

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 967 of 2019 (D.B.)

- (1) Ravindra Krushnarao Wankhade,
Aged about 57 years, 'Vanbhavan',
SBI Chowk, Yavatmal.
- (2) Ashok Pandurang Girhepuje,
Aged 60 years, R/o 71, Shivshakti Apartment,
Pande Layout, Khamla, Main Road, Khamla, Nagpur.

Applicants.

Versus

- 1) The State of Maharashtra,
through its Department of Forest,
Mantralaya, Mumbai-32.
- 2) The Principal Chief Conservator of Forests (HOFF),
Civil Lines, Nagpur.

Respondents.

N.R. and Mrs. K.N. Saboo, Advocates for the applicants.
Shri A.M. Khadatkhar, learned P.O. for respondents.

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

Dated :- 02/02/2023.

JUDGMENT

Per : Shri Justice M.G. Giratkar, Vice-Chairman.

Heard Shri N.R Saboo, learned counsel for the applicants
and Shri A.M. Khadatkhar, learned P.O. for the respondents.

2. The learned P.O. seeks time to file reply. But, this matter
is covered as per the Judgment of M.A.T., Principal Bench, Mumbai

and Govt. G.R. dated 28/05/2018, therefore, reply is not necessary. Hence, the matter is heard and decided finally.

3. The case of the applicant in short is as under –

The applicants were appointed in the year 1984 on the post of Assistant Conservator of Forest (ACF) as per the recommendation of the MPSC. The applicants submitted that as required, they were required to undergo training for the period of two years. The applicants accordingly completed their training period and permitted to join on the post of Assistant Conservator of Forest. After completion of the training period, they were given regular posting and regular pay, but the training period is not counted for the purpose of other service benefits. Therefore, they approached to this Tribunal for the following reliefs –

“(i) to issue direction to respondents to treat their period of training 01/01/1984 to 31/12/1985 undergone by them at State Forest Service College, Coimbatore, at the time of joining on the post of Assistant Conservator of Forests be included in probation period for all service purposes including seniority, salary and allowances.

(ii) Allow the O.A. and by appropriate order be pleased to grant all consequential reliefs including seniority in the cadre of Assistant Conservator of Forests and deemed date promotion as well as monetary claim.”

4. The learned counsel for the applicants has pointed out the Judgment of M.A.T., Principal Bench, Mumbai in O.A. 576/2015 and in Review Application No.06/2016 in O.A. 576/2015. The learned counsel for the applicants has submitted that though the similarly situated candidates like the applicants who approached before the M.A.T., Principal Bench, Mumbai in all total 29 candidates were given the benefit as per the directions of the Tribunal. The State Government has issued the G.R. dated 28/05/2018 (Annex-A-4,P-39) and their services are counted from the date of commencement of training period. The relevant portion of the G.R. dated 28/05/2018 is reproduced as under –

प्रस्तावना :-

शासन निर्णय, सामान्य प्रशासन विभाग क्र.टीआरएल-२०१३/प्र.क्र.८४/१३/१२-अ दि.०९/०५/२०१४ नुसार प्रशिक्षण कालावधी गट-अ संवर्गातील उमेदवारांना रु. ३०,०००/- आणि गट-ब संवर्गातील उमेदवारांना रु. २०,०००/- इतके ठोक वेतन अनुक्रमे यशदा, पुणे व वानामती, नागपूर या प्रशिक्षण संस्थामार्फत अदा करण्यात येते. परिविक्षाधिनि कालावधी पूर्ण झाल्यानंतर संबंधित विभागाकडे हजर झाल्यावर या उमेदवारांच्या दोन वर्षांच्या परिविक्षाधिनि कालावधीतील अदा करण्यात आलेली ठोक वेतनाची रक्कम आणि प्रत्यक्ष वेतन यामधील फरकाची रक्कम संबंधित विभागाकडून आवश्यक ते समायोजन केल्यानंतर (जसे भविष्य निर्वाह निधी अंशदान, व्यवसाय कर, आयकर इ.) एकरक्कमी अदा करण्यात येते.

