

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 532 of 2017

- 1) Sharif Rehman Pathan,
Aged about 62 years, Occ. Retired Govt. Servant,
R/o At Post Junona, Tah. Selu, District Wardha.
- 2) Harichandra Nathuji Karamore,
Aged about 60 years, R/o at Post Nalwadi,
Tq. and District Wardha.
- 3) Diwakar Sampat Gaikwad,
Aged about 61 years, R/o Kelzar, Tah. Selu,
District Wardha.
- 4) Dashrath Nasru Budhbawsare,
Aged about 62 years, R/o At Bor Dharan,
Post Bori, Tah. Selu, District Wardha.
- 5) Sheshrao Bhaduji Chachane,
Aged about 60 years, R/o Kelzar, Tah. Selu,
District Wardha.
- 6) Ramesh Laxman Nagdevate,
Aged about 63 years, R/o Shiv nagar, at post Hamdapur,
Tah. Selu, District Wardha.
- 7) Krushna Zingu Bende,
Aged about 63 years, R/o at Post Zadshi,
Tah. Selu, District Wardha.
- 8) Mahadevpuri Somwarpuri Gosawi,
Aged about 65 years, R/o Doctor Colony,
Sewagram Road, Warud, Tah. and District Wardha.
- 9) Vasanta Maroti Punje,
Aged 62 years, R/o Post Hamdapur,
Tah. Selu, District Wardha.
- 10) Jago Bhavraoji Shelke,
Aged 63 years, R/o at post Zadshi, Tah. Selu,
District Wardha.

- 11) Gajanan Tushiram Lakhe,
Aged 65 years, R/o Kelzar, Tah. Selu,
District Wardha.
- 12) Vasanta Nathuji Dabhekar,
Aged 61 years, R/o Kelzar, Tah. Selu,
District Wardha.
- 13) Awadhut Vithobaji Kothale,
Aged 62 years, R/o at post Zadshi,
Tq. Selu, District Wardha.
- 14) Vasant Rambhauji Navghare,
Aged 61 years, R/o at Gaimukh, Post Khapri,
Tah. Selu, District Wardha.
- 15) Baba Mahadev Kumbhare,
Aged 62 years, R/o at Mahakali, Post Khadangna,
Tah. Arvi, District Wardha.
- 16) Purushottam Gulabrao Kangali,
Aged 62 years, R/o at Mahakali, Post Khadangna,
Tah. Arvi, District Wardha.
- 17) Ganesh Ramkrushna Patmase,
Aged 60 years, R/o at Mahakali, Post Khadangna,
Tah. Arvi, District Wardha.
- 18) Arun Mahadev Nikesar,
Aged 62 years, R/o Gajanan Nagar, Wardha.
- 19) Ashok Champat Deshmukh,
Aged 61 years, r/o Ogle Layout, Sewagaram,
Wardha.
- 20) Nago Jago Kalsarpe,
Aged 60 years, R/o Kelzar, Tah. Selu,
District Wardha.
- 21) Baban Nathuji Barahathe,
Aged 62 years, R/o Devtale Layout,
Selu, District Wardha.

- 22) Vinod Pandurang Thote,
Aged 56 years, r/o at Irrigation Department, Wardha.
- 23) Virendra Trimbak Barhate,
Aged 57 years, r/o at Irrigation department, Wardha.
- 24) Baban Suryabhan Vaidya,
Aged about 60 years, Occ. Retired Govt. Servant,
R/o Sant Tukdoji Ward, Hinganghat District Wardha.
- 25) Ramesh Wamanrao Dhope,
Aged about 62 years, r/o Sant Tukdoji Ward,
Hinganghat, District Wardha.
- 26) Pundlik Ganpatrao Dukare,
Aged about 59 years, r/o Sant Tukdoji Ward,
Hinganghat, District Wardha.
- 27) Madhukar Pandurangji Murme,
Aged about 63 years, r/o 48, Vidya Nagar, Wathoda,
Nagpur.

Applicants.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Department of Irrigation,
Mantralaya, Mumbai.
- 2) Superintending Engineer,
Chandrapur Irrigation Circle,
Chandrapur.
- 3) Executive Engineer,
Wardha Irrigation Division,
Wardha.
- 4) Superintending Engineer and Administrator
Beneficiary Area Development Tribunal, Ajani,
Nagpur.

Respondents

**S/Shri R.V.Shiralkar, A. Darekar, Advocates for the applicants.
Shri A.M. Khadatkar, Id. P.O. for the respondent nos.1,2&4.
S/Shri V.G. Palshikar, C.V. Mahurkar, Id. Advocates for
respondent no.3.**

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

JUDGEMENT

(Delivered on this 16th day of October,2017)

C.A.No. 346/2017 -

Heard Shri R.V. Shiralkar, Id. Counsel for the applicants,
Shri A.M. Khadatkar, Id. P.O. for the respondent nos.1,2 & 4 and Shri
C.V. Mahurkar, Id. Counsel for respondent no.3.

