

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO.175/2015**

Dashrath Sitaram Gaydhane,  
Aged about 54 years,  
R/o Sinchan Nagar Bhag-1, Lohara,  
Yavatmal.

2. Shrirang Shankarrao Rekalwar,  
Aged about 57 years,  
R/o Sai Nagari Bhag-2, Lohara,  
Yavatmal, Distt Yavatmal.

3. Bismillakhan Rahimkhan,  
Aged about 57 years,  
R/o Sinchan Vasahat Vikas Colony,  
Umarkhed, Distt. Yavatmal.

4. Babarao Ambadas Shinde,  
Aged about 56 years,  
R/o Pathraddevi, Post-Bori Arab,  
Tq. Darwha, Distt. Yavatmal.

5. Gajanan Wasudeorao Sastikar, )  
Aged about 57 years, ) Deleted  
R/o Near Old Dharmashala, )  
Civil Lines, Yavatmal, Distt. Yavatmal. )

5.a) Smt. Nilima Gajanan Sastikar,  
Aged about 55 years, Widow,

b) Uday Gajanan Sastikar,  
Aged about 29 years, Son,

c) Abhijit Gajanan Sastikar,  
Aged about 24 years, Son

6. Arun Sanjiv Gore,

- Aged about 54 years,  
R/o Jamankar Nagar, Yavatmal.
7. Arun Vithuji Bhoyar,  
Aged about 57 years,  
R/o at post Pahapal, Tq. Kelapur,  
Tq. Yavatmal.
  8. Chandrakant Raghunath Katkojwar,  
Aged about 56 years,  
R/o Sinchan Vasahat, Pandharkawada,  
Tq. Kelapur, Distt. Yavatmal.
  9. Thanendra Jaypal Rahangdale,  
Aged about 51 years,  
R/o Sinchan Wasahat, Behind Datey College,  
Yavatmal.
  10. Shrikant Sadashiorao Pendse,  
Aged about 59 years,  
R/o Dandekar Layout, Jamb Road,  
Yavatmal.
  11. Prabhakar Gulabrao Thakare,  
Aged about 58 years,  
R/o at Post-Jawla Ward No. 5,  
Tq, Arni, Distt., Yavatmal.
  12. Yusufkhan Bhurekha Pathan,  
Aged about 59 years,  
R/o Islampura, Ghatanji,  
Tq, Ghatanji, Distt. Yavatmal.
  13. Mahadeo Baliram Kale,  
Aged about 59 years,  
R/o Pawannagar, Ner,  
Tq. Ner, Distt. Yavatmal.

14. Shashikant Shripad Pande,  
Aged about 59 years,  
R/o Narsing Nagar, Rathod Layout,  
Arni, Tq. Arni, Distt. Yavatmal.
15. Babarao Bapurao Bhankhede,  
Aged about 58 years,  
R/o Sinchan Wasahat, Wani,  
Tq. Wani, Distt., Yavatmal.

-----Applicants.

Versus

1. State of Maharashtra,  
Through its Secretary,  
Deptt. of Irrigation,  
Mantralaya, Mumbai.
2. The Superintending Engineer,  
Akola Irrigation Circle, Akola.
3. The Executive Engineer,  
Irrigation Division, Yavatmal.  
Tq. and Distt. Yavatmal.

----- Respondents.

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1. Shri A.D. Girdekar, Advocate for the applicants.
2. Shri A.P. Sadavarte, Presenting Officer for the Respondents.
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CORAM : B. Majumdar : Vice Chairman  
DATE : 2<sup>nd</sup> May, 2016

**ORDER**

The applicants are Group-D employees in the Irrigation Department, who have been actually working as Wireless Operators. They have filed this O.A. seeking relief as follows :-

- A) Quash and set aside order dtd. 18/8/2008 issued by the respondent No. 2 and hold and declare that action of respondents in making applicable benefits of Govt. Resolution dt. 29/9/2003 from 18/3/2008 to the applicants is illegal, arbitrary and contrary to the order dtd. 20/6/2011 passed by the Hon'ble Tribunal in O.A. Nos.64,65,66 and 194 of 2011 and O.A.Nos. 818/2012,564/2013, 817/2012 and 816/2012 decided on 4/2/2014.
- B) Hold and declare that the applicants are entitled to get benefit under the Govt. Resolution from 29/9/2003 i.e. from the date of Govt. Resolution dtd.22/2/1994.
- C) Direct the respondents to fix the pay of applicants in next post of wireless Machine Operator from 29/9/2003 and further direct the respondents to pay difference of pay from 29/9/2003 to 18/3/2008 along with interest as per the Govt. Resolution dtd. 22/11/1994."



