

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 52 of 2015 (SB)**

Suresh S/o Sahebrao Punde,  
Aged about 61 years,  
Occ. Retd. Govt. Servant,  
R/o 126, Paldiwal Layout, Pusad,  
Dist. Yavatmal.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
Water Supply & Sanitation Department,  
G.T. Hospital Building, 7<sup>th</sup> floor,  
In front of Crophord Market, L.T. Marg,  
Mumbai-01.
- 2) The Director,  
Ground Water Survey & Development Agency,  
Bhujal Bhawan Shivaji Nagar,  
Maharashtra State, Pune-411 005.
- 3) The Deputy Director,  
Ground Water Survey & Development Agency,  
Behind RTO Camp, Amravati.

**Respondents**

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**S/Shri P.C. Marpakwar, S.M. Khan, Advocates for the applicant.**

**Shri M.I. Khan, learned P.O. for the respondents.**

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**WITH**

**ORIGINAL APPLICATION No. 55 of 2015 (SB)**

Laxman S/o Marotirao Kottewar,  
Aged about 67 years,  
Occ. Retd. Govt. Servant,  
R/o 33, Govind Nagar, Somalwada Layout,  
Nagpur.

**Applicant.**

**Versus**

- 1) The Secretary,  
State of Maharashtra,  
Water Supply & Sanitation Department,  
G.T. Hospital Building, 7<sup>th</sup> floor,  
In front of Crophord Market, L.T. Marg,  
Mumbai-01.
- 2) The Director,  
Ground Water Survey & Development Agency,  
Bhujal Bhawan Shivaji Nagar,  
Maharashtra State, Pune-411 005.
- 3) The Joint Director,  
Ground Water Survey & Development Agency,  
Bhujal Bhawan Shivaji Nagar,  
Maharashtra State, Pune-411 005.
- 4) The Secretary, Government of Maharashtra,  
Industries & Labour Development,  
Mantralaya, Mumbai-32.
- 5) The Secretary, Government of Maharashtra,  
Rural Development Department,  
Mantralaya, Mumbai-32.

**Respondents**

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**S/Shri P.C. & Vikram Marpakwar, S.M. Khan, Advocates for the  
applicant.**

**Shri M.I. Khan, learned P.O. for the respondents.**

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

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**COMMON JUDGMENT**

**(Delivered on this 4<sup>th</sup> day of July,2018)**

Heard Shri S.M. Khan, learned counsel for the applicants and Shri M.I. Khan, learned P.O. for the respondents.

2. The applicant in O.A.No.52/2015 was appointed as Deputy Engineer with the respondents on 24/02/1987 and was promoted as Senior Drilling Engineer w.e.f. 08/05/2009. He completed 12 years service in the pay scale of Rs.8000-13500/- and therefore as per the G.R. dated 20/07/2001 he was entitled to get pay scale of Rs. 10650-325-15850/- w.e.f. 01/08/2001.

3. The applicant in O.A.No.55/2015 was initially appointed as Mechanical Supervisor on 16/08/1973 and was promoted as Assistant Drilling Engineer on 13/12/1982 and was further promoted as Senior Drilling Engineer on 15/12/1986. He retired on 31/01/2007. He completed 12 years service in the pay scale of Rs.2200-4000 and entitled to be placed in the pay scale of Rs.10650-325-15850 on completion of 12 years service.

4. According to the applicants' the pay scale of Deputy Engineer and Senior Drilling Engineer was same and therefore the higher pay scale should have been given to the applicants on completion of 12 years service. The similar issue has been decided by this Tribunal in O.A.Nos. 1216/2002, 96/2011 and also in Writ Petition No.199/2005 by the Hon'ble High Court. The applicants are therefore claiming directions to the respondents to grant them pay scale of the Chief Drilling Engineer, i.e., Rs.10650-325-15200 with all consequential benefits and interest. The applicant in O.A.52/2015 was denied such benefit vide communication dated 14/01/2015 and therefore he has claimed that the said communication be quashed and set aside and both the applicants have prayed that they be granted pay scale of Chief Drilling Engineer, i.e., Rs.10650-325-15200 w.e.f. 01/08/2001.

5. According to the respondents, the Senior Drilling Engineer, Chief Drilling Engineer and Joint Director (Engineering) are the posts available in the promotional channel for the Deputy Engineer. As per the Recruitment Rules, the Deputy Engineers are promoted to the post of Senior Drilling Engineer and it is admitted fact that the post of Deputy Engineer is not an isolated post. It is further stated that the Senior Drilling Engineer is higher in post than the Deputy Engineer and therefore the applicants

were granted pay scale of Senior Drilling Engineer and accordingly the incremental benefits were granted to them w.e.f. 01/08/2001.

6. It is stated that the Judgment in O.A.No. 96/2011 passed by this Tribunal has been challenged before the Hon'ble High Court in Writ Petition and the said Writ Petition is still pending.

