

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 742 of 2019 (SB)

Shri Parasram Zengadu Bhosale,
Aged about 54 years, Occu.: Service,
R/o Village- Banayat, Post- Kamathwada,
Tahsil Darwaha, Dist- Yavatmal,445201.

Applicant.

Versus

- 1) The State of Maharashtra,
Through its Secretary,
Revenue and Forest Department (E-9),
Mantralaya, Mumbai-400032.
- 2) The State of Maharashtra,
Through its Secretary,
Finance Department, Mantralaya, Mumbai-400032.
- 3) The Divisional Commissioner,
Bypass Road Camp, Amravati.

Respondents.

Shri A.P. Sadavarte, Advocate for applicant.

Shri H.K. Pande, learned P.O. for respondents.

**Coram :- Hon'ble Shri M.A. Lovekar,
Member (J).**

Date of Reserving for Judgment : 27th July, 2023.

Date of Pronouncement of Judgment : 22nd August,2023

JUDGMENT

(Delivered on this 22nd day of August, 2023)

Heard Shri A.P. Sadavarte, learned counsel for the applicant and
Shri H.K. Pande, learned P.O. for the respondents.

2. The order dated 06/07/2019 (Annex-A-18) gives the chronology thus –

“आदेश –

श्री.पी.झेड. भोसले, नायब तहसिलदार हे सरळसेवा प्रवेशाने दि. २१.९.२०१२ पासून नायब तहसिलदार पदावर रूजू झाले आहेत. तत्पुर्वी ते दि.०४.१०.१९९५ पासून यवतमाळ जिल्हा परिषदेत सहायक शिक्षक म्हणून कार्यरत होते. श्री भोसले हे सदर पदावरून दि.२०.९.२०१२ रोजी कार्यमुक्त होवून दि.२१.९.२०१२ पासून नायब तहसिलदार पदावर रूजू झाले आहेत. श्री. भोसले हे शासन परिपत्रक, वित्त विभाग, दि.१२.१.२००७ व दि.१८.८.२००९ मधील अटी/शर्तीची पूर्तता करित आहेत. सबब, श्री.पी.झेड. भोसले, नायब तहसिलदार यांची पुर्वीची जिल्हा परिषद, यवतमाळ येथील सहायक शिक्षक पदावरील सेवा ग्राह्य धरून त्यांना महाराष्ट्र नागरी सेवा (निवृत्तीवेतन) नियम, १९८२ नुसार जुनी निवृत्ती वेतन योजना व सर्वसाधारण भविष्य निर्वाह निधी योजना लागू करण्यास शासन मान्यता देण्यात येत आहे.

२. श्री.पी.झेड. भोसले, नायब तहसिलदार यांची पुर्वीची सहायक शिक्षक पदावरील सेवा सध्याच्या पदावरील वेतन निश्चिती करण्यासाठी ग्राह्य धरता येणार नाही.”

The applicant is aggrieved by what was concluded in para-2 as above. Hence, the O.A.

3. The order dated 06/07/2019 was passed pursuant to the direction issued by this Bench on 28/07/2017 (A-17) in O.A.No.576/2016.

4. It is the contention of the applicant that his pay ought to have been fixed as per Clause (3) of G.R. dated 23/03/1994 (A-10) which reads as under –

“(3) शासकीय कर्मचारी सध्या धारण करीत असलेल्या पदापेक्षा उच्च पदावर किंवा समकक्ष पदावर महाराष्ट्र लोकसेवा आयोगाने / तत्सम निवड मंडळाने सुस्पष्टपणे वेतन निश्चितीची शिफारस केली नसेल तर महाराष्ट्र नागरी सेवा (वेतन) नियम, १९८१ तील नियम ११ खालील विविध तरतूदीनुसार जुन्या पदाच्या जबाबदारीच्या संदर्भात नवीन पदांच्या जबाबदारीचे मूल्यमापन लक्षात घेऊन लागू होणाऱ्या तरतूदींच्या अनुषंगाने वेतन निश्चिती करण्यात यावी. नवीन पद अधिक महत्वाची कर्तव्ये व जबाबदाऱ्या असणारे असेल तर सध्याच्या पदावरील काल्पनिक वेतनवाढीचा लाभ दिला जाईल, अन्यथा वेतन निश्चितीत सध्याच्या पदावरील काल्पनिक वेतनवाढीचा लाभ देता येणार नाही. ”

According to the applicant his new post of Naib Tahsildar entailed higher responsibility as can be gathered from G.R. dated 20/09/2010 (A-19) issued by Revenue and Forest Department of Government of Maharashtra.