२. वन विभागांतर्गत महाराष्ट्र लोकसेवा आयोगाकडून सरळसेवेने नियुक्त झालेल्या सहाय्यक वनसंरक्षक संवर्गातील अधिकाऱ्यांचा प्रशिक्षण कालावधी कर्तव्य कालावधी गणण्यात येऊन या कालावधीत देण्यात येणाऱ्या विद्यावेतनाऐवजी (Stipend) या पदाच्या वेतनश्रेणी नुसार नियमित वेतन मिळण्यासाठी श्री.अशोक राम पन्हाड व इतर २८ सहाय्यक वनसंरक्षक यांनी मा. महाराष्ट्र प्रशासकीय न्यायाधिकरण, मुंबई येथे मूळ अर्ज क्र. ५७६/२०१५ रोजी दाखल केला होता.

३. मा.महाराष्ट्र प्रशासकीय न्यायाधिकरण, मुंबई यांनी मुळ अर्ज क्र.५७६/२०१५ मध्ये दि.०३/०२/२०१६ रोजी तसेच याच मुळ अर्जामध्ये शासनाने दाखल केलेली पुनर्विलोकन याचिका क्रमांक ६/२०१६ मध्ये दि.१६/०९/२०१६ रोजी या न्यायालयीन प्रकरणातील अर्जदार यांना त्यांचे प्रशिक्षण कालावधीत अदा करण्यात आलेले ठोक वेतन व प्रत्यक्ष वेतन यातील फरकाची रक्कम अदा करण्यात यावी असा निर्णय दिला आहे.

४. त्यानुषंगाने याबाबतचा प्रस्ताव वित्त विभागास सादर करण्यात आला होता. मूळ अर्ज क्रमांक ५७६/२०१५ मधील सहायक वनसंरक्षक या पदावरील २९ अधिकाऱ्यांच्या मर्यादेत मा. न्यायाधिकरणाने दिनांक ०३/०२/२०१६ तसेच उजळणी अर्ज क्रमांक ६/२०१६ मध्ये दिनांक १६/०९/२०१६ रोजी दिलेल्या आदेशास अनुसरून त्यांना प्रत्यक्ष वेतन व टोक रक्कम यांच्या फरकाची रक्कम अदा करण्यास वित्त विभागाने सहमती दिली आहे. त्यानुसार शासन आदेश निर्गमित करण्याची बाब शासनाच्या विचाराधीन होती.

शासन आदेश :-

१. सहायक वनसंरक्षक, गट-अ (कनिष्ठ श्रेणी) या पदाचे सेवाप्रवेश नियम दि.१२/०३/१९९८ रोजी अधिसूचित करण्यात आले आहेत. सोबतच्या परीशिष्टामध्ये नमुद केलेले सहायक वनसंरक्षक हे उपरोक्त सेवाप्रवेश नियमानुसार सेवाप्रविष्ट झालेले आहेत.

२. मूळ अर्ज क्रमांक ५७६/२०१५ मध्ये मा. न्यायाधिकरणाने दिनांक ०३/०२/२०१६ तसेच उजळणी अर्ज क्रमांक ६/२०१६ मध्ये दिनांक १६/०९/२०१६ रोजी दिलेल्या आदेशास अनुसरून उपरोक्त परिशिष्टातील २९ सहायक वनसंरक्षकांना त्यांचे प्रशिक्षण कालावधीत अदा करण्यात आलेले टोक वेतन व प्रत्यक्ष वेतन यातील फरकाची रक्कम रु.५९,६८,४९०/- (रु. एकोणसाठ लक्ष अडुसष्ट हजार चारशे नव्वद फक्त) अदा करण्यास मान्यता देण्यात येत आहे.

