

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 363 of 2019 (S.B.)

Permanand S/o Dharamaji Nikure,
aged 57 years, Occ. Govt. Servant,
R/o Near Chemist Bhawan, Charmoshi Road,
Gadchiorli.

Applicant.

Versus

- 1) The Secretary, Department of Finance,
State of Maharashtra, Mantralya, Mumbai-32.
- 2) The Director, Local Fund Account Audit,
Kokan Bhawan, Mantralaya, Mumbai-32.
- 3) The Joint Director,
Local Fund Account Audit,
Nagpur Division, near Treasury Office,
Civil Lines, Nagpur-01.
- 4) The Assistant Director,
Local Fund Account Audit,
Building of Prashant Khewale,
Gadchiroli-442 605.
- 5) The Accounts General-II,
Civil Lines, Nagpur- 01.

Respondents.

Shri S.M. Khan, Advocate for the applicant.
Shri A.M. Khadatkhar, learned P.O. for the respondents.

Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.

Date of Reserving for Judgment : 14th December,2022.

Date of Pronouncement of Judgment : 3rd January, 2023.

JUDGMENT

(Delivered on this 3rd day of January,2023)

Heard Shri S.M. Khan, learned counsel for the applicant and Shri A.M. Khadatkar, learned P.O. for the respondents.

2. The applicant has approached to this Tribunal challenging the order dated 25/01/2019 issued by the Assistant Director of Local Fund Audit, Gadchiroli in respect of recovery from monthly salary and retiral benefits at the verge of retirement.

3. The case of the applicant in short is as under –

The applicant has joined as Adult Education Supervisor on 20/05/1985 and presently working as a Local Fund Accounts Auditor, Class-III employee. He is due to retire on 31/05/2019. The Government of Maharashtra has released the Ordinance dated 20/02/1980. Schedule 2(b) of which has consist a list of 16 posts, the official working on these posts were required to appear and clear the departmental examination in case of up gradation and promotional benefits. The post of Adult Education Supervisor has not been included in the list of 16 posts. Hence, the applicant was exempted to appear and clear the departmental examination. The applicant was permitted to appear and clear the Bachelor of Education (B.Ed.) examination. He obtained the degree of B.Ed. in November,1999.

4. The Deputy Director of Education, Nagpur has issued the letter dated 23/04/2009 of issuing exemption certificate to Adult Education Supervisors from appearing and passing the departmental examination. The Government of Maharashtra has taken an administrative decision for merging the posts which falls under the School Education Department with other departments. The Adult Education Supervisor merged with the Local Fund Accounts Auditor with same scale of pay and salary. The pay scale of the applicant of Rs.4000-6000 was protected. The applicant has passed the B.Ed. examination in the month of November, 1999, therefore, he is qualified and legally entitled to the benefit of pay scale of higher grade. The Department of School Education by order dated 05/11/2008 has implemented the revised pay scale for employees who had obtained B.Ed. degree and were granted new pay scale of Rs.6000-175-10000 w.e.f. 01/03/2000 in place of Rs.4000-100-6000.

5. The Assistant Director, Bhandara has issued order dated 23/10/2012 of further revised pay scale and added the benefit of one step promotion to the applicant w.e.f. 01/07/2002. After 11 years, the respondent has issued recovery order dated 25/01/2019 of Rs.9,11,430/- in respect of the benefit wrongly given to the applicant w.e.f. September,2008. It is submitted that the applicant was already

exempted from passing the departmental examination. Hence, the recovery order is liable to be quashed and set aside.

6. The O.A. is strongly opposed by the respondents. It is submitted that the applicant had not passed the departmental examination and therefore time bound promotion was wrongly given. Hence, the recovery is proper and therefore the O.A. is liable to be dismissed.

7. Heard Shri S.M. Khan, learned counsel for the applicant. He has pointed out the documents filed on record.

8. Heard the P.O. for respondents Shri A.M. Khadatkar. He has submitted that the applicant had not passed the departmental examination / B.Ed. examination, therefore, time bound promotion was wrongly given. Hence, the recovery is proper.

