

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 60 OF 2021

DISTRICT : RATNAGIRI

1. Shri Vijay Tatojirao Surve,)
At and Post, Tal-Chiplun,)
M.K Jadhav C.H.S, Pag Bhagawa)
Chowk, Chiplun, Dist-Ratnagiri.)
2. Shri Tukaram P. Kumbhar,)
At and Post Sakharapa,)
Opp. Bank of India (Lad Building))
Taluka Sangameshwar,)
Dist-Ratnagiri 415 801.)
3. Shri Krishna Sona Ambekar,)
At & Post Bhoke, Ambekarwadi,)
Tal & Dist-Ratnagiri 415 639.)
4. Shri Parshuram Gopal Kulkarni,)
At & Post Kalsuli, Parabwadi,)
Tal-Kankawali, Dist-Sindhudurg.)
5. Shri Yashwant M. Bandabe,)
At & Post Math (Bandbewadi))
Tal-Lanja, Dist-Ratnagiri 415 809.)...**Applicants**

Versus

1. The State of Maharashtra)
Through the Secretary,)
Water Resources Department,)
Mantralaya, Mumbai 400 032.)

2. The Secretary,)
Finance Department,)
Mantralaya, Mumbai 400 032.)
3. The Superintending Engineer,)
Sinchan Mandal, Nasik 420 003.)
4. The Executive Engineer,)
Irrigation Division, Kalwa,)
Thane 400 080.)...**Respondents**

Ms Vidya Kamble, learned advocate for the Applicants.

Mrs K.S Gaikwad, learned Presenting Officer for the Respondents.

CORAM : Justice Mridula Bhatkar (Chairperson)
Mrs Medha Gadgil (Member) (A)

DATE : 13.10.2021

PER : Justice Mridula Bhatkar (Chairperson)

J U D G M E N T

1. Heard Ms Vidya Kamble, learned advocate for the Applicants, Mrs K.S Gaikwad, learned Presenting Officer for the Respondents

2. The applicants by this Original Application seek direction to the Respondents to pay the arrears of salary for the relevant period from 29.9.2003 till 17.3.2008 as per the revised pay of Class-III designation profile and the computation of the pensionary benefits of all the applicants be computed as per Class-III designation profile and further the Respondents be directed to release all the

pay increments as per 7th Pay Commission till date with interest thereon.

3. The applicants state that they were appointed as Class-IV designation but were made to work in the capacity of Gauge Clerk, which is Class-III designation work profile. They were given extra additional work to perform as the Government has taken policy decision in Public Works Department, Water Resources/Irrigation Department that from 28.5.1986 no posts will be created and therefore the employees who were working between 1986 and prior to 1997 and were asked to do more work and they are to be given the designation as per the work load and pay scale as per their designation.

3. The Respondent-State issued G.R dated 29.9.2003 and as per Clause 2 of the said G.R it is stated that the employees will be paid on the basis of 'designation as per work' and 'pay as per designation'. Thereafter, the Water Resources Department by letter dated 14.5.2009 informed the names of 15 employees who were found eligible as per G.R dated 29.9.2003 and the applicants name are included in the said list. The Respondent-State has fixed the pay of the applicants as per their designation from 2009. Thereafter, the applicants have on number of occasions requested the Respondents to give them arrears of pay from 2003 to 2008.

4. Learned counsel for the applicants relied on two representations dated 26.12.2019 and 10.8.2020 submitted by the applicants for releasing the arrears from the year 2003 to 2008. Learned counsel for the applicants relied on the judgment of this Tribunal dated 29.8.2017 in O.A 740/2016 & Ors, Shri Prakash N. Jadhav & Ors Vs. The Secretary, Water Resources Department and ors. In the said judgment, the Tribunal has relied on the decision dated 3.11.2015, in the case of Shri Dilip Chandu Bhosale & Anr

Vs. The Secretary, Water Resources Department & Ors, wherein, in the earlier decision in Dilip C. Bhosale's case, has dealt with the same G.R dated 29.9.2003. Further, judgment of this Tribunal dated 16.2.2010 and 14.12.2009 in O.A 818/2009 and O.As 342 and 464/2008, on the similar issue was challenged before the Hon'ble Bombay High Court, Aurangabad Bench in W.P 10069/2010 and the said Writ Petition was dismissed on 25.10.2010. We reproduce the relevant paragraphs 7 & 8 of the decision in the case of Shri P.N Jadhav:-

"7. In the above background, I may not somewhat closely read the Aurangabad judgment. It itself follows and earlier judgment of the Tribunal in O.A 818/2009 and O.As 342 and 464/2008 dated 16.2.2010 and 14.12.2009. On page 6 of the Aurangabad judgment, it was noted that just because the governmental procedure take long, the deserving applicants should not be made to suffer. The narration of facts, would reinforce the above conclusion that the Applicants therein were on all fours with the present Applicants. Thereafter, the Aurangabad Bench referred to and in fact quoted from one of the earlier judgments discussed above in so far as the construction to be accorded to the word, "arrears" in the said G.R. That particular Paragraph enshrines within itself the basic philosophy and principle as to why a particular dated chosen therein viz. 29th September, 2003 should be adopted. Para 8 thereof in fact needs to be fully quoted for facility.

8. For the guidance of respondents we may say that even in future, if the Respondents grant benefit of scheme to any of the employees, whose cases are not processed earlier, their salaries should be fixed as on 29.9.2003 and they should be allowed arrears from 29.9.2003 onwards and such employees need not be compelled to approach this Tribunal, even if as on today they are not applicants before us. This is because it is informed b learned counsel for the applicants that, order of this Tribunal in Original Application No. 818 of 2009 was challenged by the Respondents before the Hon'ble Bombay High Court, Bench at Aurangabad by writ petition no. 10069 of 2010 and the said writ petition was dismissed on 25.10.2010 by upholding our order. Copy of order of

Hon'ble High Court is at P.B. pages 60 and 61 of O.A No. 64 of 2011.”

5. Thus, the issue is not res-integra. The policy of the Respondent-State itself in G.R dated 29.9.2003 and the judgment of this Tribunal and the judgment of the Hon'ble High Court are binding on the State in deciding the case of the applicants. However, the Respondents have turned nelsons eye to this G.R, so also the judicial verdict.

6. In view of this, as the judgment dated 16.2.2010 in O.A 818/2009 is judgment in rem, we allow this Original Application with following directions:-

- (a) The Respondents are directed to pay the salary and arrears of the relevant period from 29.9.2003 to 17.3.2008 as per the revised pay of Class-III designation profile and the computation of the pensionary benefits of all the applicants be computed as per Class-III designation profile and further the Respondents be directed to release all the pay increments as per 7th Pay Commission till date with arrears of pay for relevant period from 29.9.2003 till 17.3.2008.
- (b) The said arrears to be paid to the applicants on or before 14.12.2021.

Sd/-
(Medha Gadgil)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 13.10.2021
Dictation taken by : A.K. Nair.