

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 545 OF 2020  
(Subject – Pay and Allowances)**

**DISTRICT : AURANGABAD**

**Dayanand s/o Uttamrao Rajgire,** )  
Age : 60 years, Occu. : Pensioner, )  
R/o : Plot No. 11, New Nandanvan Colony, )  
Near Chavani, Aurangabad. ) .... **APPLICANT**

**V E R S U S**

1. **The Secretary,** )  
Public Works Department, )  
Mantralaya, Mumbai 32. )
2. **The Superintending Engineer,** )  
Public Works Department, Padampura,)  
Aurangabad. )
3. **The Executive Engineer,** )  
Public Works Department (West), )  
Padampura, Aurangabad. )... **RESPONDENTS**

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**APPEARANCE** : Shri Ashish Rajkar, Counsel for Applicant.

: Smt. Deepali S. Deshpande, Presenting Officer  
for respondent authorities.

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**CORAM** : **Hon'ble Justice Shri V.K. Jadhav, Member (J)**

**RESERVED ON** : **14.12.2023**

**DATE** : **04.01.2024**  
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**O R D E R**

1. Heard Shri Ashish Rajkar, learned counsel appearing for the applicant and Smt. Deepali S. Deshpande, learned Presenting Officer appearing for respondent authorities.

2. The applicant is seeking direction to the respondents to release the amount of additional pay (Special pay) for holding the additional charge of the post of Naik for the period from 01.07.2015 to 31.08.2020 in terms of the G.R. dated 28.08.2013 and in view of the Rule 56 of the Maharashtra Civil Services (Pay) Rules, 1981.

3. Brief facts giving rise to the Original Application are as follows :-

(i) The applicant was working as Peon since 1986 in the office of respondent authorities. He stood retired on 31.08.2020 reaching the age of superannuation.

(ii) In the year 2012 while working as Peon in the office of respondent No. 3, the applicant was given additional charge of the post of Naik in the same office by order dated 30.05.2012 (Annexure A-1). In view of the said order, the applicant continued to discharge additional duty of Naik, as well as, in addition to his original work as Peon. He was also paid additional pay (Special pay) for additional duties which he performed for a period from 01.01.2013 to 30.06.2015 (Annexure A-2).

(iii) Further in view of order dated 13.05.2012, the applicant continued to perform additional charge of the post of Naik till his superannuation without any break in service to the satisfaction of his superiors. The applicant had filed an application on 13.01.2020 to respondent No. 3 and requested to sanction and grant additional pay (Special Pay), for which he was holding the additional charge of the post of Naik from June 2015 till the date of application. The said copy of application dated 13.01.2020 is marked as Annexure A-3. However, the said application was not decided by the respondent No. 3 and it was kept pending. Respondent No. 3 has forwarded the said proposal to respondent No. 2 to grant the additional pay (Special pay) to the applicant for holding the additional post of Naik with recommendation (Annexure A-4). However, till today no decision was taken and the same is pending. Hence, the present Original Application.

4. Learned counsel for the applicant submits that as per the G.R. dated 28.08.2013, in the event if the employee is holding an additional charge then such employee is entitled for additional pay (Special Pay) of 5% presumptive pay. Learned counsel submits that in view of the above G.R., the applicant is

entitled for additional pay for the additional duty, which he performed from June 2015 till the date of retirement. Learned counsel submits that for the earlier period, additional pay from 01.01.2013 to 30.06.2015 was already paid to the applicant. The applicant was not paid 5% additional pay for the aforesaid period. The applicant is now retired from the service and due to his old age, he requires money for his maintenance. Learned counsel submits that the present Original Application deserves to be allowed and the respondent Nos. 1 to 3 may be directed to release the amount of additional pay (Special Pay) to the applicant for holding the additional charge of the post of Naik since June, 2015 to August 2020 in accordance with the Government policy and in terms of G.R. dated 27.12.2011 as modified by G.R. dated 28.08.2013 along with interest of 5% p.a.

5. Learned Presenting Officer submits that the office of respondent No. 3 has ordered the applicant to perform the duties of Naik post, as the work profile of Naik and Peon is same in the office. For holding the post of Naik and working in the cabin of Executive Engineer, in that capacity payment has been made to the applicant for additional duties for a period of 01.01.2013 to 30.06.2015.

6. Learned Presenting Officer submits that so far as the demand of special pay for the period more than 05 years, in terms of the G.R. dated 27.12.2011 permission of the General Administration Department and Finance Department is required for Class-I and Class-II employees and for Class-IV employees the Regional Head, but after one year, that power is granted by the Administrative Head of the department i.e. the Superintending Engineer, respondent No. 2 herein. Learned P.O. submits that no additional pay is permissible beyond two years and as such, prayer made by the applicant cannot be considered.

