

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

AURANGABAD BENCH, AURANGABAD.

ORIGINAL APPLICATION NO.319/2013.

(D.B.)

Arungir Pauladgir Bawa,
Aged about 58 years,
Occ- Retired as Electrician,
Government Milk Scheme, Ahmednagar,
R/o Sharayu Park, Row House No.6,
Shantusha Nagar, Adgaon Shivar,
Nashik.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Agriculture, Dairy Development
and Fisheries,
Mantralaya, Mumbai-400 032.
2. The Regional Dairy Development Officer,
Nashik Division, Trimbak Road,
Nashik.
3. The Dairy Manager,
Government Milk Scheme,
Ahmednagar,
4. The Accounts Officer,
Pay Verification Squad,
Joint Directorate, Accounts & Treasuries,
Nashik.

Respondents

ORIGINAL APPLICATION NO.321/2013.

Yuvrajsingh Amrutsingh Girase,
Aged about 58 years,
Occ- Retired as Electrician,
Government Milk Scheme, Dhule,
R/o Jaitpur, Post-Wathode, Tehsil-Sirpur,
Distt. Dhule.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Agriculture, Dairy Development
and Fisheries,
Mantralaya, Mumbai-400 032.
2. The Regional Dairy Development Officer,
Nashik Division, Trimbak Road,
Nashik.
3. The Dairy Manager,
Government Milk Scheme,
Dhule,
4. The Accounts Officer,
Pay Verification Squad,
Joint Directorate, Accounts & Treasuries,
Nashik.

Respondents

ORIGINAL APPLICATION NO.322/2013.

Kishore Ramrao Patil,
Aged about 48 years,
Occ- Retired as Electrician,
Government Milk Scheme, Dhule,
R/o 85, Shrirang Colony, Deopur, Dhule
Distt. Dhule.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Agriculture, Dairy Development
and Fisheries,
Mantralaya, Mumbai-400 032.
2. The Regional Dairy Development Officer,
Nashik Division, Trimbak Road,
Nashik.
3. The Dairy Manager,
Government Milk Scheme,
Dhule,
4. The Accounts Officer,
Pay Verification Squad,
Joint Directorate, Accounts & Treasuries,
Nashik.

Respondents

ORIGINAL APPLICATION NO.323/2013.

Ravindra Purushottam Bahalkar,
Aged about 56 years,
Occ- Retired as Electrician,
Government Milk Scheme, Dhule,
R/o 39/A, Alankar Housing Society,
Near Arihant Mangal Karyalaya,
Old Vadjai Road, Dhule,
Distt. Dhule.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Agriculture, Dairy Development
and Fisheries,
Mantralaya, Mumbai-400 032.

2. The Regional Dairy Development Officer,
Nashik Division, Trimbak Road,
Nashik.
3. The Dairy Manager,
Government Milk Scheme,
Dhule,
4. The Accounts Officer,
Pay Verification Squad,
Joint Directorate, Accounts & Treasuries,
Nashik.

Respondents

ORIGINAL APPLICATION NO.324/2013.

Bhausahab Manaji Bhosale,
Aged about 56 years,
Occ- Retired as Electrician,
Government Milk Scheme, Ahmednagar,
R/o C/o Shri M.T. Godbole, Baroda Bank Colony
Sudkemala Balikashram Road,
Ahmednagar.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Agriculture, Dairy Development
and Fisheries,
Mantralaya, Mumbai-400 032.
2. The Regional Dairy Development Officer,
Nashik Division, Trimbak Road,
Nashik.
3. The Dairy Manager,
Government Milk Scheme,
Ahmednagar,

4. The Accounts Officer,
Pay Verification Squad,
Joint Directorate, Accounts & Treasuries,
Nashik.

Respondents

ORIGINAL APPLICATION NO.330/2013.

Dilip Dhudaku Mahale,
Aged about 36 years,
Occ- Retired as Electrician,
Government Milk Scheme, Ahmednagar,
R/o Moon Stone, A-4 Row House, Priyanka Park,
Jidake Nagar, Untawadi, Nashik.
Distt. Nashik.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Agriculture, Dairy Development
and Fisheries,
Mantralaya, Mumbai-400 032.
2. The Regional Dairy Development Officer,
Nashik Division, Trimbak Road,
Nashik.
3. The Dairy Manager,
Government Milk Scheme,
Ahmednagar,
4. The Accounts Officer,
Pay Verification Squad,
Joint Directorate, Accounts & Treasuries,
Nashik.

Respondents

ORIGINAL APPLICATION NO.332/2013.

Dilip Ramchandra Kale,
Aged about 56 years,
Occ- Service,
Government Milk Scheme, Ahmednagar,
R/os"Shramsafalya Niwas", Plot No.3,
Subhash Nagar, Old Dhule.