5. The applicant has relied on orders at Annexures-A-12 to A-15 which, according to him, were passed in identical circumstances giving benefit of pay fixation as per G.R. dated 23/03/1994 to these employees.

6. The applicant has also relied on letter dated 12/09/2017 (Annex-A-8) written by Collector, Washim to respondent no.3 forwarding proposal as under –

“श्री. पी. जे. भोसले, परिविक्षाधीन नायब तहसिलदार, मंगरुळपीर यांची सेवा दि.४/१०/१९९५ ते दि.२०/९/२०१२ व दि.२१/९/२०१२ पासून अखंडीत असल्याने पुर्वीची सेवा संलग्न करणे

बाबत तसेच प्रारंभिक वेतन निश्चितीबाबतचा प्रस्ताव आपलेकडे सादर करण्यात येत आहे. तसेच सेवा संलग्नबाबत आवश्यक ती कागदपत्र खालील प्रमाणे सादर करण्यात येत आहेत."

7. It was submitted by Shri A.P. Sadavarte, learned counsel for the applicant that respondent no.1 assigned no reasons as to why the applicant was not entitled to fixation of his pay as per G.R. dated 23/03/1994.

8. Reply is filed only by respondent no.3 who, at the outset, has relied on the following portion of G.R. dated 23/03/1994 –

"(३) महाराष्ट्र लोकसेवा आयोगामार्फत/निवड मंडळामार्फत नामनिर्देशनाने दुस-या पदावर नियुक्त झाल्यास त्यांची वेतननिश्चिती करण्यास मंत्रालयाच्या प्रशासनिक विभागांस पूर्ण अधिकार असतील."

9. It is a matter of record that by order dated 06/07/2019 respondent no.1 approved old pension and gratuity to the applicant by considering his past service as Assistant Teacher in Zilla Parishad School. However, as mentioned earlier, for pay fixation past service was not taken into account for which no reason was assigned. In para-7 of reply respondent no.3 has reiterated that the concerned administrative department has full authority to fix pay in cases like that of the applicant.

10. Last pay drawn by the applicant as Assistant Teacher was Rs.14,070+ GP Rs.4200/-. He joined as Naib Tahsildar on 21/09/2012

on pay scale of Rs.10,100+GP of Rs.4300/-. The latter post is apparently more onerous in terms of duties to be discharged. Therefore, Rule-11 (1) of the Maharashtra Civil Services (Pay) Rules, 1981 would be applicable which reads as under –

“(1) When appointment to the new post involves assumption of duties or responsibilities of greater importance than those attaching to the old post and-
(a) if he is holding a post not higher than a Class II post, his initial pay in the time-scale of the higher post shall be fixed at the stage next above the pay notionally arrived at by increasing his pay in respect of the lower post by one increment at the stage at which such pay has accrued and in the case of a Government servant drawing pay at the maximum of the pay-scale by an amount equivalent to the last increment; and

(b) if he is holding a post higher than a Class II post, he will draw as initial pay the stage of the time-scale next above his pay in respect of the old (lower) post.”

11. In view of this factual and legal position, the respondents are directed to fix pay of the applicant as per Rule-11 (1) of the Maharashtra Civil Services (Pay) Rules, 1981 within one month from the date of receipt of this order. The applicant is held entitled to benefits accruing on account of this determination which shall be paid to him within further three months. The O.A. is allowed in these terms with no order as to costs.

(M.A.Lovekar)
Member (J).

Dated :- 22/08/2023.

dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 22/08/2023.