7. Learned Presenting Officer submits that so far as office letter dated 24.08.2020 is concerned, the Superintending Engineer, Public Works Circle, Aurangabad has replied by letter dated 22.09.2020 to do the needful in terms of the G.R. dated 27.12.2011. Learned P.O. submits that the applicant had performed his original duties as a Peon in the Executive Engineer's cabin after July 2015 and as such, he is not entitled for additional pay.

8. Learned Presenting Officer submits that for a period of 01.06.2012 to 30.06.2015, the applicant was given additional charge of the post of Naik and as per the additional work done by

him, the additional pay to the tune of Rs. 20,613/- was paid to him. So far as letter dated 24.08.2020 (Annexure A-4) is concerned, same is the letter sent by the Executive Engineer, P.W.D. to the Superintending Engineer, Public Works Circle, Aurangabad by taking the subject of applicant's earlier representation and that is not a proposal in respect of release of additional pay. Learned P.O. has raised doubt about the authenticity of document at Annexure A-1 (page No. 8 of paper book) submitted by the applicant and to clarify it, submitted copy of the correct document at Annexure RR-2. Learned P.O. submits that there is no merit in the present Original Application and the same is liable to be dismissed.

9. It appears that the applicant while working as Peon in the office of respondent No. 3 was given additional charge of the post of Naik in the same office by order dated 30.05.2012. Even though the Annexure A-1 appears to be incomplete, which the applicant has received under the provision of Right to Information Act, however, copy of original document at Annexure RR-2 also contents same text. There is no confusion as such. It is also not disputed that the applicant was paid additional pay (Special Pay) for additional duties which he performed for a period from 01.01.2013 to 30.06.2015.

10. On careful perusal of Annexure A-4, it appears that on 24.08.2020 the respondent No. 3 has informed the respondent No. 2 that the applicant has submitted his application for additional pay for holding charge of the post of Naik from June 2015 and since the said period is more than 05 years i.e. till his retirement, the application is being forwarded. The applicant along with his rejoinder affidavit has submitted communication dated 22.09.2020 issued by respondent No. 2 to respondent No. 3 in response to the aforesaid communication dated 24.08.2020 (Annexure A-4) and informed the respondent No. 3 to follow the procedure in terms of the G.R. dated 27.12.2011 and further the respondent No. 3 being a Departmental Head / Regional Head has got all the powers to release the additional pay of the applicant for the aforesaid period at his level.

11. In view of the aforesaid communication, even on perusal of the G.R. dated 23.05.2006 and further G.R. dated 27.12.2011 as modified by G.R. dated 28.08.2013, the Regional Head / Head of the Department has all powers and authority for class-IV posts to grant additional pay at his level. So far as the condition (a), (b), (c) & (d) of column No. 1, column No. 2 (a), (b) and (c) and column No. 3 (a), (b), (c) & (d) appears to have been

complied with for granting additional pay to the applicant. It appears that even though the respondent No. 2 i.e. the Superintending Engineer has informed the respondent No. 3 to decide the said issue of additional pay to the applicant for the aforesaid period from June, 2015 to August, 2020 at his level, no decision has been taken till the retirement of the applicant on superannuation nor thereafter. It is not at all disputed by the respondent authorities that the applicant held the additional charge for the post of Naik for the aforesaid period from June, 2015 to August, 2020 i.e. till his retirement on superannuation. There are no justifiable reasons to deny the applicant the additional pay for holding the additional charge for the aforesaid period. However, considering the facts of the present case, it may not be proper to grant interest to the applicant on the aforesaid amount. Hence, the following order: -

### **ORDER**

- (i) The Original Application is hereby partly allowed.
- (ii) The respondent Nos. 1 to 3 are hereby directed to release additional pay (special pay) payable to the applicant for holding additional charge of the post of Naik since June, 2015 to August, 2020 in accordance with the G.Rs. dated



23.5.2006 and 27.12.2011 as modified by G.R. dated 28.8.2013 within a period of 6 months from the date of this order.

- (iii) In the circumstance, no order as to costs.
- (iv) The Original Application stands disposed of.

**PLACE : Aurangabad.**  
**DATE : 04.01.2024**

**(Justice V.K. Jadhav)**  
**Member (J)**

**KPB S.B. O.A. No. 545 of 2020 VKJ Pay and Allowances**