

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR.

ORIGINAL APPLICATION NO.252/2013.

Dr. Madhur M. Gupta,
Aged about 40 years,
Occ-Service, Ex. Associate Professor of Biochemistry,
R/o 202, Akash Apartment, 21-B,
Jai Bai Choudhary Marg,
New Colony, Nagpur.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Public Health Department,
Mantralaya, Mumbai-32.
2. The Director of Medical Education,
(M.S.), Fort, Mumbai.
3. The Dean,
Govt. Medical College, Latur.

Respondents.

Shri G.K. Bhusari, the Ld. Advocate for the applicant.

Shri A.P. Potnis, Ld. P.O. for the respondents.

**Coram:- B. Majumdar, Vice-Chairman and
Justice M.N. Gilani, Member (J).**

Dated:- 23rd July, 2014.

Order

Per: Member (J)

A short question that arises in this O.A. is whether the applicant is entitled to the salary as per the recommendations of the 6th Pay Commission for the post on which she served as Associate Professor w.e.f. 19.11.2004 to 4.2.2009, on *ad hoc* basis.

2. On 5.2.2001, the applicant was appointed as a Lecturer, Indira Gandhi Medical College, Nagpur in the pay scale of 8000-275-13500. On 19.11.2004, she was given *ad hoc* promotion to the post of Associate Professor in the Department of Biochemistry. She resigned from the said post w.e.f. 4.2.2009.

Till the time she resigned, the recommendations of the 6th Pay Commission were not implemented. Subsequently, w.e.f. 1.1.2006, same were applied. It is the case of the applicant that she is entitled to receive salary admissible to the the post of Associate Professor as per the recommendations of the 6th Pay Commission. This has been denied to her and, therefore, this O.A.

3. The respondents denied the claim of the applicant. It is on the ground that the promotion of the applicant to the post of Associate Professor in the Department of Biochemistry was purely on *ad hoc* basis. It is further stated that since she was holding the post of Associate Professor on *ad hoc* basis, the resignation tendered by her was treated as resignation from the post of Lecturer, i.e. her original post. The G.R. dated 10.11.2009 is relied upon to point out that the benefit of 6th Pay Commission cannot be extended to those who were holding the post on *ad hoc* basis.

4. In para 4.7 (E), it has been specifically pleaded that when the applicant was given promotion on *ad hoc* basis, she started receiving salary admissible to the post of Associate Professor in the old pay scale. Annexure A-1 is the experience certificate signed by the respondent No.3. It reveals that the applicant while serving on the post of Lecturer was placed in the pay scale of 8000-275-13500. On her promotion, she was placed in the scale of 12000-420-18300. It is, therefore, clear that owing to the promotion of the applicant to the post of Associate Professor, she started getting the pay admissible to the said post and which was prevailing as per the recommendations of earlier Pay Commission i.e. 5th Pay Commission. If the scales were revised w.e.f. 1.1.2006, naturally she is entitled to receive revised salary corresponding to old pay scale i.e. 12000-420-18300. The logic behind rejection of the claim of the applicant for difference in

salary is against the principles of natural justice. Let us assume the case where after implementation of the recommendations of the 6th Pay Commission, any person holding the post of Lecturer is promoted to the post of Associate Professor on *ad hoc* basis, then what salary he would be entitled to ? Certainly, he will claim and will also be paid the salary fixed for the post of Associate Professor. What follows is that, she becomes entitled to the salary admissible to the post on which she actually worked. When there was no difficulty in placing the applicant in scale of 12000-420-18300, which was admissible to the post of Associate Professor as per the recommendations of the earlier Pay Commission, how and by what reasoning, she can be denied the rise in the salary of the said post in view of the recommendations of the 6th Pay Commission.

5. Reliance was placed upon a decision of the larger bench of this Tribunal rendered in O.A. No.240/2009 and others decided on 30.3.2010. In that, following points were answered:

- (i) *Ad-hoc* employees cannot seek condonation of technical break and release of annual increments.
- (ii) *Ad-hoc* employees are not entitled to claim service benefits such as leave, annual increments, seniority and pension by including the *ad hoc* service rendered by them prior to absorption.
- (iii) Challenge to validity of G.R. dated 2.2.2009 is dismissed.

6. From the above, it appears that controversy involved in this O.A. was not covered by the decision cited (*supra*). We have perused G.R. dated 10.11.2009. The scheme named as "Revision of Pay Scales of Medical Education and Drugs Department-Teachers in Government Medical/ Dental/ Ayurvedic Colleges" is made applicable to all categories of full time teachers and librarians in the Government Medical/ Dental/ Ayurvedic Colleges in the State.

Admittedly, the applicant was serving on full time basis holding the post of Associate Professor. The scheme nowhere excludes those who were promoted from the post of post of Lecturer to the post of Associate Professor on *ad hoc* basis. Under this scheme, the change in the designation was proposed. The Lecturers/Teachers came to be designated as an Assistant Professor. The next promotional post is that of Associate Professor. Further, Assistant Professor completing three years of teaching was held eligible to be designated as Associate Professor. Here, issue involved is limited. The applicant worked in the capacity of Associate Professor in the unrevised pay scale of 12000-325-18300. This scale has been revised to 37400-67000 with retrospective effect i.e. from 1.1.2006. In that view of the matter, the stand taken by the respondents that the applicant is not entitled for the revised scale admissible to the post of Associate Professor, although she worked in the said capacity, appears illogical, unjust and *de hors* the rules. In that view of the matter, the O.A. succeeds in the following terms:

- (i) The respondents are directed to pay arrears which is to be worked out by applying the recommendations of 6th Pay Commission w.e.f. 1.1.2006 to 4.2.2009.
- (ii) The process of payment of arrears as ordered above, shall be completed as expeditiously as possible and in any event, within six months from the date of receipt of this order.
- (iii) The applicant shall also be entitled to cost of Rs. 5,000/-.

(Justice M.N.Gilani)
Member (J)

(B. Majumdar)
Vice-Chairman

