachiwadi,)
 Gangapuri, Wai, Dist. Satara.)
- 27. Ramchandra Sadhshiv More,**)
 Age : 40 years, Occu. : Service,)
 M/Post – Medhe, Shivajinagar,)
 Tal. Medha, District - Satara.)

.. **APPLICANTS**

VERSUS

- 1. The State of Maharashtra,**)
 Through The Secretary,)
 Agriculture, Dairy Development)
 Animal Husbandry and Fishery)
 Department, Mantralaya,)
 Mumbai.)
- 2. The Secretary,**)
 General Administrative Department,)
 State of Maharashtra, Mantralaya,))
 Mumbai.)
- 3. The Secretary,**)
 Finance Department,)
 State of Maharashtra, Mantralaya,))
 Mumbai.)
- 4. The Divisional Joint Director,**)
 Agriculture, Kolhapur Division,)
 Line Bazar, Kasba Bawada,)
 Kolhapur.)

.. **RESPONDENTS**

APPEARANCE : Shri S.D. Chavan, Advocate for the
Applicants.
: Smt. Archana B.K., Presenting Officer for
Respondents.

CORAM : **B.P. PATIL, ACTING CHAIRMAN.**

RESERVED ON : **26.11.2019.**

PRONOUNCED ON : **01.01.2020.**

ORDER

1. The applicants have challenged the communication dated 22.11.2016 by which the first/second benefit under ACP scheme has been rejected. They have also prayed to direct the respondents to grant benefits under Time Bound Promotion/ACP scheme vide G.R. dated 01.04.2010 to them w.e.f. the date on which the applicant Nos. 1 to 25 have completed 24 years of continuous service and the date on which the applicant Nos. 26 & 27 have completed 12 years of continuous service and also prayed to direct the respondents to pay the compound interest on the said amount by filing the present Original Application.

2. The applicants were appointed as Tracer by the respondents during the year 1981-99. They have rendered

continuous and uninterrupted service with the respondents. They are having unblemished and clean service record. The Government issued the G.R. dated 31.10.1998 and sanctioned revised pay in the pay scale of Rs. 1200-2040 to the Tracer. Accordingly, pay of the applicants has been revised in the pay scale of Rs. 1200-2040. The said pay scale is not a promotional pay scale as clarified by the Finance Department by the Circular dated 24.05.1999. It has been mentioned therein that the pay scale cannot be considered as first benefit under Time Bound Promotion/ACP Scheme. The Tracers are eligible to get the promotional pay scale of Rs. 1400-2300. The respondent No. 1 issued G.R. dated 20.04.2001, when it was decided that in Agriculture Department, a post of Assistant Draftsman is not available so Tracer will be eligible to get the pay scale of Rs. 1600-2660 as per the 4th Pay Commission and Rs. 5500-9000 as per the 5th Pay Commission on getting the benefit under time bound promotion scheme. Accordingly, the respondents granted the benefits of First Time Bound Promotion Scheme to the applicant Nos. 1 to 25 on completion of their 24 years of continuous service in accordance with the G.Rs. dated 20.07.2001 and 01.04.2010. It is their contentions that as per the G.R. dated 01.04.2010, they become eligible and entitled to get the benefits of Time Bound

Promotion/ACP Scheme as provided under the provisions of G.R. dated 20.07.2001. The applicant Nos. 26 and 27 are entitled to get the first benefit under the said scheme and the applicant Nos. 1 to 25 are entitled to get the second benefit of Assured Career Progressive Scheme (ACPS)/Time Bound Promotion Scheme (TBPS) on completion of their 12 and 24 years of continuous service respectively. But the respondents had not granted the benefits of ACP Scheme to them, though they were eligible and entitled and deprived their rights to get the said benefits. The applicants have repeatedly visited the office of respondents and requested them to satisfy that demand. They made oral, as well as, written representations to the respondents in that regard, but the respondents had not paid heed to their request. On 02.11.2016, they have made representation with the respondent No. 4. But the respondent No. 4 rejected the representation made by the applicants on 22.11.2016 on the ground that the subject matter of ACP Scheme is pending before the Hon'ble High Court in W.P. No. 6679/2014. It is their contention that the respondents have claimed that the revised pay scale, which was given to the applicants on completion of their 7 years continuous service, is the first benefit under Time Bound Promotion/ACP Scheme. It is their contention that the revised pay scale given to

