

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 687 of 2017 (SB)

Moreshwar Kashinath Chalakwar,
Aged about 62 years,
Occ. Retired, R/o Telang Mohalla,
Ward No.2, Chamorshi,
Tahsil Chamorshi, District Gadchiroli.

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary,
Jalsampada Department, Mantralaya,
Mumbai-32.
- 2) The Superintending Engineer,
Chandrapur Irrigation Project Mandal
Chandrapur.
- 3) The Executive Engineer,
Chandrapur Irrigation Division,
Chandarpur.
- 4) The Sub Divisional Engineer,
Irrigation Sub Division Chamorshi,
Chamorshi, Dist. Gadchiroli.
- 5) The Sub Divisional Engineer,
Irrigation Division, Chandrapur.
- 6) The Sectional Engineer,
Irrigation Sub Division, Chamorshi,
Chamorshi, Dist. Gadchiroli.

Respondents.

S/Shri D.M. Surjuse, S.R. Dube, Advocates for the applicant.

Shri H.K. Pande, P.O. for respondent no.1&2.

S/Shri V.G. Palshikar, A.M. Kukday, Advs. for resp.nos.3 to 6.

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

Dated :- 21/03/2022.

JUDGMENT

Heard Shri D.M. Surjuse, learned counsel for the applicant, Shri H.K. Pande, learned P.O. for respondent nos.1 and 2 and Shri A.M. Kukday, learned counsel for R-3 to 6.

2. The contention of the applicant that he is working as a Canal Labour. He was brought on CRTE as per the Kalelkar Award w.e.f. 1/4/1984. Though his designation was shown as a Canal Labour, but he was directed to work as a Wireless Operator from 6/6/2000 till the age of retirement i.e. 30/6/2015. The contention of the applicant that the Government of Maharashtra has issued G.R. dated 29/9/2003 in which decision is taken by the Government to pay the wages as per work. The said G.R. is well known as "dkkkuq kj gqnk gqnn; kuq kj oru** (designation as per work and pay as per designation). The applicant's designation was shown as Canal Labour, but he was discharging his duty as a Wireless Operator from 6/6/2000 till 30/6/2015.

3. As per the submission of Shri A.M. Kukday, learned counsel for R-3 to 6, the applicant was not working on CRTE and therefore he is not entitled for the benefit of the G.R. dated 29/9/2003.

4. The learned P.O. also pointed out the reply of respondent no.1 and submitted that as per the G.R., the employees should be brought on CRTE, those employees claiming the benefits of the G.R. dated 29/9/2003.

5. As per the said G.R., the employees who are brought on CRTE as per the Kalelkar Award, they are entitled to claim benefit of G.R. dated 29/9/2003. The applicant was brought on CRTE from 1/4/1984. The copy of the order is placed on record. Therefore, it is clear that the applicant was working as a Canal Labour from 1/4/1984. The certificate issued by the Officers of respondents / authority, the applicant was working as a Wireless Operator from 6/6/2000 till the age of his retirement.

6. Shri A.M. Kukday, learned counsel for R-3 to 6 has submitted that the applicant would have been brought on the post of Wireless Operator, then he could have retired at the age of 58 years, whereas, the applicant got more payment as he retired at the age of 60 years from the post of Canal Labour.

7. There is no dispute that the applicant was working as a Wireless Operator and as per the G.R. dated 29/9/2003 the employees who were working on a higher post and their designations though shown on the lower post, they are entitled to get the pay as per work. It was for the respondents / authority not to allow the applicant

to work as a Wireless Operator till age of retirement. The proposal dated 7/6/2010 was moved by Assistant Superintending Engineer to respondent no.1 and recommended to give designation and pay of the post as Wireless Operator from 1/4/2003 (P-39) to the applicant.

8. The documents filed on record issued by the department which show that the applicant was working as a Wireless Operator though his designation was shown as Canal Labour which was the lower post. The pay scale of the post of Wireless Operator is higher as compared to the post of Canal Labour. Hence, in view of the G.R. of 2003, the applicant is entitled for payment of post of Wireless Operator as per proposal dated 7/6/2010 from 1/4/2003 till the date of retirement i.e. 30/6/2015.

9. The learned counsel for the applicant also pointed out the Judgment of this Tribunal, Bench at Aurangabad in the bunch of petitions in O.A. 615/2016 and ors., dated 18/4/2018. In the cited Judgment, following order was passed –

“1. O.A. Nos. 615/2016, 775/2016 and 257/2017 are allowed.

2. The impugned orders dated 16.04.2009, 14.05.2009 and 16.11.2016 granting benefits of the G.R. dated 29.09.2003 w.e.f. 2008-2009 to the applicants are hereby quashed and set aside.

3. The respondents are directed to extend the benefits of the G.R. dated 29.09.2003 to the applicants and to fix their

salary on the higher cadre, in which they have worked since prior to 31.12.1997 as on 29.09.2003 and to pay difference of pay to them from 29.09.2003 onward.

There shall be no order as to costs”.

10. There is no dispute that the applicant was working on the post of Wireless Operator, though his designation was shown as a Canal Labour. In view of the G.R. dated 29/9/2003 the applicant is entitled to get the pay as per the work discharged by him. In view of that matter, the following order –

ORDER

- (i) The O.A. is allowed.
- (ii) The respondents / authority are directed to pay the applicant arrears of salary of the post of Wireless Operator from 1/4/2003 till the date of retirement, as per the G.R. dated 29/9/2003.
- (iii) No order as to costs.

Dated :- 21/03/2022.

(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 : 21/03/2022.

Uploaded on : 22/03/2022_{ok}