

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 222/2017 (S.B.)

Sunil Vitthalrao Kumbhare,
Aged about 48 years, Occ. Service,
R/o 8th Mail, Ramji Ambedkar Nagar, Dawlameti,
Amravati Road, Nagpur.

Applicant.

Versus

- 1) State of Maharashtra,
through Secretary,
Home Department, Mantralaya,
Mumbai-32.
- 2) Superintendent of Police,
Dist. Gadchiroli, Complex Premises,
Chandrapur Road, Gadchiroli.
- 3) The Director General of Police,
Maharashtra State, Shahid Bhagatsing Marg,
Mumbai-1.

Respondents.

Shri D.S. Sawarkar, Advocate for the applicant.

Shri V.A. Kulkarni, P.O. for the respondents.

**Coram :- Hon'ble Shri Anand Karanjkar,
Member (J).**

Date of Reserving for Judgment : 30th July, 2019.

Date of Pronouncement of Judgment : 5th September, 2019.

JUDGMENT

(Delivered on this 5th day of September,2019)

Heard Shri D.S. Sawarkar, learned counsel for the applicant and Shri V.A. Kulkarni, learned P.O. for the respondents.

2. This application is filed to recover the arrears of the salary on account of wrong fixation of pay, during the period from 10/1/2009 to 7/6/2013.

3. The applicant was ASI in the Wireless Police Department. The applicant was promoted as PSI, Wireless and he was transferred from the office of Police Commissioner, Nagpur to the office of Police Superintendent, Gadchiroli. In pursuance of this order, the applicant resumed duty on 10/1/2009 in the office of Superintendent of Police, Gadchiroli. Thereafter the applicant, the Superintendent of Police, Gadchiroli fixed the pay of the applicant in the cadre of PSI and as the applicant was appointed in Naxalite area, therefore, his salary was fixed in the pay scale which was admissible to API. It is contention of the applicant that in the wireless department the post of API was abolished long back, therefore, he was entitled for the pay admissible to the post of PI. It is grievance of the applicant that as per the G.R. dated 6/8/2002 the applicant was entitled to the salary admissible to the next promotional post and as this benefit was not given to him, therefore, he made representation, but it was in vain.

4. It is case of the applicant that one Circular was issued by the Director General of Police on 15/4/202 and decision was taken to

abolish the posts of API which were on the establishment of State Reserve Police Force, Wireless & Communication Department, Motor Transport Department and Reserve Police Department. It is submission of the applicant that as the post of API was abolished, therefore, the applicant was entitled for the salary admissible to the next higher post of PI and as representation of the applicant was not considered, therefore, he approached to this Tribunal.

5. The respondent nos. 2&3 have resisted the claim that there is no dispute about the fact that the applicant was serving as API in Wireless Department and he was promoted as PSI, Wireless (Traffic) Department. The respondents admitted that the applicant was transferred after his promotion to the office of Superintendent of Police, Gadchiroli as PSI Wireless (Traffic) Department and the applicant worked there from 10/1/2009 to 7/6/2013.

6. It is contention of the respondents that as per the G.R. dated 6/8/2002 the persons working in Naxalite area were entitled for one step hike in salary as the intensive and not in the tank and therefore there is no substance in the application and it is liable to be dismissed.

7. It is not in disputed that after issuing the Circular dated 15/4/2002 the posts of API on the establishment of Wireless and Transport Police Department were lapsed. After reading Clause-7 of

the G.R. dated 6/8/2002 there appears a substance in the contention.

The Clause-7 in the G.R. is as under –

~¼½I oZinkl kH, dLrj inklurh&

vkfnokl h o u{k yxLr {k=kr dke dj.; kl kH i k&l kgu Eg.kuu xV ^v* rs^M* e/khy I oZ
in/kkj dkaul I af/kr deþkjhe vf/kdkjh R; k {k=kr dk; j r vl s; ; rP; k dkGkr R; kauh /kkj .k dsyY; k
eG inkp; k uthdph ofj "B@ inklurhph oruJskh o R; k vuukakusoruufuf' prhpk ykHk ns; kr ; kok-
T; k deþkjhe vf/kdk&; kaul I okar r vk'okf r i xrh ; kst upk ykHk ns; kr vkysyk vkgs R; kaul
vk.k[kh ofj "B inkp; k oruJskhpk ykHk vuks ul sy- gh , dLrj inklurhph ; kst uk fnukad 1
tuy§2002 i kl u veykr ; by vkf.k rh I af/kr deþkjhe vf/kdkjh] vkfnokl h o u{k yxLr {k=kr
dk; j r vl s; ; rPk vuks jkghy- R; k {k=kr u deþkjhe vf/kdkjh fcxj vkfnokjh {k=kr i jr vky; koj
rksR; kP; k eGP; k I oxk rhy oruJskhr inhlP; k orukP; k vuukakusoru ?kby- **

8. After reading this Clause-7 which is reproduced above, it is clear that the Government servants posted in the Tribal/ Naxalite area were entitled for the salary admissible to the higher / promotional post. In view of this clear language of the G.R., I do not see any merit in the contention of the respondents that the applicant was entitled for one step hike in salary as intensive. It is important to note that the applicant never claimed the post of PI, but he was claiming the salary of the PI in terms of Clause-7 in the G.R. dated 6/8/2002.

9. There is no dispute about the fact that the post of API in the wireless department was abolished long back as per circular issued in year 2002. In view of this discussion, I accept that the applicant is entitled for the relief claimed in the application. Hence, the O.A. is allowed. I, therefore, declare that the applicant

was entitled to draw salary admissible to the post of PI from 10/1/2009 to 7/6/2013. The respondents are directed to calculate the arrears of the salary admissible to the post of PI from 10/1/2009 till 7/6/2013 and pay the arrears within a period of three months from the date of this order. On failure the respondents to comply this order within three months, the respondents shall be liable to pay interest @ 6% p.a. from the date of order till realization. No order as to costs.

Dated :- 05/09/2019.

(A.D. Karanjkar)
Member (J).

*dnk..

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 05/09/2019.

and pronounced on

Uploaded on : 09/09/2019.