

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 552 of 2018 (S.B.)

Ghanshyam Sheshrao Kapile,
Aged about 54 years,
Occ. Service as Telephone Attendant,
P.W.D., Yavatmal R/o Dattatray Nagar,
Yavatmal.

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary, Department of Public Works,
Mantralaya, Mumbai.
- 2) Chief Engineer, Public Works Department,
Amravati Regional Division, Amravati.
- 3) Superintending Engineer,
Public Works Circle,
Yavatmal.

Respondents.

Shri S.N. Gaikwad, Advocate for the applicant.
Shri V.A. Kulkarni, P.O. for respondents.

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Member (J).**

Dated :- 01/12/2021.

JUDGMENT

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

2. The applicant was working as a daily wager from 1/1/1985. On 1/1/1990 he was brought on CRTE. In the year 1998, the proposal was moved by the respondents regarding appointment of the applicant

of the post of Telephone Attendant. On 29/9/2003, the approval was granted to the said proposal. The applicant along with the other persons, were made permanent on the post of Telephone Attendant in the pay scale of Rs.3050-4590/-. The basic pay of the posts of Telephone Attendant and the Assistant Manager is different. When the applicant was confirmed on the post of Telephone Attendant, he was working as Assistant Manager in addition to Telephone Attendant. Till today for the best reasons known to the respondents, the applicant has not been given status as per the nature of the work and the pay scale as per the basic pay of the post of Assistant Manager (Telephone Attendant).

3. On 19/3/2018, the representation was made by the applicant to the respondent no.2. However, though the applicant is eligible for status as per the nature of work and pay scale as per the designation, till today the respondents have not granted the status as per the nature of work and pay scale as per the designation. Therefore, the applicant prayed for direction to the respondents to pay the remuneration as per the nature of work of the post of Assistant Manager.

4. The application is strongly opposed by the respondents. From the reply, it appears that the respondents came with a case that one Mr. Gulab Pyarelal Chavan approached to the Industrial Court.

The Industrial Court granted relief to Mr. Gulab Pyarelal Chavan directing the respondents to give him pay scale as per the work. Therefore, he is posted and given the salary of the post of Assistant Manager.

5. Heard learned counsel for the applicant. He has pointed out documents filed on record. He has produced one letter obtained under the RTI dated 18/6/2018. It is marked Exh-X for identification. He has pointed out the Judgment in Writ Petition No.4907/2017 of Hon'ble Bombay High Court, Bench at Nagpur delivered on 19/1/2018.

6. The learned P.O. has submitted that there was no such post of Assistant Manager in existence, but it was created for the compliance of the order of the Hon'ble Bombay High Court, Bench at Nagpur maintaining the Judgment of the Industrial Court. Now there is no such post and therefore the applicant cannot be appointed to the post of Assistant Manager. He has submitted that the applicant is not qualified for the said post, therefore, he cannot be given benefit of Assistant Manager. Hence, the O.A. is liable to be dismissed.

7. During the course of argument, the learned counsel for the applicant pointed out the proposal moved by the Department to the Government for giving him benefit as per the nature of work to the applicant and other employees. In the proposal at Annex-A-2 (P-21) the applicant's name appears at Sr.No.1 and also at Annex-A-6

(P-38), one Gulab P. Chavan was working as Sweeper appears at Sr.no.1 at Annex-A-6 (P-35) was recommended for the pay scale of post of Assistant Manager as per the work done by him as per the Govt. G.R. dated 29/09/2003. As per the submission of the learned counsel for the applicant, the applicant is Graduate.

8. During the course of argument, the learned counsel pointed out the letter dated 27/7/2010 addressed to the Superintending Engineer, Yavatmal by the Chief Engineer, Amravati. From the reading of the letter, it appears that the Chief Engineer, Amravati informed to the Superintending Engineer, Yavatmal as to why the order to change the designation of the post of Telephone Attendant to the post of Assistant Manager was not done. From the letter, it appears that the representation of the applicant was considered by the Chief Engineer, Amravati. It is also mentioned in the letter that the proposal to give benefit of the post of Assistant Manager was also sanctioned on 18/2/2008. However, again the Superintending Engineer, Yavatmal was directed to submit his report as per the regulation / recruitment rules 13/5/1963. The proposal was moved by Superintending Engineer, Yavatmal. As per the letter dated 16/12/2010, the Chief Engineer, Amravati informed to the Superintending Engineer, Yavatmal that the proposal to give the benefit to the applicant to the post of Assistant Manager was

sanctioned on 18/2/2008 and therefore there is no need to again submit the fresh proposal to give benefit of the post of Assistant Manager to the applicant.

9. One of the employee who was situated like the applicant namely Gulab P. Chavan approached to the Industrial Court with a prayer for direction to the respondents / employer to give him the benefit of G.R. dated 29/9/2003 and pay the salary of the work done of the higher post. Shri Gulab P. Chavan was working as Sweeper. He was given benefit of the post of Assistant Manager, because, he was doing the said work. The respondents challenged the order of Industrial Court before the Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.4907/2017, delivered on 19/1/2018. The Hon'ble High Court dismissed the Writ Petition with compensatory cost of Rs.25,000/- which was to be paid to the employee and also directed *"to produce the receipt of it on record within three months. It was further directed that this amount of Rs.25,000/- which is spent for prosecuting this Writ Petition should be recovered from the Officer/ Officers who have recommended / proposed for filing of the Writ Petition. This exercise should be completed within three months"*.

10. It is clear from the observations of the Hon'ble Bombay High Court, Bench at Nagpur that without any merit, the Department

challenged the order of the Industrial Court and therefore, compensatory cost was awarded to the employee.

11. The applicant is situated like employee Shri Gulab P. Chavan. He was working as Telephone Attendant and discharging his duty as Assistant Manager. From the perusal of the letters regarding directions of the Chief Engineer to the Superintending Engineer dated 27/7/2010 and 16/12/2010 clearly show that the proposal was sanctioned long back on 18/2/2008 and therefore fresh sanction is not necessary. Therefore, it is for the respondents department i.e. the Superintending Engineer, Yavatmal (R/3) to comply the direction of the respondent nos.1&2. It is clear from the Judgment of Hon'ble Bombay High Court, Bench at Nagpur in the above cited decision that one Shri Gulab P. Chavan who was working as Sweeper and discharging his duty as Assistant Manager was given the benefit as per the G.R. 13/5/1963 and he is now getting the pay scale of the post of Assistant Manager. The respondents should have given the same benefit to applicant also, but they have not done so, therefore, the applicant was compelled to approach to this Tribunal.

12. As per the G.R. dated 18/2/2008 the employees who were working on temporary post was brought on CRTE as per the Kalelkar Award and who were discharging the duties of the higher post, were given the benefit of the higher post. There is no dispute that the

applicant was brought on CRTE and absorbed on the post of Telephone Attendant, but he is discharging his duty as Assistant Manger and therefore he is entitled for the pay scale of the post of Assistant Manager. In that view of the matter, the following order is passed –

ORDER

- (i) The O.A. is allowed.
- (ii) The respondents are directed to grant the status of the post of Assistant Manager as per the nature of the work and the pay scale as per the designation to the applicant.
- (iii) The respondents are directed to comply the order within a period of three months from the date of receipt of the order.
- (iv) No order as to costs.

Dated :- 01/12/2021.

(Justice M.G. Giratkar)
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 : 01/12/2021.

Uploaded on : 03/12/2021.