

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO.1319 OF 2022**

**DISTRICT: Raigad**

**SUB : Pay fixation/recovery/ACPS**

Shri Vishnu Parsu Kolekar , )  
Age:- 59 yrs, Retired PSI, D.B. Marg Police )  
Station, Mumbai. )  
R/at Ma-Lakshmi CHSL, Flat No.202, Plot No.27 )  
Sector 36, Kamothe, Navi Mumbai 410209. )

**Versus**

- 1) The State of Maharashtra, through )  
Additional Chief Secretary, Home Dept., )  
Mantralaya, Mumbai 400 032. )
- 2) The Commissioner of Police, Mumbai, near )  
Mahatma Jyotiba Phule Mkt., D.N. Road, )  
Mumbai 400 001. )
- 3) The Additional Commissioner of Police, )  
South Region, Sir J. J.Marg, Nagpada, )  
Mumbai 400 008. )
- 4) The Director of Accounts & Treasuries, )  
through its Director, Pay Verification Unit, )  
Kastur Building, J. Tata Road, Churchgate )  
Mumbai 400 020. )

**)...Respondents**

Shri M. D. Lonkar, learned Advocate for the Applicant.

Shri A. J. Chougule, learned Presenting Officer for the Respondents.

CORAM : Shri A.P. Kurhekar, Hon'ble Member (J)

DATE : 12.07.2023

**JUDGEMENT**

1. The Applicant has challenged order dated 12.04.2022 whereby Time Bound Promotion given to him by order dated 01.03.1999 and 01.03.2011 was cancelled and his pay and allowances are downgraded

with further direction to recover the excess amount, if found payable by the Applicant.

2. Shortly stated facts giving rise to O.A. are as under:-

The Applicant was appointed on the post of Police Constable on 01.03.1987. He was thereafter posted as Police Constable -Writer on 01.06.1993. He was given benefit of 1st Time Bound Promotion by order dated 01.03.1999 by continuing his 12 years' service from 01.03.1987. Thereafter he was promoted to the post of Head Constable - Writer on 16.06.2002. Later, again he was again promoted on the post of Police Sub Inspector on 20.10.2020. He retired on 31.05.2022. However, by order dated 12.04.2022, the Respondent No.3- Additional Commissioner of Police, Mumbai cancelled Time Bound Promotion given to the Applicant on 01.06.1993 as well as 01.03.2011 on the ground that he was not entitled to the same because of his appointment as Police Constable-Writer on 01.06.1993.

3. Heard Shri M.D.Lonkar, learned Counsel for the Applicant and Shri A. J. Chougule, learned Presenting Officer for the Respondents.

4. Indeed, the issue involved in this O.A. is already adjudicated by the Tribunal in various groups of O.A.s arising from the same situation. The Respondents also implemented all those orders without challenging the same before higher forum.

5. Learned P.O. also fairly concedes that the Applicant in present case is similarly situated person. He could not point out any distinguishing factors for not giving benefits of the earlier decisions to the Applicant. Indeed, in view of the decision of the Hon'ble Supreme Court in ***State of Uttar Pradesh & Ors V/s Arvind Kumar Shrivastava reported in 2015(1) SCC 347***, the Applicant being similarly situated person, the Respondents ought to have given the benefit of the earlier decisions to the Applicant. Not doing so would

amount to discrimination or could be violative of article 14 of the Constitution of India. The Government of Maharashtra through Law & Judiciary also issued Circular dated 28.02.2017 for compliance of the principles laid down by the Hon'ble Supreme Court in **Arvind Kumar Shrivastav's** case. Despite this position, the Applicant is compelled to file this O.A. for same relief which is granted to his counterpart in similar situation.

6. As stated above, the issue is set at rest in view of the decisions rendered by the Tribunal initially in **O.A.No.783/2018 (Pradip Dalvi V/s State of Maharashtra & Ors.)**, decided on 19.03.2019 then again the same issue was decided by the Tribunal in **O.A.No.552/2020** decided with connected O.As. on 17.10.2022. Thereafter, again the same benefit was given to the similarly situated person in **O.A.No.607/2022** decided with connected **O.A.No.1713/2023**. Notably, when the Applicant was posted on the post of Police Constable by order dated 01.06.1993 one Shri Ramchandra Indulkar was also posted as Police Constable -Writer and his benefits were also later withdrawn. He was Applicant in O.A.No.1240/2022 decided with O.A.607/2022 and 1713/2023. Suffice to say, the Applicant being similarly situated person is entitled to relief granted to his counterpart.

7. While deciding all those O.As, the Tribunal held that while giving posting to Police Constables as Police Constable-Writer, there was no hike in pay scale. All that meager amount of Rs.40/- per month was granted as Police Constable-Writer. As such, it is not a case where on appointment as Police Constable-Writer, they were appointed on higher pay scale or promotion carrying higher pay scale within the period of 12 years from the date of initial appointment on the post of Police Constable. It is only in case, where employee is given promotion or higher pay scale within the period of 12 years, in that event only, his earlier service cannot be counted for counting 12 years benefits. Whereas by impugned order, the initial period of service rendered by the

Applicant on the post of Police Constable is wiped out. Suffice to say, only because the Applicant was appointed on Police Constable-Writer that could not have been the ground to cancel the benefit of Time Bound Promotion granted to him considering his initial service from the date of Police Constable.

8. In view of above, this O.A. also deserves to be allowed on similar line. Impugned order dated 12.04.2022 cancelling earlier benefits of Time Bound Promotion given to the Applicant and downgrading of pay and allowances is totally arbitrary, illegal and deserves to be quashed. Hence the following order :-

**ORDER**

- (A) Original Application is allowed.
- (B) Impugned order dated 12.04.2022 is quashed and set aside.
- (C) The Respondents are directed to pay difference of retiral benefits and to issue revised pension orders of Applicant within two months from today.
- (D) No order as to costs.

**SD/-**

**(A.P. Kurhekar)**  
**Member (J)**

Place: Mumbai

Date : 12.07.2023

Dictation taken by: Vaishali Santosh Mane

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