

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 381 OF 2013

DIST. : AURANGABAD

Uttam s/o Raosaheb Kshirsagar,
Age. 67 years, Occu. : Pensioner,
R/o E-51-3, Mayurnagar, N-11,
Hudco, Aurangabad.

-- APPLICANT

V E R S U S

1. State of Maharashtra,
Through Secretary,
Irrigation Department,
Mantralaya, Mumbai.

(Copy to be served through
Presenting Officer, M.A.T.,
Aurangabad).

2. The Superintending Engineer,
Mechanical Division (C.P.),
Nanded.
3. The Executive Engineer,
(Mechanical Division), Get Erection,
Unit no. 4, Garkheda Parisar,
Aurangabad.

-- RESPONDENTS

APPEARANCE :- Shri V.B. Wagh, learned Advocate for the
applicant.
: Shri I.S. Thorat, learned Presenting Officer
for the respondents.

CORAM : **JUSTICE M.T. JOSHI, V.C.**
AND
ATUL RAJ CHADHA, MEMBER (A)

DATE : **28th June, 2018**

J U D G E M E N T

(PER :- ATUL RAJ CHADHA, MEMBER (A))

1. Applicant has prayed for the grant of revised pay scale of Rs115-4-135-160-EB-5-185-6-215 in the post of Trip Counter with effect from 1972 to 1976 along with all consequential benefits i.e. difference of pay and pensionary benefits .Applicant was appointed on daily wages in Mechanical Division in Irrigation Department as Trip Counter on 12.03.1967 and after completion of five years service was appointed against a clear vacancy in regular service in pay scale of Rs 100-175 vide order dated 29.08.73 as a nonqualified Trip Counter. His contention is that he should be given a pay scale of Rs 115-125 with effect from 1972 up to 1976 which was provided to a Qualified Trip Counter in view of Government relaxation dated 10th August 1970 regarding age limit, educational qualification and recruitment through employment exchange etc. He has also relied upon Office order no 236 issued by the Superintending Engineer pursuant to Government Resolution no ESW-1473/162339-(18)-E (17) dated 23rd March 1976 wherein he was awarded a pay scale of Rs115-215 wef13.03.1972 though not actually extended. He has made several representations which were rejected vide letter no 5245 dated 15.12.2008 by the competent authorities as he was

unqualified. There was a delay of 2190 days in filing present application which was condoned by this tribunal.

2. The averments of applicant were opposed by the Respondents including a separate affidavit filed by the Secretary (CAD) Water Conservation, Government of Maharashtra mainly on ground that the Applicant was Unqualified. The submissions are as under :-

3. There were two scales as per Pay Rules available in the period from 1972 to 1976 for Unqualified and Qualified Trip Counters i.e. Rs. 100-3-130EB-4-150-5-175 and Rs115-4-135-5-160EB5-150-5-185-6-215 respectively. There were three Government Resolutions issued by the Government for regularization of appointments of various employees, dated 25.May.1970 for 358 posts, dated 10th August 1970 for 106 posts and 23rd March 1976 for 111 posts on Workcharged and daily Rated Establishments regularizing the services of daily wage workers in view of Kalekar Settlement arrived as per the Industrial Dispute Act and following concessions were given to the persons on work-charged and Daily Rated Establishments:

- The condition regarding age-limit and educational qualifications prescribed for recruitment to each category of posts converted

into permanent/temporary is relaxed in their case.

- The condition regarding recruitment to regular establishment through Employment Exchange is also relaxed,
- They should be exempted from the production of medical certificate of physical fitness.

4. The applicant name appeared at serial no 43 of the Annexure of the Government Resolution No ESW 1473/162339(18)-E17 dated 23.03.1976 and has been regularized as TRIP Counter with effect from 13.03.1972 and has been granted a pay scale Of Rs 115-4-135-5-160EB-5-185-6-215 which according to Rules was available to a Qualified Trip Counter. An Office order no 236 was issued by the Superintending Engineer on 22nd April 1976.

5. It is an undisputed fact that the Applicant was Unqualified ie not passed the Matric/SSC and as per rules deserved a pay scale of RS 100-3-130-EB-4-150-5-175. Merely a mistake in the Government Resolution and Office Order cannot be a case for grant of higher pay scale. In fact the higher pay scale was also not given any effect and the Applicant continued in the pay scale of Rs 100-3-130-EB-4-150-5-175 and in view of relaxation given in

Government Resolution dated 10th August 1970 his services were regularized. In view of above following order is passed:

ORDER

The Original Application is dismissed without any orders as to costs.

MEMBER (A)

VICE CHAIRMAN

PLACE :- AURANGABAD.

DATE :- 28th June, 2018

ARJ-O.A.NO.381-2013 D.B. HON. CHADHA (PAY SCALE)