them is not promotional scale and therefore, it cannot be termed as first benefit under Time Bound Promotion/ACP Scheme and therefore, they have approached this Tribunal by challenging the communication dated 22.11.2016 issued by the respondent No.4. It is their contention that the respondents have not considered the provisions of G.Rs. with proper perspective. The revised pay scale granted to them is not a promotional benefit and it cannot be considered to be higher (non-functional) pay scale. Therefore, it cannot be treated as first benefit under Time Bound Promotion/ACP Scheme. It is their contention that they are eligible to get first benefit of time bound promotion on completion of their 12 years continuous service and second benefit of Time Bound Promotion/ACP Scheme on completion of 24 years of continuous service in view of the G.R. dated 01.04.2010, but the respondents had not considered their request with proper perspective and therefore, they have approached this Tribunal and prayed to direct the respondents to grant benefit under Time Bound Promotion/ACP Scheme to them along with compound interest thereon.

3. The respondent nos. 1 to 4 have filed their affidavit in reply and resisted the contentions of the applicants. They have

no dispute regarding appointment of the applicants, their continuous service in the department and revised pay scale given to them on completion of 7 years continuous service. It is their contention that as per the G.R. issued by the Agriculture, Dairy Development, Animal Husbandry and Fishery Department on 08.12.1994, the applicants have got the higher pay scale (Unrevised pay scale of Rs. 1200-2040) after completion of their 7 years continuous service on the same post. According to the G.R. dated 01.04.2010, it is the first benefit of Revised Assured Career Progression Scheme. As per the G.R. dated 01.04.2010, the pay scale of the post of Draftsman (Unrevised Pay Scale of Rs. 1400-2300) is the second benefit of Revised Assured Career Progression Scheme. It is their contention that the W.P. bearing Nos. 2374/2016, 2416, 2419, 2420/2016 filed on behalf of the Government of Maharashtra is pending before the Hon'ble High Court of Judicature of Bombay. The Hon'ble High Court has passed the order of status-quo in the said matter on 06.12.2016. It is their contention that the similar issue was involved in the said W.P. They have not disputed the fact that the applicants have filed representation claiming same relief. It is their contention that they have given reply to the said representation by the communication dated 22.11.2016 in view of the provisions

of G.R. dated 01.04.2010. It is their contention that in view of the G.R. dated 01.04.2010, giving the benefit of non-functional pay structure or higher pay structure after the specific time period, without corresponding increase in duties and responsibilities of the concerned posts, will be treated as 1st benefit under Modified Assured Career Progression Scheme. In view of the said G.R., the applicants have sanctioned first benefit under Time Bound Promotion/ACP Scheme on completion of their 7 years continuous service when they received revised pay scale. Therefore, they were not eligible to get further benefits under the said scheme. It is their contention that they have rightly rejected the representation of the applicant and there is no illegality in it. Therefore, they have justified the impugned communication.

4. I have heard Shri S.D. Chavan, learned Advocate for the applicants and Smt. Archana B.K., learned Presenting Officer for the respondents. I have perused the documents filed by both the parties.

5. Though the present O.A. pertains to the D.B., with the consent of both the parties, I have heard it and decided accordingly.

6. During the course of arguments, the learned Advocate for the applicant has submitted at bar that the respondents have granted second benefit of Time Bound Promotion/ACP Scheme to the applicant Nos. 1 to 25 and first benefit of Time Bound Promotion/ACP Scheme to applicant Nos. 26 & 27 on completion of their 24 and 12 years continuous service respectively by the order dated 09.03.2018 and therefore, the relief claimed by the applicants in paragraph No. 10 (a) to (c) is satisfied. The only grievance of the applicants is regarding compound interest claimed by the applicants on the said amount is due to them. Therefore, both the parties restricted their submissions on the point of compound interest claimed by the applicants.