7. The learned counsel for the applicants invited my attention to the Judgments passed by this Tribunal in O.A.96/2011 on 22/09/2011 in case of **Ramesh B. Badar Vs. State of Maharashtra & Ors.**, and O.A. No.1216/2002 in the case of **Shri K.S.M. Bhat Vs. State of Maharashtra & Ors.**, on 15/10/2003 and O.A.No.499/2014 in the case of **Shri Arun V. Joshi Vs. State of Maharashtra & Ors.**, delivered on 12/12/2014. In all these matters, the similar point has been considered by this Tribunal. It has been observed in O.A.No.96/2011 as under :-

*“(6) On perusal of the G.R. dt. 20/7/2001, it can be seen that the said scheme was made available to the employees drawing salary equal to or less than Rs. 8000-13,500/-. The benefit of the said scheme was made available to the employees who put in 12 years of regular service in the concerned posts. The benefit has not been extended to any employee who has earned two or more than two promotions in the service career. The benefit of this scheme is to be granted only once in the service career of an employee and lastly the benefit under the scheme is grantable subject to the fulfilment of eligibility criteria prescribed for earning a regular*

*promotion such as qualifications, eligibility, seniority, qualifying examination and departmental examination. It also provides that while considering eligibility the confidential reports of the employees are to be perused. Having regard to the nature of the scheme and the provisions contained therein, it will have to be examined as to what would be the position if the pay scales of the given post and the promotional post is the same. On careful perusal of the G.R., it can be gathered that the scheme was aimed at granting some monetary relief to the employees who are stagnated and could not earn more than one promotion on account of non-availability of promotional post or vacancies therein, though the employee is fit for promotion. Thus the purpose sought to be achieved is to extend once in the service career the higher pay scale to the stagnated employee, subject to fulfilment of various conditions. It also appears that while issuing G.R. dt. 20/7/2001, the situation as is obtained in the present O.A. had not been contemplated i.e. the pay scale of the post in question and the pay scale of the promotional post being the same.*

(7) *Having regard to the object sought to be achieved by the scheme let us consider whether the scheme makes any provision to deal with exceptional situations. In that context Clause 4 of the G.R. is relevant and hence we reproduce the same :-*

*“; k ; kst us v r x r i n k d u r t p ; k i n k p h o r u J s k h n s g k b y - t f i s i n k d u r t p s i n m i y c / k u l g h r f i s r l p , d k d h 1 / 2 i s o l a t e d 1 / 2 i n k o j h y d e p k & ; k a u k ; k ' k k l u f u . k z k l k s r p ; k i f j f ' k ' V & , d e / k h y o r u J s k h n s g k b y - ”*

*If freely translated the said Clause would read thus :-*

*“ Under this scheme the pay scale of the promotional post will be granted. Where there is no promotional post available so also where the post is isolated, employees manning such posts shall be granted the pay scale as laid down in the Schedule”.*

(8) *What is relevant to note is that Clause 4 of the G.R. dt. 20/7/2001, contemplates cases where no promotional post is*

available so also cases where the post is isolated and to redress the situation it provides for grant of higher scale as laid down in the schedule . In our considered view, the same principle laid down in Clause 4 will have to be applied to a case where the pay scale of the promotional post and the post lower to the same carries the same scale. Unless and until the principle envisaged in Clause 4 is applied, the object sought to be achieved by scheme would be defeated . The scheme does not either expressly go to extend the benefit of the scheme to the persons like the applicant in the present case. By necessary implication , in adherence to the principle laid down in Clause 4 , we hold that when the lower post and the promotional post carry the same pay scale, benefit of ‘ Assured Progressive Scheme’ will have to be extended there by granting higher pay scale as per the Schedule. If a contrary view is taken, the applicant and other employees similarly situated would stand to unnecessarily lose the benefit of the said scheme introduced by the State Government, for no fault on their part. In the result, we hold that the applicant is entitled to the higher pay scale as provided in the schedule annexed to the G.R. and they would be entitled to receive the benefit of the pay scale of Rs.10,000-325-15,200/-. Turning back to the order dt. 28/1/2009 and the reply filed on behalf of the respondents in that regard reveal the following :-

(9) It is stated that as per the Recruitment Rules, the Deputy Engineers are promoted to the post of Senior Drilling Engineer. It is then stated that the post of Deputy Engineer is not an isolated post. It is also stated that the post of Senior Drilling Engineer is higher than the post of Deputy Engineer but the pay scale of both these posts are same i.e. 8,000-275-13,500/- and as such the applicant is entitled to the promotional scale ( in other words not entitled to any higher scale ). The applicant has claimed the benefit of higher pay scale as is available to the post of Chief Drilling Engineer which post is above the post of Senior Drilling Engineer and the pay scale prescribed is 10,650-325-

*15,200/-. Though the applicant is claiming the pay scale of Chief Drilling Engineer which is Rs. 10,650-325-15,200/- , we are not granting the same to the applicant for the reason that the Chief Drilling Engineer is not the next promotional post to the post of Deputy Engineer and hence the applicant is not entitled to receive the salary in the pay scale admissible to Chief Drilling Engineer. As we have held that the case of the applicant need to be treated at par with the cases which are regulated by Clause 4 of the G.R. dt. 20/7/2001, we extend the said benefit to the applicant.”*

8. I am satisfied that the present cases are also covered by this Judgment on which the learned counsel for the applicants has placed reliance. Hence, the following order :-

### **ORDER**

- (i) Both the O.As. are partly allowed.
- (ii) It is hereby declared that the applicants are entitled to receive the benefits of Assured Progressive Scheme introduced by the G.R. dated 20/07/2001 w.e.f. 01/08/2001, that being the date from which the benefit of the scheme has been extended to the applicants.
- (iii) It is further declared that the applicants shall be entitled to receive the higher pay scale as stipulated at sr.no.14 in the Schedule annexed to the G.R. dated 20/07/2001, i.e., Rs.10,000-325-15,200/-. The respondents shall pay the difference in the pay scale to the applicants and the pay scale in which the



applicants were paid salary till their retirement. The amount shall be paid within three months from the date of this order. It is however made clear that this order shall be subject to final order which may be passed in the Writ Petition by the Hon'ble High Court.

(iv) No order as to costs.

**Dated :- 04/07/2018.**

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

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