

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 67 of 2023 (S.B.)**

- 1] Nandkishor A. Gohane, aged major, occupation: retired,  
r/o of Raghuji Nagar, Nagpur.
- 2] Anil G. Pande, aged major, occupation: retired,  
r/o of Trimurti Nagar, Nagpur.
- 3] Sevakram R.Chavre, aged-major, occupation: retired,  
r/o of Indora, Nagpur.
- 4] Smt. Malti P. Kankar, aged major, occupation: retired,  
r/o of Friends Colony, Nagpur.5
- 5] Natthu R. Bhujade, aged major, occupation : retired,  
r/o Ambika Nagar, Nagpur.
- 6] Pravin G. Nerkar, aged major, occupation service,  
r/o Juna Subhedar, Nagpur.
- 7] Prakash N. Satdeve aged major, occupation : retired,  
r/o Rail Toli Gondia.
- 8] Vitthal N. Bhoyar aged major, occupation: retired,  
r/o Byepas, Umred, Nagpur.
- 9] Dnyaneshwar E. Kalbande aged major, occupation: retired  
r/o Sindhi Railway, Wardha.
- 10] Prabhudas N. Rangari aged major, occupation: retired,  
r/o Vanrai Nagar, Manewada, Nagpur.
- 11] Premdas R.Gajbhiye aged major, occupation: retired  
r/o Vanrai Nagar, Manewada, Nagpur.
- 12] Madhukar L. Thakreaged major, occupation: retired,  
r/o Pivli Nadi, Kamtee Road,
- 13] Suresh W. Mhatre, aged major, occupation: retired,  
r/o Jaitala, Nagpur.

- 14] Suresh K. Chourasiya aged major, occupation: retired,  
r/o Mohan Nagar, Nagpur
- 15] Pradip L. Tupkar, aged major, occupation: retired,  
r/o Mhalgi Nagar, Nagpur
- 16] Smt. Usha Ramesh L.R. of late shri. Ramesh M.Wankhede,  
aged major, occupation: household, r/o Jaitala, Nagpur.

**Applicants.**

**Versus**

- 1] The State of Maharashtra, through its Secretary,  
Department of Agriculture & Animal Husbandry, Dairy & Fishery,  
Hutatma Rajguru Chouk, Madam Cama Road,  
Mantralaya, Mumbai 400 032.
- 2] The Dairy Development Commissioner,  
Abdul Gaffar Khan Marg, Administrative Building,  
Worli Sea Face, Mumbai 400 018.
- 3] The Regional Dairy Development Officer, Telangkhedi Road,  
Civil Lines, Nagpur 440001.

**Respondents.**

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**S/Shri Bharat Kulkarni, Sunil Pande, Advs. for the applicants.**

**Shri V.A. Kulkarni, learned P.O. for respondents.**

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

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**Date of Reserving for Judgment : 15<sup>th</sup> February,2024.**

**Date of Pronouncement of Judgment : 6<sup>th</sup> March,2024.**

**JUDGMENT**

**(Delivered on this 6<sup>th</sup> day of March,2024)**

Heard Shri Bharat Kulkarni, learned counsel for the  
applicants and Shri V.A. Kulkarni, learned P.O. for respondents.

2. The case of the applicants in short is as under –

The applicants are the employees of respondents. They were initially working on the post of Clerk-Typist in Nagpur Region. All 15 applicants are retired except applicant no.6 (Pravin G. Nerkar). The applicants are getting less pay scale. They were given time bound promotion as per the Assured Career Progressive Scheme (ACPS). They were granted the pay scale of the post of Time Keeper. As per the promotional channel, they are entitled to get promotional pay (ACPS) of the post of Senior Clerk. They were granted 1<sup>st</sup> time bound promotion of the post of Time Keeper. They were granted pay scale of the post of Time Keeper instead of pay scale of the post of Senior Clerk. The pay scale of the post of Time Keeper is Rs.3200-4900/-. The pay scale of the post of Senior Clerk is Rs.4000-6000/-. It is the contention of the applicants that they were wrongly given pay scale of the post of Time Keeper instead of the pay scale of Rs.4000-6000/- of the post of Senior Clerk.