9. The documents filed on record clearly show that the applicant was exempted from passing the departmental examination. The copy of Service Book shows that the applicant was exempted from passing the departmental examination. The pay of the applicant was protected as per the letter dated 03/07/2010 issued by the Joint Director of Education / Government of Maharashtra. The Para-1&2 of the letter reads as under –

“विषयांकित प्रकरणी नमूद करण्यात येते की, अतिरिक्त ठरलेल्या ज्या पर्यवेक्षकांनी बी.एड./बी.पी. एड. ही प्रशिक्षणिक अर्हता धारण केलेली आहे व ज्या पर्यवेक्षकाची प्रौढ शिक्षण विभागात पर्यवेक्षक

म्हणून १२ वर्षांची सलग नियमित सेवा पूर्ण झालेली आहे, अशा ज्या पर्यवेक्षकांना सहाय्यक प्रकल्प अधिकारी पदाची वेतनश्रेणी अनुज्ञेय आहे, त्या अतिरिक्त ठरलेल्या पर्यवेक्षकांना शासन निर्णय शालेय शिक्षण व क्रिडा विभाग क्र.शिसंमा -१०००/(१०३/२०००)/प्रशा-५, दि.५/११/२००८ नुसार अनुज्ञेय असणारी रु.६०००-१०००० ही वेतनश्रेणी दि.१/३/२००० पासून मंजूर करून त्यानुसार वेतननिश्चिती करून, त्या पुढील कालावधीसाठी काल्पनिक वेतनवाढी जमेस धरून दि.१/९/२००८ पासून वेतनाचा फायदा द्यावा. तथापि, दि.१/३/२००० पासून संबंधित अतिरिक्त कर्मचा-यांचे समावेशन होईपर्यंतच्या कालावधीची थकबाकीची रक्कम अनुज्ञेय राहणार नाही, या अटीच्या अधिन राहून मंजूर करण्यात येत आहे.

२. ज्या अतिरिक्त पर्यवेक्षकांचे विभागीय आयुक्तांमार्फत अन्य कार्यालयात समावेशन झालेले आहे. त्यापैकी ज्या अतिरिक्त पर्यवेक्षकांनी बी.एड./बी.पी.एड. ही प्रशैक्षणिक अर्हता धारण केली आहे. अशा प्रशैक्षणिक अर्हता धारण केलेल्या अतिरिक्त पर्यवेक्षकांपैकी ज्या पर्यवेक्षकांनी दि. १/३/२००० पूर्वी १२ वर्षांची पर्यवेक्षक पदावर नियमित सेवा पूर्ण केली आहे. अशा पर्यवेक्षकांना देखिल त्यांच्या समावेशनाचा दिनांक विचारात घेवून त्यानुसार वेतननिश्चिती करावी. तथापि, दि. १/३/२००० पासून त्यांच्या समावेशनाच्या दिनांकापर्यंत काल्पनिकरित्या वेतनवाढी जमेस धरल्यात, मात्र कोणतीही थकबाकी अनुज्ञेय राहणार नाही, या अटीच्या अधिन राहून वेतननिश्चिती करावी.’’

10. The applicant was absorbed on the post of Supervisor and his pay of Rs.4000-100-6000 was protected.

11. It appears from the submission of respondents that the applicant had not passed the departmental examination, therefore, pay scale of time bound promotion was wrongly given. But, it appears from the service book that the applicant was exempted from passing the departmental examination.

12. The applicant was already exempted from passing the departmental examination, therefore, granting promotional / time bound promotion was legal and correct. Hence, the impugned recovery order is liable to be quashed and set aside. Therefore, following order is passed –

ORDER

(i) The O.A. is allowed.

(ii) The impugned orders dated 25/01/2019 and 20/9/2019 issued by the respondents are hereby quashed and set aside.

(iii) No order as to costs.

Dated :- 03/01/2023.

dnk.

(Justice M.G. Giratkar)
Vice Chairman.

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 Vice Chairman.

Judgment signed on : 03/01/2023.