Applicant.**-Versus-**

1. The State of Maharashtra,
Through its Secretary,
Department of Agriculture, Dairy Development
and Fisheries,
Mantralaya, Mumbai-400 032.
2. The Regional Dairy Development Officer,
Nashik Division, Trimbak Road,
Nashik.
3. The Dairy Manager,
Government Milk Scheme,
Dhule.
4. The Accounts Officer,
Pay Verification Squad,
Joint Directorate, Accounts & Treasuries,
Nashik.

Respondents**ORIGINAL APPLICATION NO.744/2013.**

Dnyandeo Tukaram Chemte,
Aged about 60 years,
Occ-Retd. Senior Electrician,
Government Milk Scheme, Ahmednagar,
R/o Shingori, Tq. Shevgaon,
Dist. Ahmednagar.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Agriculture, Dairy Development
and Fisheries,
Mantralaya, Mumbai-400 032.
2. The Regional Dairy Development Officer,
Nashik Division, Trimbak Road,
Nashik.
3. The Dairy Manager,
Government Milk Scheme,
Ahmednagar.
4. The Principal Accountant General
(Accounts and Entitlement)-1,
Pratishtha Bhavan, Maharshi Karve Marg,
Mumbai-20.
5. The Accounts Officer,
Pay Verification Squad,
Joint Directorate, Accounts & Treasuries,
Nashik.

Respondents**ORIGINAL APPLICATION NO.721/2015.**

Karim Dagdumiya Maniyar (Mannar),
Aged about 57 years,
Occ- Service as Electrician,
Government Milk Scheme, Beed,
R/o Rehmatnagar, Opp. to New Office of
Superintendent of Police, Shivaji Chowk,
Beed.

Applicant.**-Versus-**

1. The State of Maharashtra,
Through its Secretary,
Department of Agriculture, Dairy Development

and Fisheries,
Mantralaya, Mumbai-400 032.

2. The Regional Dairy Development Officer,
Aurangabad Division, Aurangabad,
Kranti Chowk, Aurangabad.
3. The Deputy Dairy Manager,
Government Milk Scheme,
Beed.
4. The Principal Accountant General
(Accounts and Entitlement)-1,
Pratishtha Bhavan, Maharshi Karve Marg,
Mumbai-20.

Respondents

ORIGINAL APPLICATION NO.722/2015.

Mahadeo Suryabhan Shinde,
Aged about 55 years,
Occ- Service as Electrician,
Government Milk Scheme, Bhoom,
Dist. Osmanabad.
R/o Andhora, Post-Khasapuri,
Tehsil-Paranda, Distt. Osmanabad.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Agriculture, Dairy Development
and Fisheries,
Mantralaya, Mumbai-400 032.
2. The Regional Dairy Development Officer,
Aurangabad Division, Aurangabad,
Kranti Chowk, Aurangabad.
3. The Dairy Manager,
Government Milk Scheme,
Bhoom, Dist. Oosmanabad.

4. The Principal Accountant General
(Accounts and Entitlement)-1,
Pratishtha Bhavan, Maharshi Karve Marg,
Mumbai-20.

Respondents

ORIGINAL APPLICATION NO.340/2016.

Satish Vyankatesh Kondekar,
Aged about 59 years,
Occ- Retired as Electrician,
Government Milk Scheme, Aurangabad,
R/o Gurukrupa Colony, East to Poddar English School,
Aurangabad.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Agriculture, Dairy Development
and Fisheries,
Mantralaya, Mumbai-400 032.
2. The Regional Dairy Development Officer,
Aurangabad Division, Aurangabad,
Kranti Chowk, Aurangabad.
3. The Deputy Dairy Manager,
Government Milk Scheme,
Aurangabad.
4. The Principal Accountant General
(Accounts and Entitlement)-1,
Pratishtha Bhavan, Maharshi Karve Marg,
Mumbai-20.

Respondents

Shri Anant Devkate, Ld. Advocate for the applicants.
Shri V.R. Bhumkar, Ld. P.O. for the respondents.

**Coram:- Shri J.D. Kulkarni, Vice-Chairman (J) and
Shri P.N. Dixit, Member (A)**

JUDGMENT

(Per: Vice-Chairman (J))

(Delivered on this 21st day of March, 2018.)

Heard Shri Anant Devkate, the learned counsel for the applicants and Shri V.R. Bhumkar, the learned P.O. for the respondents.

2. All these applications are being disposed of by this common order, since the point involved in all the applications is the same.

3. It is the case of the applicants that they were working as Electrician in the pay scale of Rs. 1200-1800 and were considered for time bound promotion as per G.R. dated 8.7.1995 in the pay scale of Rs.4000-6000. They were conferred with the benefit of the special pay as per G.R. dated 17.1.2000. As per Fifth Pay Commission, pay scale of Rs. 1200-1800 and 1320-2040 were consolidated in the scale of Rs. 4000-6000. The applicants were,

therefore, entitled to such pay scale of Rs. 4000-6000. Respondent No.2 i.e. Regional Dairy Development Officer, Amravati conferred the pay scale of 4500-7000 as a result of time bound promotional pay scale to the applicants by withdrawing the benefit of special pay fo Rs. 200/- which was given to the applicants vide G.R. dated 17.4.2000.

