

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 724/2018 (D.B.)

Dr. Manohar S/o Gajanan Deo,
Aged about 82 years, Occ. Retired,
R/o 49, Doctors' Colony, Chatrapati Nagar,
Wardha Road, Nagpur.

Applicant.

Versus

- 1) The State of Maharashtra,
Department of Medical Education and
Drugs, Mantralaya, Mumbai-32.
through its Secretary.
- 2) The Director of Medical Education and Research,
St. George Hospital, Mumbai.
- 3) The Dean, Government Medical College & Hospital,
Nagpur.
- 4) The Pay and Account Department,
through its Accountant General,
Civil Lines, Nagpur.

Respondents.

**S/Shri S.S. Ghate, G.K. Iyer, G.S. Sengar, Rucha Pande, Advs. for
the applicant.**

Shri A.M. Ghogre, P.O. for respondents.

**Coram :- Shri Shree Bhagwan,
Vice-Chairman and
Shri Anand Karanjkar, Member (J).**

Date of Reserving for Judgment : 22nd November, 2019.

Date of Pronouncement of Judgment : 6th December, 2019.

JUDGMENT**Per : M (J)****(Delivered on this 6th day of December,2019)**

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

2. It is contention of the applicant that the respondents have not given effect to the order passed by this Bench in O.A.No. 259/2003, the facts in brief are as under.

3. The applicant was appointed in service in the year 1961 as an Occupational Therapist. On 9/12/1968 the applicant was appointed as Lecturer in Occupational Therapy on temporary basis. There is no dispute about the fact that the applicant voluntarily retired in the year 1994 on the same post.

4. The applicant made representations to the respondents to give him benefit of the G.R. dated 26/2/1991 issued by the Government but no heed was paid by the respondents to the representations, consequently, the O.A.259/2003 was filed by the applicant.

5. The O.A. 259/2003 was decided by this Bench on 30/10/2014 and direction was given to the respondents to examine the applicant's eligibility for grant of senior scale and selection grade in

terms of G.R. dated 26/2/1991 and if he was found eligible then give him the consequential benefits of the G.R.

6. In pursuance of this decision the Government of Maharashtra issued G.R. dated 17/3/2016 and decided to grant benefit of the G.R. dated 26/2/1991 to the applicant. The Government directed that w.e.f. 7/12/1976 senior grade of pay be given to the applicant and w.e.f. 9/12/1984 he be awarded selection grade as per the G.R. of 1991. In pursuance of this order of the Government, the reliefs were granted to the applicant and he was granted senior grade of pay w.e.f. 9/12/1976 in the pay scale of Rs. 700-40-1100-50-1600. Similarly, selection grade pay was awarded to the applicant w.e.f. 9/12/1984 in the pay scale of Rs. 1200-50-1800-60-1900. The respondents have, after coming into force of the 4th Pay Commission, awarded pay scale of Rs.3700-125-4950-150-5700 to the applicant w.e.f. 1-1-1986.

7. It is grievance of the applicant that as per G.R. of 1991 he was entitled for the senior grade pay scale w.e.f. 9/12/1976 which was Rs.3000-5000 and he was entitled for the selection grade pay w.e.f. 9/12/1984 in the pay scale of Rs. 3700-5700. It is submitted by the applicant, the respondents have taken a stand that before 1/1/1986 the pay scales were not in existence and therefore the applicant was entitled to draw the salary in the corresponding old scales which were

Rs.700-1600 and Rs.1200-1900. It submission of the applicant this approach of the respondents is illegal the G.R. dated 26/2/1991 is specific and as per this G.R. on completion of first 8 years service as Lecturer, the applicant was entitled to pay scale Rs.3000-5000 and after completion of 16 years service he was entitled for the pay scale in selection grade Rs.3700-5700. It is submitted by the applicant that necessary direction be issued to the respondents to fix the salary of the applicant as claimed by him.

8. The respondents have submitted their reply which is at page no.43. The specific contention of the respondents is that in pursuance of the order passed in the O.A.No. 259/2003, the G.R. was issued by the Government of Maharashtra on 17/3/2016 and as per this G.R. pay of the applicant is fixed and arrears are paid to him. The respondents have claimed that the applicant has no right to claim senior scale pay Rs.3000-5000 and selection grade pay Rs.3700-5700 because both the pay scales were not in existence before 1/1/1986. The respondents have submitted that as per the G.R. dated 27/3/1989 as per the recommendation of the UGC pay of the Lecturers were revised w.e.f. 1/1/1986 and pay scale Rs.3000-5000 was fixed for senior scale and Rs.3700-5700 pay scale was fixed for selection grade Lecturers. According to the respondents as these pay scales were not in existence before 1/1/1986, therefore, there was no

reason to fix the pay of the applicant in these pay scales. It is submitted that after 1/1/1986 the pay of the applicant is fixed in pay scale of Rs.3700-5700 and therefore there is no illegality committed by the respondent in fixing the pay scale of the applicant.

