

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
AURANGABAD BENCH AURANGABAD
ORIGINAL APPLICATION NO. 772 of 2015

Satish S/o Govindrao Bilapatte,
Aged about 48 years, Occ. Service,
R/o Sai Nagar, Tembhorni Road,
Ahmedpur, Dist. Latur.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Principal Secretary,
Urban Development Department,
Mantralaya, Mumbai-431 032.
- 2) The Commissioner & Director,
Municipal Administration,
Mumbai.
- 3) The Deputy Director of Municipal
Administration, 3rd floor,
Sarpochkhanwala Marg, Warali,
Mumbai-400030.
- 4) The Commissioner of Division &
Regional Director of Municipal Administration,
Aurangabad Division, Aurangabad.
- 5) The District Collector, Latur,
District Latur.

Respondents

Shri M.B. Kolpe, Advocate for the applicant.

Shri S.K. Shirse, Id. P.O. for the respondents.

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

JUDGEMENT

(Delivered on this 22nd day of September,2017)

Heard Shri M.B. Kolpe, learned counsel for the applicant and Shri S.K. Shirse, Id. P.O. for the respondents.

2. The applicant was appointed as Sanitary Inspector on the pay scale of Rs.4000-6000/- and thereafter was absorbed in the pay scale of Rs.4500-7000/-. The applicant was previously employee of Municipal Council, Loha, District Nanded. His post of Sanitary Inspector was a supervisory post. He joined his duties in the year, 1992. The Government of Maharashtra framed rules regarding absorption of the existing employees of the Municipal Council like applicant on 11/1/2007. The respondent no.2, i.e., the Commissioner & Director, Municipal Administration, Mumbai decided to absorb the existing employees of Municipal Councils in the Maharashtra State Municipal Council Services. Accordingly, vide order dated 12/12/2007 w.e.f. 1/1/2008 an absorption order was issued by respondent no.2, i.e., the Commissioner & Director, Municipal Administration, Mumbai. The copy of the said order is at P.B. page nos. 69 to 76 (both inclusive). Number of employees were absorbed as per the said order. The applicant was also absorbed in the pay scale 4500-7000 for Aurangabad Division and his post after absorption was "dj fu/11/1/2008

izkl dh; I dk ¼Jskh d2½**. The applicant accordingly joined the services after absorption.

3. After absorption of the applicant, the respondent no.2 again issued absorption order on 2/2/2008, 21/4/2008 and 3/10/2008 and therefore all the employees were absorbed.

4. On 11/2/2008 the applicant submitted a representation to respondent no.3,i.e., the Deputy Director of Municipal Administration, Mumbai for correction in the pay scale and grade pay of the applicant. He requested that he be granted pay scale of Rs.5500-175-9000 w.e.f. 1/10/2004. The applicant again made a detailed representation in this regard to respondent no.2 on 11/7/2014. Vide letter dated 26/9/2017 the Collector, Latur recommended the applicant's claim but for no use. The applicant was absorbed in the pay scale of Rs.4500-7000 instead of Rs.5500-175-9000 and therefore the applicant has filed this O.A.

5. The respondent nos. 2,3 & 4 have filed reply-affidavit. According to the respondents, Directorate has passed the order dated 19/11/2014 rejecting the applicant's claim for revision of pay scale. It is stated that the applicant was absorbed in the Municipal Taxation and Administrative Services Grade C-2 in the pay scale of Rs.4500-7000 w.e.f. 1/1/2008. It was in view of the provisions of Maharashtra

Municipal Councils, Nagarpanchayats & Industrial Townships State Service (Absorption, Recruitment & Conditions of services) Rules, 2006 published by the Notification dated 11/1/2007 in Appendix-II. The Appendix-II rules laid down the qualifications and experience of candidates for absorption and for the Municipal Tax Assessment & Administrative Services Grade-B. The requisite qualification was that (1) The candidate shall hold a degree (2) shall have passed MS-CIT Examination and (3) Be working on the post Deputy Chief Officer/ Administrative Officer / Social Welfare/ Information & Public Relation Officer/ Tax Officer/ Office Superintendent or any other equivalent supervisory post and drawing a scale of pay equal to or higher than that prescribed for Municipal Taxation and Administrative Officer Grade-B for at least 3 years experience from the date of regular appointment of the existing post. It is stated that the applicant has drawn the salary in the pay scale of Rs.4500-7000 w.e.f. 1/10/2004 and not in the pay scale of Rs.5500-9000 from 11/1/2004 i.e. before 3 years prior to the publication of the notification of State Service Cadre Rules and therefore the applicant was not eligible for the pay scale which he demanded.