2. On 29/9/2003 the Govt. in PWD issued a G.R. vide which a decision was taken that employees in the Irrigation, PWD and Rural Development and Water Conservation Departments in the converted temporary establishment who are working against posts other than those to which they were appointed, ~~they~~ should be given ~~the~~ pay in accordance with the principle "Posts as per work and Pay as per Post". The G.R. further states that these benefits will apply from the date of the G.R. On 18/3/2008 and 11/7/2008 the Govt. wrote to the Superintending Engineer, Akola (R/2) that 75 employees in his Circle, which include the present applicants are found to be eligible for the benefits of the G.R. However the benefits will be available from 18/3/2008. On 18/3/2008 R/2 issued an order granting the above benefits to these 72 employees. As per this order the applicants are entitled to the pay scale of Wireless Operator, i.e., 4000-6000 w.e.f. 18/8/2008. The applicants have challenge the legality of the order in the O.A.

3. A number of similarly placed employees of the Irrigation Department had filed O.A. No.818/2012 and 3 O.As. as they were aggrieved that the Department had granted them the benefits of the G.R. dtd. 29/9/2003 w.e.f. 8/12/2009. The Tribunal relying on the judgments of the Aurangabad Bench of the Tribunal dtd. 20/6/2011, in a bunch of similar O.As. held that the applicants in these O.As. were entitled to the benefits of the scheme of higher pay scale w.e.f. 29/9/2003.

4. The applicant no. 5, Shri Gajanan Wasudeorao Sastikar, expired on 14/4/2015 and consequently his legal representative are brought on board. The applicants submit that they are working as Wireless Operators since 1986 and hence in terms of the G.R. dtd. 29/9/2003 they are entitled to the higher pay scale of Wireless Operator from the date of the G.R. and not from 18/3/2008 as stipulated in the impugned order dtd. 18/8/2008. They mainly rely on the orders of the Aurangabad and Nagpur Benches of this Tribunal, which we have already cited above.

5. R/1, Secretary, Department of Irrigation in his affidavit-in-reply submits that the decision to grant the benefits of the G.R. w.e.f. 18/3/2008 was in consultation with the Finance Department and it was also a conscious policy decision taken in respect of 261 CRTE employees of the Water Resources Department. In conclusion he submits that if the prayer of the present applicants is allowed, it will cause heavy burden on the public exchequer.

6. We find that it is beyond any dispute that all the applicants in the O.A. fulfill the eligibility conditions of the G.R. dtd. 29/9/2003 and the circular dtd. 18/3/2008. The respondents have not denied that as Group-D employees they were actually working as Wireless Operators from 1986. The issue whether the benefits of the G.R. dtd. 29/9/2003 applied from the date of the G.R. and not from any latter date is no longer *res integra*, <sup>a</sup>As can be seen from the orders of the Aurangabad and Nagpur Benches of the Tribunal cited above.

<sup>any</sup> The applicants are clearly entitled to receive the benefits of the higher pay scale of Wireless Operator as per the G.R. dtd.

29/9/2003 from the date of the G.R. and not from 18/3/2008 as stipulated in the Govt. circular dtd. 11/7/2008 and the impugned order dtd. 18/8/2008. Hence the O.A. has merit and the same stands disposed of in terms of the following directions :-

- a) The O.A. is partly allowed.
- b) It is held that the applicants are entitled to the benefits of the scheme of "Post as per Work and Pay as per Post" in terms of the G.R. dtd. 29/9/2003 from the date of G.R.
- c) The applicants will be entitled to receive the arrears in respect of the pay scale of Wireless Operator from 29/9/2003.
- d) The respondents will issue necessary orders in this regard within 6 weeks from the date of receipt of this order.
- e) No order as to costs.

Sd/-

( B. Majumdar )  
Vice-Chairman.

Skt.