3. It is submitted that some other similarly situated near about 60 employees were given ACPS of the post of Senior Clerk, whereas, 23 employees including the applicants are given the pay scale of the post of Time Keeper which is contrary to the equity. Hence, all the applicant approached to this Tribunal for the following reliefs –

*“1] Hold and declare that applicants were eligible to be entitle to the promotional pay scale of time bound benefit of the post of Senior Assistant while being granted 1st time bound benefit / promotion instead of Time Keeper from Clerk-Typist i.e. in the pay-scale of Rs. 4000-6000/-instead of pay- scale of Rs.3200-4900, there after 2<sup>nd</sup> ,3<sup>rd</sup> benefit as per statement at AnnexureA-1.*

*2] Direct the respondents to treat the applicants to have been promoted to post of Senior Assistant instead of Time Keeper at the time of first promotion / first time bound benefit and further to grant them 1st, 11nd, 111rd time bound benefits in accordance with the scheme as per the Chart at Annexure:A-1.*

*3] Direct respondents to take the action in the time bound manner and release revise time bound promotion pay-scale as per Chart at Annexure:A1.*

*4] Pay the arrears of pay and allowances after revision in 1<sup>st</sup>,2<sup>nd</sup> and 3<sup>rd</sup> benefit of time bound promotional pay scale and revise the pension on last revise pay with arrears.”*

4. The O.A. is strongly opposed by the respondents. It is submitted that the Government of Maharashtra issued G.R. dated 02/09/2021. By this G.R., the applicants should have approached to the Principal Secretary for their grievances. Procedure is given in the Government G.R. dated 02/09/2021 to decide the grievances of the employees in respect of pay fixation etc. It is submitted that the applicants have not approached to the Authority as per the G.R. dated 02/09/2021. Therefore, the O.A. itself is liable to be dismissed.

5. It is submitted that as per the G.R. dated 26/02/1979, the post of Clerk-Typist falls in Cadre-V and the promotional post for the post of Clerk-Typist is in Cadre- IV as Time Keeper. Therefore, as per the G.R. dated 26/02/1979, the applicants were granted 1<sup>st</sup> ACPS of the post of Time Keeper. Hence, the O.A. is liable to be dismissed.

6. During the course of submission, the learned counsel for applicants has submitted that other employees were granted the promotional pay scale from the post of Clerk-Typist to the post of Senior Clerk. He has pointed out the Judgment of this Tribunal in O.A.333/2003 by which the respondents were directed to give the pay scale of Senior Clerk of Rs.4000-6000 to the post of Clerk-Typist after getting ACPS after 12 years. The learned counsel for applicants has submitted that similarly situated employees were granted the pay scale of the post of Senior Clerk, but the applicants were granted the pay scale of the post of Time Keeper. There is difference of pay scale and hence prayed to allow this O.A.

7. During the course of submission, the learned P.O. has pointed out the G.R. dated 02/09/2021. As per this G.R., the employees should have approached to the Authority for their grievances in respect of pay scale. The applicants have filed rejoinder and submitted that they have approached to the Authority. The Authorities have decided that the applicants cannot be granted pay

scale of Senior Clerk as per the Judgment of the Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.3327/2005, decided on 22/09/2016.

8. The learned P.O. has pointed out the Judgment of the Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.3327/2005. The Judgment cited by the learned counsel for applicants in O.A.333/2003 shows that six applicants in this O.A. were also the applicants in O.A.333/2003. That O.A. was allowed by this Tribunal on 11/10/2004. The respondents were directed to give pay scale of Rs.4000-6000 to the applicants since the date on which they have been given benefit of promotional pay as per the order dated 21/11/2002.

9. There is no dispute that the applicants were granted pay scale of Time Keeper. Therefore, they approached to this Tribunal in O.A.333/2003. This Tribunal had allowed the said O.A. and granted relief to the applicants by directing the respondents to pay, pay scale of Senior Clerk instead of Time Keeper. The said Judgment in O.A.333/2003 was challenged by the State of Maharashtra before the Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.3327/2005. The Hon'ble High Court decided the said Writ Petition on 22/09/2016. From the perusal of the Judgment of this Tribunal in O.A.333/2003, it appears that this Tribunal recorded its findings that

one Kulmethe was granted promotional pay scale of the post of Senior Clerk. Therefore, the O.A. was allowed. From the perusal of the Judgment of Hon'ble High Court it is clear that one Kulmethe was granted promotional pay scale of Senior Clerk as per the earlier Government G.R., but later on it was corrected by the Corrigendum dated 15/09/1999 and pay scale of Kulmethe was brought down to Rs.3050-4590 and thereafter he was placed in the pay scale of Rs.4000-6000. According to the State, pay scale of Shri Kulmethe was governed by the previous G.R. and accordingly his pay was fixed on the time bound promotion. The Hon'ble High Court in para-10,11,12,13 & 14 has held as under –