३. मूळ अर्ज क्रमांक ५७६/२०१५ मधील मूळ अर्जातील अर्जदारांबाबत म.ना.से. (वेतन) नियम १९८१ मधील क्र.३९, शासन निर्णय सामान्य प्रशासन विभाग दिनांक ०९/०५/२०१४ व शासन निर्णय वित्त विभाग दिनांक २६/१२/२०११ मधील तरतूदी विचारात घेऊन मूळ अर्ज क्रमांक ५७६/२०१५ मधील अर्जदारांना त्यांच्या वार्षिक वेतनवाढी मंजूर कराव्यात.

5. The learned counsel for the applicants has pointed out another Govt. G.R. dated 28/02/2017. The said G.R. was issued by the State Government as per the decision of Hon'ble Supreme Court. The Hon'ble Supreme Court has directed that when the relief is granted to the similarly situated employees, then other similarly situated employees should be given the same benefits. The relevant portion of the G.R. dated 28/07/2017 is reproduced as under –

CIRCULAR

1. The Hon'ble Maharashtra Administrative Tribunal, Mumbai, vide order dated 14.12.2016 in O.A. Nos. 59, 61 and 90 of 2016, has expressed displeasure over rejection of the claim of the applicants therein, for grant of Time Bound Promotion on the ground that the applicants had declined to accept temporary promotions, though in similar matters Hon'ble Tribunal has allowed the OAs and order of the Tribunal has attained finality.

2. *The Hon'ble Tribunal, in Para 8 of aforesaid Judgment, has observed as under:-*

“If a principle of general applicability is capable of being culled out from a particular pronouncement of this Tribunal, then similarly placed employees, though not before the Tribunal should be given the benefit thereof without actually moving this Tribunal for relief. If on the other hand, the relief is person specific, then of course, this direction will not apply.”

Therefore, the Hon'ble Tribunal has directed the undersigned to inform all the concerned departments regarding applicability of general judicial principle as explained in Para 8 of the aforesaid Judgment.

3. *The Hon'ble Supreme Court in the case of State of Uttar Pradesh & Ors Vs. Arvind Kumar Srivastava reported in 2015 (1) SCC 347 has laid down similar principle, thus:*

“Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently”.

4. *In view of the above, all the departments are hereby directed to take action according to the above directions given by the Hon'ble Maharashtra Administrative Tribunal, reiterating the legal position expounded by the Hon'ble Supreme Court.*

5. *The aforesaid directions be also brought to the notice of the offices under the administrative control of the departments.*

6. Looking to the said G.Rs., there is no dispute that the applicants are similarly situated candidates as like the applicants in O.A. No. 576/2015. They were given the benefit from the date of commencement of their training period. The relevant para-15 of the Judgment is reproduced as under -

“ (15) Having regard to the aforesaid facts and circumstances of the case, the applicants are declared to be entitled for appointment as Assistant Conservator of Forests from the commencement of their training on 01/02/2014, and will be entitled to regular pay, after successful completion of probation, retrospectively from the date of appointment, after deducting emoluments already paid to them. It is made very clear that this judgment has no bearing on any other service condition specially, terms of their probation. This O.A. is allowed accordingly with no order as to costs.”

7. The applicants are similarly situated candidates as like the applicants in O.A. 576/2015. The Government has complied with the order of the Tribunal by issuing the G.R. dated 28/05/2018. In view of the G.Rs. dated 28/02/2017 and 28/05/2018 the respondents should have given the benefits to the applicants. Hence, the following order –

ORDER

- (i) The O.A. is allowed.
- (ii) The applicants are declared to be entitled for appointment as Assistant Conservator of Forests from the commencement of their training, and will be entitled to regular pay, after successful completion of probation, retrospectively from the date of appointment, after deducting emoluments already paid to them. It is made very clear that this judgment has no bearing on any other service condition specially, terms of their probation.
- (iii) The respondents are directed to pay consequential benefits.
- (iv) No order as to costs.

(Justice M.G. Giratkar)
Vice-Chairman

(Shree Bhagwan)
Vice- Chairman

Dated :- 02/02/2023.

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 Vice Chairman.

Judgment signed on : 02/02/2023.