

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 175 OF 2010 (S.B.)

Devidas Mahadev Deoghade,
Aged about 54 years, Occupation – Service,
R/o Plot No. 47, Chakradhar Swamy Nagar,
Awdhoot Nagar No. 2, Manewada, Nagpur-34.

Applicant.

Versus

- 1) State of Maharashtra,
Department of Cultural Development,
Through its Secretary,
Mantralaya, Mumbai-32.
- 2) Curator,
Central Museum, Behind Vidhan Bhavan,
Civil Lines, Nagpur-1.
- 3) Director,
Archaeology & Museum, St. George
Compound, CST, Fort, Mumbai.

Respondents

Ms.B.N.Gavhale holding for Shri A.R.Patil, Id. Adv. for the applicant.
Shri H.K.Pande, Id. P.O. for the respondents.

**Coram :- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J).**

JUDGMENT

(Delivered on this 04th day of December, 2017)

Heard Ms.Bhagyashree N. Gavhale, Adv. holding for Shri A.R.Patil, learned counsel for the applicant and Shri H.K.Pande, learned P.O. for the respondents.

2. The applicant was selected and appointed initially as a Waterman by the respondents at Government Museum, Nagpur w.e.f. 01/01/1979. Thereafter, he was transferred as Lab Attendant from 01/08/1980. His posting as a Waterman was in the pay scale was Rs. 200-280 which was subsequently revised to Rs. 750-950 as per Govt. Notification dated 01/10/1988.

3. According to the applicant, the pay scale of Laboratory Attendant is in fact Rs. 950-1400 and, therefore, the applicant should have been granted that pay scale instead of Rs. 750-950. The applicant therefore, made a representation in 1999-2000. Since no response was received from the respondents, the applicant filed O.A.773/2000 before this Tribunal. Vide order dated 30/07/2009, the Tribunal directed the respondents to consider the issue of the pay fixation. The respondents authority did not consider the order passed by the Tribunal and, therefore, the applicant issued a legal notice to the respondents through his Advocate on 25/01/2010. Without giving any opportunity to the applicant, the respondents decided the representation on 15/02/2010, stating that the pay scale applicable to the Laboratory Attendants of the

Govt. Medical Colleges and other Scientific Institutions are not applicable to the Laboratory Assistants of the Museum. The said communication has been challenged in this O.A. The applicant raised a point as to whether the respondents have decided the pay fixation of the applicant after considering the Govt. Resolution of 1998 in its true sense and spirit.

4. The applicant has prayed that the communication issued by the respondent no. 3 dated 15/02/2010 (Annex-A-12) and communication dated 17/02/2010 issued by respondent no. 2 (Annex-A-13) be quashed and set aside and the respondents be directed to fix the pay scale of the applicant in the scale of Rs. 950-1400 w.e.f. 01/01/1986 as per Govt. Resolution dated 21/12/1998 and 31/10/1998. He has also prayed that the respondents be directed to revise the pay scale of the applicant in the scale of Rs. 3050-4590 as per notification dated 10/12/1998.

5. The respondents denied the applicant's claim. It is stated that the Central Chemical Conservation Laboratory at the Central Museum under the respondent no. 2 was established on 27/04/1979 and sanction was accorded by the respondent no. 1 for creation of one post of Technical Assistant (Preservation) in Class III cadre in the pay scale of Rs. 365-760 for Science graduate and one post of Laboratory Attendant in the pay scale Rs. 200-280 in Class IV cadre. The applicant was appointed on the said post of Laboratory Attendant. The duty of the

Technical Assistant is to preserve the different items kept at the Museum by chemical process and the duty of the Laboratory Attendant is to assist the Technical Assistant under his work, to clean the dust from the preserved items and to keep the item clean, dry or wet as required. There is a vast difference in the work performed by the applicant as Laboratory Attendant and the work performed by a Laboratory Attendant in the Laboratories, Schools and Colleges and other Medical and Research Institutions.

6. According to the respondents, as per the Govt. Resolution dated 01/10/1998, the applicant was placed in the revised pay scale of Rs. 750 - 940 in Class IV cadre w.e.f. 01/01/1986. The designation of Laboratory Attendant is at Sr. No. 49 under respondent no. 3 and the pay scale of Rs. 750-940 has been accepted by the applicant and, therefore, the applicant cannot object for such pay scale.

