

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 176/2010 with C.A.114/2017 (S.B.)**

Shri Puranlal S/o Buddhusingh Pande, Aged about 43 Yrs.,
Occupation – Service, R/o Rural Hospital,
Goregaon, Dist. Gondia.

Applicants.

Versus

- 1) State of Maharashtra,
Deptt. of Health, Mantralaya,
Mumbai through its Secretary.
- 2) The Director,
Directorate of Health Services, Mumbai.
- 3) The Deputy Director,
Health Services, Nagpur Circle, Nagpur.
- 4) The Civil Surgeon,
K.T.S. General Hospital, Gondia.

Respondents

Shri M.B.Agasti, Id. Advocate for the applicant.

Shri S.A.Sainis, Id. P.O. for the respondents.

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

JUDGMENT

(Delivered on this 09th day of Nov., 2017)

Heard Shri M.B.Agasti, learned counsel for the applicant and

Shri S.A.Sainis, learned P.O. for the Respondents.

2. In the O.A. the applicant has claimed directions to the Respondents to fix his wages in the pay band carrying pay-scale of Rs.9,300-34,800/- and to provide the grade pay of Rs. 4,300/- at the initial stage per month. He is also claiming directions for arrears arising out of re-fixation of his pay scale. The C.A. is for permission to file documents. For the reasons stated in the application, the C.A.114/2017 is allowed.

3. The applicant was appointed as Ophthalmic Officer, Class-3, vide order dated 14/02/1994 and was posted at Rural Hospital Bhamragarh, Dist. Gadchiroli. One Shri R.M.Tichkule was also appointed on the same post.

4. On 22/04/2009, the State of Maharashtra had issued a notification under Article 309 of the Constitution of India. These rule are called "Maharashtra Civil Services (Revised pay) Rules, 2009". It has come into force with effect from 01/01/2006.

5. The applicant and Shri Tichkule were drawing salary in the scale of 5,500-7,000/-. By virtue of notification dated 22/04/2009 the pay-scale of Shri Tichkule was fixed in the pay-scale of Rs. 9,300-34,800/- with grade pay of Rs.4,300/-. The said pay should have been fixed in respect of the applicant, but it was not done.

6. The applicant has filed the representation on 30/01/2010 and requested that his pay be revised in the pay-scale of Rs.9,300-

34,800/- with grade pay of Rs.4,300/- as was granted to Shri Tichkule. However, his request was not considered and, therefore, this O.A.

7. The Respondent no. 2 and 3 have filed reply affidavit and submitted that the pay of Shri Tichkule was wrongly calculated and merely because wrong pay was granted to Shri Tichkule, the applicant cannot claim parity in the pay-scale. It is stated that the old pay prior to this Pay Commission for the post of Ophthalmic Assistant cadre was Rs.4,500-7,000/- and the revised pay scale under this Pay Commission for the said post is Rs. 5,200-20,200/- plus grade pay of Rs. 2,800/-. The employee will be entitled to the additional grade pay of Rs.300/- and, therefore, the total grade pay is Rs.3,100/- and the same has been given to the applicant.

8. The Respondent no. 4 has filed separate reply affidavit and justified the pay-scale of the applicant in the pay band of Rs.5,200-20,200 plus grade pay of Rs.2,800/-.

9. The Id. counsel for the applicant invited my attention to the pay-scale granted to Shri Tichkule and submitted that Shri Tichkule was also holding the same post as that of the applicant and has been granted pay-scale properly. However, the applicant has been denied the said pay-scale. The Id. P.O. has invited my attention to one order dated 01/03/2013, from which it seems that the Respondent authorities have rectified the mistake of granting higher pay-scale wrongly to Shri

Tichkule. Vide this communication, it is stated that the recovery has been ordered from Shri Tichkule since he was wrongly paid the pay-scale of Rs.9,300-34,800/- with grade pay of Rs.4,300/-. The said amount is being recovered in montly instalment and from the said communication it seems that Shri Tichkule was paid an amount of Rs.1,83,930/- in excess due to wrong fixation. Thus in any case, the applicant cannot claim particular pay-scale merely because it was paid to Shri Tichkule. If the pay-scale was wrongly fixed in respect of Shri Tichkule, the Respondents cannot be directed to repeat the same mistake by granting such pay scale to the applicant. The applicant must demonstrate as to how he is entitled to particular pay-scale as per this Pay fixation.

10. The Respondents have placed on record the "Maharashtra Civil Services (Revised pay) Rules, 2009" alongwith the Annexures. The post of Ophthalmic Assistant is mentioned at Annexure-A-6 in respect of Public Health Department and as per the said chart the pay-scale for the post of Ophthalmic Assistant in the Fifth Pay Commission was Rs.4,500-7,000/- and as per revised pay structure with the said post, the pay band is given in this pay commission as Rs.5,200-20,200/- plus grade pay of Rs.2,800/- and the said pay scale has been granted to the applicant. The applicant could not place on record any documentary evidence to show that he was entitled to a revised pay-scale of Rs.9,300-34,800/- plus grade pay of Rs.4,300/-.

11. The Id. counsel for the applicant submits that entry has been taken in the service book of the applicant, which shows that he is entitled to the revised pay scale in the 6th Pay Commission at Rs. 9,300-34,800/- plus grade pay of Rs.4,300/-. Even for argument sake, it is accepted that such entry has been made in the service book, that itself will not entitle the applicant to claim that pay scale. The applicant will be entitled to the revised pay-scale as per this Pay Commission only as per the "Maharashtra Civil Services (Revised pay) Rules, 2009" and as per those rules the revised pay-scale for the post of Ophthalmic Assistant is Rs.5,200-20,200 with grade pay of Rs.2,800/- and the same has been paid to the applicant. I, therefore, do not find any merits in the O.A., hence the following order:-

ORDER

The O.A. stands dismissed, with no order as to costs.

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

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