2. This application no.532/2017 has been filed for claiming a
declaration to the effect that the action of the respondents in making
applicable benefits of the G.R. dated 29/9/2003 w.e.f. 5/4/2008 to the
applicants is illegal, arbitrary and contrary to the orders dated
26/6/2011, 4/2/2014 passed by this Tribunal in O.A. Nos. 64,65,66,
194/2011 and 818/2012 respectively. The application is filed along
with application for condonation of delay.

3. For the reasons stated in the application for condonation
of delay i.e. C.A. No. 346/2017 and considering the fact that the
application has been heard on merits as agreed by the parties, the

application for condonation of delay is allowed and the matter is heard on merits.

O.A.No. 532 of 2017 -

The applicants are working in Class-IV post in Irrigation Department and they are presently working on the post of Wireless Machine Operators under jurisdiction of respondent no.3.

2. On 29/9/2003 the respondent no.1 has issued a G.R. and resolved that those employees of Irrigation Department, Public Works Department so also employees of Rural Development and Water Conservation Department, who were asked to work on other posts than their substantive posts, should be given the pay of the posts on which they were asked to work. The respondent no.1 also identified the posts which are mentioned in the tabular form in the resolution. For application of the G.R. the employees were to fulfil condition nos.1 (A), (B), (C) & (D), 2&3 of the relevant G.R.

3. In respect of applicants the respondent no.2 has issued an order on 5/4/2008 and granted benefit of the G.R. dated 29/9/2003 but w.e.f. 8/12/2009. According to the applicants, they are entitled to claim the benefits of the G.R. dated 29/9/2003 from the date of G.R. and not from 8/12/2009.

4. According to the applicants, the similarly situated employees have filed O.A.Nos. 64,65,66 & 194/2011 before the Hon'ble Tribunal of this Bench at Aurangabad and vide order dated 20/6/2011, the Tribunal was pleased to grant benefits to the similarly situated employees like applicants w.e.f. 29/9/2003 and hence this application.

5. In the reply-affidavit filed by respondent nos.2&3 the respondents admitted everything. However, submitted that the applicants are entitled to the higher pay scale not from the date of G.R. dated 29/9/2003 but from 5/4/2008. Perusal of the entire reply-affidavit however nowhere justifies as to why the G.R. has not been made applicable from the date of G.R. i.e. dated 29/9/2003. It is stated that in the letter dated 18/3/2008 the respondent no.1 clarified that the applicant shall be entitled to get the benefits from the date of letter i.e. 18/3/2008 and not from 29/9/2003 and therefore the benefit is granted. The said letter is placed on record at R-3-1. In the said letter it has been mentioned that the applicants are entitled to get benefit of G.R. dated 29/9/2003 but such benefit shall be given from the date of letter i.e. 18/3/2008.

6. The learned counsel for the applicant has placed reliance on the Judgment delivered by this Tribunal in O.A.Nos. 64,65,66 &

194/2011 delivered on 20/6/2011. In the said Judgment it has been observed in para-7&8 as under :-

“(7) We clarify that payments are allowed in favour of all the applicants except applicant no.18 Shri Vasant Tukaram Rathod- in original application no.65/2011. However, we clarify that in case respondents have held Shri Vasant Tukaram Ratod to be entitled to benefits of G.R. dated 29/9/2003 then he shall be conferred the benefit of pay fixation as on 29/9/2003 and payment of arrears from then onwards.

(8) For the guidance of respondents we may say that, even in future, if the respondents grant benefit of scheme to any of the employees, whose cases are not processed earlier, their salaries should be fixed as on 29/9/2003 and they should be allowed arrears from 29/9/2003 onwards and such employees need not be compelled to approach this Tribunal, even if as on today they are not applicants before us. This is because it is informed by learned counsel for the applicants that, order of this Tribunal in original application no.818/2009 was challenged by the respondents before Hon’ble Bomba High Court, Bench at Aurangabad by writ petition no. 10069/2010 and the said writ petition was dismissed on 25/10/2010 by upholding our order. Copy of order of Hon’ble High Court is at P.B. pages 60 and 61 of O.A.No.64/2011”.

7. The perusal of the G.R. dated 29/9/2003 which is placed on record as Annex-A-1 clearly shows that the said G.R. has been made applicable from the date of G.R. i.e. 29/9/2003 and that the

employees will not be entitled to get arrears. All these aspects have been well discussed in the O.A. Nos. 64, 65, 66 and 194 of 2011. This view is further reaffirmed by this Tribunal in O.A. 818 of 2012 in the case of **Dilip Narayan Sontakke & Ors. Versus State of Maharashtra & Ors.**, on 4/2/2014. In view thereof, the following order:-

8. The applicants are held entitled to get benefit of G.R. dated 29/9/2003 w.e.f. date of said G.R. Their salaries in the higher pay scale shall be fixed as on 29/9/2003 and they shall be entitled to get that pay scale from 29/9/2003 as per the G.R.

ORDER

(i) The O.A. is, therefore, allowed in prayer clause 7 (A), (B) & (C). No order as to costs.

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

dnk.