7. The applicant was also granted time bound promotion and since there was no promotional post for the post of Laboratory Attendant, the applicant was placed in the case higher pay scale of Rs. 775-1150 and he received that pay scale from 01/10/1994 upto 01/10/1998 without any protest.

8. According to the respondents as per 5th Pay Commission, the applicant was given pay scale of Rs. 950-1400 instead of Rs. 750-950 which was further revised to Rs. 2550 – 3200 earlier pay scale of

Rs. 3050-4590 instead of Rs. 2550 – 3200 which is a pay scale of Class III was granted, but subsequently corrigendum was issued on 06/11/1997 and the entry no. 44 on Pg. No. 351 of the Maharashtra Civil Services (Revised Pay) Rules, 1998 was corrected and the pay scale for the post of Laboratory Attendant was changed from 3050 – 4590 to Rs. 2550 – 3200. As per the 6th Pay Commission, the applicant was placed in pay scale of Rs. 4440 – 7440 with grade pay of Rs. 1500 per month w.e.f. 01/01/2006. Since the applicant belongs to Class IV post, the pay scale of Class III cannot be made applicable to the applicant.

9. The Id. counsel for the applicant Ms. Bhagyashree N. Gavhale submitted that as per the Govt. Resolution dated 31/10/1998, the Laboratory Attendant's pay scale is at Sr. No. 8 and 13 of the Govt. Resolution. The pay scale is as per entry no. 8 for the Laboratory Attendant which was Rs.750 – 940 has been revised to Rs. 950 – 1400 and similarly the entry No. 13 also shows that the pay scale has been revised from Rs. 750 – 940 to Rs. 940 – 1400. The Id. counsel for the applicant has invited my attention to the order passed in O.A. No. 773/2000, the earlier O.A. was filed by the applicant and the said order is dated 30/07/2009 where from it seems that for the similar relief, the applicant earlier filed this O.A. which was disposed off with a direction to the respondent no. 1 to 3 to take a decision about fixation of pay of the applicant within a period of three months. The Id. counsel for

the applicant submits that the respondents took huge time for deciding the representation and ultimately did not take proper decision.

10. The Id. P.O. has invited my attention to the (Annex-R-5) and (Annex-R-6) which are at P.B., Pg. No. 87 and 86 to 97 (both inclusive). The said Govt. Resolution (Annex-R-5) at P.B., Pg. No. 87 shows that the pay scale of the Laboratory Attendant has been fixed in two different categories i.e. those who are getting pay scale of Rs. 950 – 1400 will be getting Rs. 3050 – 4590 and those getting pay scale of Rs. 750 – 940 will be getting Rs. 2550 – 3200. As per (Annex-R-6) the post of Laboratory Attendant is at Sr. No. 168 for Public Works Department (all circles) and as per that revised pay scale of Rs. 750 – 940 it has been revised to Rs. 2550 – 3200. As per Sr. No. 315 of the said scheduled, the Laboratory Attendant in the Directorate of Health Services getting pay scale of Rs. 750 – 940 will be getting Rs. 2550 – 3200, similarly, the Laboratory Attendant in Food and Drugs Administration at Sr. No. 46 who were getting Rs. 750 – 940 pay scale will be now getting Rs. 2550 – 3200. Similarly, at Sr. No. 370 of the said schedule, the Laboratory Attendants in the Directorate of Medical Education & Research were getting pay scale of Rs. 750 – 940 and will be now getting Rs. 2550 – 3200. It, therefore, seems that the anomaly in the pay scale of Laboratory Attendant in different departments has been rectified and now all the Laboratory Attendants are getting pay scale of Rs. 2550 – 3200. The

applicant could not place on record any documents to show as to how he is entitled to get pay scale of Rs. 3050 – 4590. On the contrary, the earlier pay scale notified at higher scale to the Laboratory Attendant i.e. Rs. 3050 – 4590, has been corrected vide corrigendum dated 06/11/1999. Admittedly, the applicant is getting the pay scale as per said corrigendum. The pay scale granted to the applicant has been granted correctly and I do not find any reason to interfere in the said decision. I, therefore, do not find any merit in the O.A. Hence the following order:-

ORDER

1. O.A. stands dismissed.
2. No order as to costs.

Dated :-04/12/2017

**(J.D. Kulkarni)
Vice-Chairman (J).**

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