9. The learned counsel for the applicant submitted that the G.R. of 1991 is approved by the Finance Department and as per this G.R. the respondents were bound to fix the pay of the applicant in the pay scales of Rs.3000-5000 in the senior scale and Rs.3700-5700 in the selection grade on completion of 8 years service as Lecturer and 16 years of service as Lecturer. It is submitted that the G.R. dated 26/2/1991 is specific and the respondents were bound to comply it.

10. The learned counsel for the applicant further submitted that as there was no compliance of the order passed in the O.A. 259/2003, contempt petition was filed by the applicant, but it was withdrawn with liberty to file fresh proceeding to seek the relief. According to the applicant, there is no justification for not giving the benefits as mentioned in the G.R. dated 26/2/1991 to the applicant and consequently the O.A. is required to be allowed.

11. We have gone through the order passed in O.A. 259/2003 decided on 30/10/2014. It was contended by the applicant in that O.A. that similar relief was granted to Dr. K.K. Surkar in O.A. 93/1993. We

have perused the order passed in O.A. 93/1993 on 14/3/2003. In

Para-18 of the order which is held as under –

“(18) In view of the facts stated in the foregoing paragraphs, we come to the conclusion that the applicant is entitled for senior scale of Rs.3000-5000 from 1/1/1986 and also selection grade in the pay scale of Rs.3700-5700 from 1/9/1989. We therefore proceed to pass the following order –

(i) The application is allowed. It is held that the applicant is entitled for the senior scale of Rs.3000-5000/- w.e.f. 1/1/1986, the selection grade of Rs.3700-5700/- from 1st September, 1989 onwards. He will also be entitled for the arrears and revised pensional benefits on account of fixation of pay in the senior scale and selection grade.

(ii) The applicant is directed to make a representation to the respondents authorities indicating the item wise amount to which he will be entitled for as per the order of the Tribunal within a period of one month from the date of this order.

(iii) The respondents are directed to consider the said representation and make the payment of arrears and revised pensionary benefits within a period of four months from the receipt of the applicant's representation in the light of observation made and directions given by this Tribunal hereinabove.

(iv) With these directions, the O.A. stands finally disposed of. No order as to costs.”

12. Thus it seems that in that proceeding also senior scale pay of Rs.3000-5000 was given to the Dr. K.K. Surkar w.e.f. 1/1/1986 and selection grade was given to him w.e.f. 1/9/1989. It is pertinent to note that Dr. Surkar was promoted as Lecturer in Physiotherapy in May, 1971.

13. It appears that the applicant is intending to take benefit of the G.R. dated 26/2/1991, when this G.R. came in force and when this G.R. was issued at that time the pay scales of the Lecturer were modified and revised as per the UGC Notification and it was decided

to give benefit as per the UGC Notification after revision of the pay scales to the Lecturer w.e.f. 1/1/1986. In the G.R. it is mentioned that the G.R. was issued in view of the G.R. dated 27/3/1989 to revise the pay scales of Teachers/ Librarians in Government Medical, Dental and Ayurvedic Colleges under the G.Rs. This G.R. was also issued for awarding the senior pay scales and selection grade pay, but fact remains that when this G.R. was issued the pay scales were already revised w.e.f. 1/1/1986. It is nowhere mentioned in the G.R. that the Lecturers who had completed 8 years service, were entitled for a pay scale Rs.3000-5000 in senior scale and the Lecturers who completed 16 years service, were entitled for selection grade pay scale Rs.3700-5700 w.e.f. any particular date. It is difficult to digest that any Government servant is entitled to claim the pay scale which was not in existence, therefore, apparently it was intention to give benefit to the Lecturers who were eligible as per the G.R. and it was intention to give benefit prospectively from the date on which the pay scales came in existence.

14. In the present case it appears that the G.R. dated 17/3/2016 was issued by the Government to comply the order in O.A.259/2003 and decision was taken by the Government to give senior grade pay scale w.e.f. 7/12/1976 i.e. on completion of 8 years of service and selection grade pay scale w.e.f. 9/12/1984 after

completion of 8 years of service as senior Lecturer and in view of the language in G.R. the corresponding scales of pay were considered by the respondents and the applicant was placed in the pay scale of Rs.700-1600 which was the scale admissible to senior scale and it was given to the applicant w.e.f. 7/12/1976. Similarly, the corresponding pay scale Rs.1200-1900 which was admissible to selection grade was given to the applicant w.e.f. 7/12/1984. The justification given by the respondents that before 1/1/1986 as the pay scales Rs.3000-5000 and 3700-5700 were not in existence, therefore; there was no question to fix the salary of the applicant in the pay scales as claimed by him. There is no dispute about the fact that the pay scales Rs.3000-5000 and Rs.3700-5700 for the first time came in existence on 1/1/1986. In view of this, we do not see any merit in this application. Hence, the following order –

ORDER

The O.A. stands dismissed. No order as to costs.

(Anand Karanjkar)
Member(J).

(Shree Bhagwan)
Vice-Chairman.

Dated :- 06/12/2019.

*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 V.C. and Member (J).

Judgment signed on : 06/12/2019.

Uploaded on : 06/12/2019.