6. The learned P.O. has invited my attention the absorption order in respect of applicant which is at P.B. page nos. 69 to 76 (both inclusive). In the order there is a reference as regard the scheme and

scale under which employees will be absorbed. Thereafter there is a schedule- A given the name of the employees absorbed from various regions in the State of Maharashtra. It seems that the applicant's name stand at sr.no.1. in Auragabad Division. His post has been show as "dj fu/kkj d o i z kkl dh; I dk ¼ Jskh d 2½**" and pay scale granted to him as Rs.4500-7000. Similar pay scale has been awarded to the employees in similar situated condition that of applicant who is at sr.no.2,i.e., B. K. Landge. None of the employees of the applicant's cadre and post in "Jskh d 2**" has been granted pay scale more than 4500-7000. This absorption order has never been challenged.

7. The learned P.O. invited my attention to letter dated 1/1/2008 addressed by the applicant himself to the Chief Officer, Nagar Parishad, Loha, District Nanded. The copy of the said letter is at P.B. page no.77. In the said letter the applicant has stated that he was earlier working as "LoPNrk fujh{k d**" which was having pay scale of Rs.4500-7000. It is further stated that in the same pay scale the applicant was being absorbed in the "l gk; d dk; ky; fujh{k d**" in the pay scale of Rs.4500-7000 and he requested that he may be relieved for accepting new post under absorption. The letter is reproduced for the purposes of evidence and relevant portion of that letter is as under:-

^ egkn;] mijkDr fo"ki kl vut #u fourh dj.; kr ; rs dh] l mHkz
 vkns kko; sek>sl ekosku egkjk"V"uxj i fj"kn depkjh l dxkr dj fu/kkj d o
 izkl dh; l oe/; s dj.; kr vkysys vkgs ; ki whz eh vki Y; k dk; ky; ke/; s
 ^LoPNrk fufj {kd** ; k inkoj dk; jr gkrks mijkDr l dk l mHkz ek>sl ekosku
 >kY; keGseyk R; k l dxkr hy ^l gk; d dk; ky; fufj {kd** ¼4500&7000½ ; k
 inkoj #t#u ?; kos gh fourh- r l p ek>; kdMhy i whpk inHkj brj
 depk&; kdMsl i mzdjkok gh fourh- **

8. The learned P.O. thereafter invited my attention to the letter at P.B. page no.78 dated 5/1/2008 issued by respondent no.2 to the Chief Officer, Loha Nagar Parishad, District Nanded whereby the Chief Officer was directed to allow the applicant to join the post of ^l gk; d dk; ky; fufj {kd** ¼4500&7000½ and accordingly vide order dated 7/1/2008 at P.B. page no.79 the Chief Officer, Nagar Parishad, Loha intimated the respondent no.2 that the applicant has joined the post in the pay scale of Rs.4500-7000. All these facts clearly shows that the applicant himself accepted the order of absorption in the pay scale of Rs.4500-7000. There is nothing on the record to show that the applicant was holding the pay scale of Rs.5500-9000 as claimed by him in the earlier services and that too for the continuous period of three years.

9. The learned P.O. has placed on record Notification under Maharashtra Minicipal Councils, Nagar Panchayats and Industrial

Townships Act,1965 and this Notification is called "Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships State Services (Absorption, Recruitment and Conditions of Service) Rules,2006". Rule-8 is regarding fixation of pay of absorbed employee and it reads as under :-

"(8) Fixation of pay of Absorbed Employee: (a) Notwithstanding the pay scale of the post in the services on which an Existing Employee is absorbed, the Existing Employee may either opt to be governed,

(i) for such period as he may specify in the option, by the pay scale applicable to him immediately before absorption ; or

(ii) by the pay scale of the post in which he is absorbed.

(b) The Absorbed Employee shall exercise the option under clause (i) of sub rule (a) in writing and communicate it to the Director within two months from the date of his absorption under Rule 5. If the option is not so communicated, the Absorbed Employee shall be deemed to have opted for the pay scale of the Grade in which he is absorbed. Pay will be fixed as per the Maharashtra Civil Services (Pay) Rules, 1981. Option once exercised or deemed to have been exercised shall be final."

10. The applicant could not place on record any documentary evidence to show that prior to absorption he was getting pay scale Rs. 5500-9000 or more than the pay scale of Rs.4500-7000. In fact the applicant was getting pay scale of

Rs.4500-7000 and in the same pay scale he has been absorbed and the said absorption has been accepted by the applicant in writing and also by his conduct. I, therefore, do not find any merit in the O.A. Hence, the following order :-

ORDER

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

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

dnk.