*“10] Further from the Government Resolution dated 26-02-1979 it is crystal clear that the post of Junior Clerk falls in Cadre-V and the promotional post for the post of Junior Clerk is in Cadre-IV as Time Keeper. It is not in dispute that Government Resolution dated 26-02-1979 regarding amalgamation of Accounts Group with Administration Group in the Dairy Development Department was holding the field at the time when the time bound promotions of the respondents came to be considered by the department.*

*11] So far as fixation of time bound promotion pay in respect of Shri Kulmethe is concerned State has referred the order dated 09-04-1999 wherein condition of letter dated 30-08-1995 was deleted. On 15-09-1999 corrigendum was issued and the pay scale of Shri Kulmethe was brought down to Rs.3050-4590 and thereafter he was placed in the pay scale of Rs.4000-6000. According to the State Shri Kulmethe was governed by the previous Government Resolution and accordingly his pay was fixed on time bound promotion whereas time bound promotion to respondents was given as Time Keeper in view of the subsequent Government Resolution applicable to them.*

12] *In our view Tribunal was not justified in taking up the case of Shri Kulmethe and making it applicable to the respondents without any substantial material and Government Resolution on record. Needless to State that in order to pass the test of permissible/reasonable classification two conditions must be fulfilled-*

*(i) that the classification must be founded on an intelligible differentia which distinguishes persons grouped together from others who are left out of the group, and*

*(ii) that that differentia must have a rational relation to the object sought to be achieved by the impugned Government Resolution. What is necessary is that there must be a nexus between the basis of classification and the object of the Resolution.*

13] *We do not want to go into the controversy raised by the respondents in respect of the pay scale given to Shri Kulmethe as he is not a party to this petition and the State has explained facts and circumstances in which time bound promotion pay scale was given to him to which there is no denial from the side of respondents.*

14] *In the aforesaid view of the matter we find that impugned judgment and order passed by the Maharashtra Administrative Tribunal, Nagpur is not based on the proper appreciation of the Government Resolutions then prevailing in respect of time bound promotion and fixation of pay scale thereon. The impugned order therefore calls for interference. Hence the following order :-*

*(a) Writ Petition is allowed.*

*(b) Impugned judgment and order dated 11-10-2004 passed by the Maharashtra Administrative Tribunal, Nagpur in Original Application No.333 of 2003 is set aside.*

*(c) Original Application No.333 of 2003 stands dismissed.*

*(d) No order as to costs."*

10. It is clear from the above cited Judgment of the Hon'ble High Court that promotional post of the post of Clerk-Typist was / is Time Keeper as per the G.R. dated 26/02/1979. Therefore, the



applicants were granted pay scale of Time Keeper after completion of 12 years of service.

11. The applicants have suppressed this material fact. There is no pleading in the application. The applicant nos.1,3,4,14,15 and 16 had filed O.A.No.333/2003. They were respondents before the Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.3327/2005. Therefore, it was for the applicants to point out the Judgment of the Hon'ble High Court. The pleading is silent in respect of the Judgment of this Tribunal and also the Judgment of the Hon'ble High Court.

12. The Hon'ble High Court in the above cited decision has held that applicant nos.1,3,4,14,15 and 16 of this O.A. were not entitled to get promotional pay scale of the post of Senior Clerk. All the applicants have filed the present O.A. for direction to the respondents to give promotional pay scale of the post of Senior Clerk instead of Time Keeper.

13. The issue in respect of pay scale and promotional post of Clerk-Typist is Time Keeper is already decided by the Hon'ble High Court. In the above cited decision some of the applicants as pointed out above, were the party before the Hon'ble High Court. The said decision is not challenged by the applicants. Nothing is on record to show that that the Judgment of the Hon'ble High Court was

challenged before the Hon'ble Apex Court. Hence, the applicants are not entitled for relief claimed in this O.A. Therefore, the following order is passed –

**ORDER**

The O.A. is dismissed with no order as to costs.

**Dated** :- 06/03/2024.

**(Justice M.G. Giratkar)  
Vice Chairman.**

dnk.

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

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 06/03/2024.