7. Admittedly, the applicants were appointed as Tracer in between the year 1981-99. Admittedly, on completion of 7 years of service they have received revised pay scale. Admittedly, the applicant Nos. 1 to 25 received the first benefit under Time Bound Promotion/ACP Scheme on completion of 12 years of service. Admittedly, the applicant Nos. 1 to 25 have not received second benefit under Time Bound Promotion/ACP Scheme at the time of filing of the O.A. and the applicant Nos. 26 and 27 have not received first benefit under Time Bound Promotion/ACP Scheme.

There is no dispute about the fact that during pendency of the present O.A., by the order dated 09.03.2018, the respondents have extended the benefit of second time bound promotion to the applicant Nos. 1 to 25 and first benefit under Time Bound Promotion/ACP Scheme to the applicant Nos. 26 and 27 on completion of their 24 & 12 years of continuous service respectively.

8. Learned Advocate for the applicants has submitted that the applicants were entitled to get the first and second benefit of time bound promotion in view of the provisions of G.Rs. dated 20.07.2001 and 01.04.2010 on completion of 12 years and 24 years of their continuous service. But the respondents had not granted the said benefits to the applicants within reasonable time on completion of their 12 year and 24 years of service. There was deliberate and intentional delay on the part the respondents in extending the said benefits. The respondents have extended the said benefits to the applicant belatedly in the year 2018. He has submitted that because of delay caused by the respondents, the applicants were deprived of getting financial benefits and therefore, they are entitled to get the interest on the amount of benefit extended to them belatedly. In support of his

submissions, he has placed reliance on the G.R. dated 22.11.1994. He has submitted that the Hon'ble High Court of Judicature at Bombay, Bench at Nagpur in **W.P. No. 3492/1994** in case of **Yuvraj Nathuji Rodye Vs. The Chairman and Ors.** decided on 18.09.2018 has held that the employees are entitled to get the interest on the belated payment received to them. The Hon'ble High Court has observed in the said judgment as follows:-

“4. “Before any interest can be granted on equitable consideration, it is necessary that the facts of the case should be examined to ascertain whether there are any special equities which would justify the grant of such interest although there is no provision in law for such grant.” [Union of India and others ..vs.. Dr. J.K. Goel; 1995 Suppl (3) Supreme Court Cases 161]. Therefore, the Court can consider the facts and circumstances of each case while passing or granting interest on the due and payable amount even in the employer-employee relationship, basically even for want of service conditions.”

He has submitted that the present case is covered by the said decision. Therefore, the applicants are entitled to get the interest on belated payment regarding amount of benefit of Time Bound Promotion Scheme/ACP Scheme extended to them.

9. Learned Presenting Officer has submitted that there was no intentional and deliberate delay on the part of the respondents in extending the benefits of Time Bound Promotion Scheme/ACP Scheme to the applicants. He has submitted that in view of the Clause 2(B)(iii) of the G.R. dated 01.04.2010 and the letter of the Agriculture department dated 30.06.2011, the applicants were not entitled to get the second benefit under Time Bound Promotion Scheme/ACP Scheme, as they have received the revised pay scale, though there was no increase in duties of the applicants. He has submitted that the said clause of the G.R. dated 01.04.2010 has been challenged by the various employees before this Tribunal and the Hon'ble High Court. The said issue was pending before the Hon'ble Apex Court and therefore, because of the said reason, they have not extended the benefits to them. But thereafter, in view of the decision of the Hon'ble High Court of Judicature at Bombay in **W.P. No. 2605/2017** in case of **The Association of the Sub-ordinate of Service of Engineers Maharashtra State Vs. The State of Maharashtra and Ors.** decided on 06.02.2019, they have extended the benefits to the applicant subject to the decision of the SLP pending before the Hon'ble Apex Court. She has submitted that as matter was sub-judice, the benefit was not extended to the applicants and

therefore, it cannot be said that the intentional and deliberate delay was caused in extending the benefits under Time Bound Promotion Scheme/ACP Scheme to the applicants and therefore, the applicants are not entitled to claim interest on it. She has submitted that the provisions of G.R. dated 22.11.1994 are not attracted in the instant case, as the said G.R. is in respect of the delay caused in granting the salary, D.A., other allowances, increments and additional increments after fixation of pay. She has submitted that the respondents had extended the benefits of Time Bound Promotion Scheme/ACP Scheme to the applicants' immediately after decision of the Hon'ble High Court and therefor, the applicants are not entitled to get the interest. Therefore, she has prayed to dismiss the present Original Application.

10. On perusal of the record, it reveals that the similarly situated persons have filed O.A. No. 1000/2013 before this Tribunal claiming similar relief and this Tribunal allowed the said O.A. But the State has filed W.P. No. 2818/2016 before the Hon'ble High Court of Judicature at Bombay and the same was pending. Not only this, but the other similarly situated persons viz. **Shri Arun Babulal Dhende and Ors.** have filed **O.A. Nos. 233, 1000 to 1003 of 2013** before this Tribunal at Mumbai.

The said O.A. was also decided along with the **O.A. No. 1000 of 2013** in case of **The State of Maharashtra Vs. Gurubasappa Shidramappa Halakunde**. Decision in the above said O.A. has been challenged before the Hon'ble High Court of Judicature at Bombay in W.P. No. 2418/2016 and 9351/2016 along with other W.Ps. The issue has been decided by the Hon'ble High Court in **W.P. No. 2605/2017** in case of **Association of the Sub-ordinate of Service of Engineers Maharashtra State Vs. The State of Maharashtra and Ors.** decided on 06.02.2019 and after decision of the said W.P., the respondents have extended the benefits under Time Bound Promotion Scheme/ACP Scheme to the applicant by the order dated 03.09.2018, subject to the decision of the SLP pending before the Hon'ble Apex Court. Admittedly, Clause 2(b)(iii) of the G.R. dated 01.04.2010 provides that the revised pay scale given to the employees can be treated as first benefit of time bound promotion and accordingly, second time bound promotion has to be given after completion of 12 years continuous service thereafter. The respondents have rejected the claim of the applicant on the basis of the said clause, but the said clause in the above said G.R. has been challenged before this Tribunal and before the Hon'ble High Court in different W.Ps. After decision of the W.P. No. 2605/2017, the respondents have

extended the benefits to the applicants under the said scheme. In these circumstances, in my view, there was no intentional and deliberate delay on the part of the respondents in extending the benefits to the applicant under the Time Bound Promotion Scheme/ACP Scheme. There were no administrative lapses on the part of the respondents in granting the said benefits to the applicants immediately. Therefore, the applicants are not entitled to get the interest on the said amount.

11. I have gone through the G.R. dated 22.11.1994. The said G.R. provides payment of interest on the delayed payment of wages, D.A., other allowances, increments and additional increments after fixation of pay. The present case of the applicants does not fall within the provisions of the said G.R. and therefore, the said G.R. is not much useful to the applicants in the instant case. The applicants have received amount of time bound promotion benefits extended to them under the scheme after re-fixation of pay immediately and there was no delay on the part of respondents in paying the said amount to the applicant. Therefore, on that count also, the applicants are not entitled to get the interest on amount of benefits extended to them under Time Bound Promotion Scheme/ACP Scheme. Therefore, I find

no merit in the present Original Application. Hence, the O.A. requires to be dismissed.

12. In view of the discussions in foregoing paragraphs, the Original Application stands dismissed with no order as to costs.

PLACE : MUMBAI.
DATE : 01.01.2020.

(B.P. PATIL)
ACTING CHAIRMAN

KPB D.B. Mumbai O.A. No. 194 of 2017 BPP 2019 ACPS