4. According to the applicants, time bound promotional scale was granted in their favour from 1.1.1996 in the pay scale of Rs. 4500-7000. But in the similar cases, the Regional Dairy Development Officer, Amravati had conferred the pay scale of Rs. 5500-9000 to the similarly situated employees. Respondent No.2 on 29.10.2012 granted pay scale of Rs. 5500-9000 which was prescribed for the post of Chargeman to the applicants w.e.f. 8.1.2000. But the said order was not complied with.

5. On 30.3.2013, respondent No.4 observed that the pay scale granted in the pay scale of Rs. 4500-7000 was not applicable to the applicants and the same was observed during the verification of service books of the applicants and, therefore, without giving any opportunity to the applicants, the said order of granting pay scale of Rs. 4500-7000 to the applicants was

withdrawn on 30.4.2013 and the pay scale of Rs. 4000-6000 was granted to them. According to the applicants, they are entitled to claim pay scale of Rs. 5500-9000 as per order dated 29.10.2012 passed by respondent No.2.

6. The applicants have, therefore, prayed for the following reliefs:-

“(A) The O.A. may kindly be allowed.

(B) The order passed by respondent No.3 vide outward No. AMS/Adm/A-1/revised pay fixation order/1013/2013 dated 30.4.2013 whereby the pay scale of Rs. 4500-7000 is reduced and recovery of payment made is ordered, may kindly be quashed and set aside.

(C) The respondents may kindly be directed to grant and pay the salaries as per order of respondent No.2 vide outward No. RDDO/Nashik/A-5/Time Bound Promotion/3554/2012 dated 29.10.2012 as per the pay scale of Rs.5000-9000.”

7. The Division Bench of this Tribunal vide judgment and order dated 12.10.2014 was pleased to partly allow the application and the prayer in prayer clause (b), it was made absolute. It was held that the applicants who were in the pay scale of Rs. 4000-6000

on 1.1.1996, were eligible to get time bound promotional pay scale of Rs. 4500-7000.

8. Being aggrieved by the decision taken in the O.A., some of the applicants approached the Hon'ble High Court of Judicature at Bombay, Bench at Aurangabad by filing Writ Petition No. 11358/2015. The said Writ Petition came to be disposed of vide order dated 19.8.2016. The Hon'ble High Court has observed in para Nos. 5 to 9 as under:-

“5. We have perused the judgment delivered by the Tribunal in the O.A. The Tribunal in the O.A. had observed as under:-

“9. As already stated, we are satisfied that the facts of W.P. No.12269/2015 with connected W.Ps, the present case are analogous to the case on which O.A. No.744/2013 has been disposed of and, therefore, we are satisfied that the order dated 30.4.2013 is arbitrary and has caused grave injustice to the applicants, in effect, denied benefit of Time Bound Promotion for which he was found eligible. We, therefore, hold that the applicants who were in the pay scale of Rs.4500-7000 on 1.1.1996 is eligible to get Time Bound Promotion after that date in the pay scale of Rs. 4500-7000.

10. Having regard to the aforesaid facts and circumstances, the O.As are partly allowed and made

absolute in terms of prayer clause (B). There shall be no order as to costs.”

6. It appears that the contention raised by the petitioners seeking the benefit of the order dated 29.10.2012, issued by respondent No.2 was not at all considered while disposing of the O.As. It appears that the Tribunal lost sight of prayer clause C in the O.A. and did not comment upon the same.

7. Considering the above, we relegate the parties before the Tribunal for consideration of the claim of the petitioners claiming the pay scale as per the order dated 29.10.2012, issued by respondent No.2.

8. In the result, the impugned orders are quashed and set aside W.P. No.1269/2015 with connected W.Ps. The parties are relegated before the Tribunal for considering the case of the petitioners afresh. The parties shall appear before the Tribunal on 13.9.2016. The Tribunal shall decide the O.As filed by the petitioners afresh with regard to the prayers made in the O.As.

9. The W.Ps are disposed of.”

9. In view of the abovesaid order passed by the Hon'ble high Court, petitioners are before us.

10. The respondent Nos. 1 and 3 have filed their affidavits in reply and submitted that the pay scale of Electrician and Senior Electrician came to be merged vide G.R. dated 17.4.2000 and the pay scale of Rs. 4000-6000 was given for both the posts. It is stated that the promotional posts of of Electrician and Senior Electrician is that of Assistant Chageman and, therefore, the respondents have granted time bound promotional pay scale of Rs. 4500-7000 to the applicants. However, the Pay Verification Unit objected for such pay scale and, therefore, on the basis of such objection, pay scale granted to the applicants was revised. It is stated that as per G.R. dated 10.1.1991 (Clause VII), if the pay scale has wrongly been granted and the amount is paid to the employees, such amount paid, can be recovered. It is further stated that as per order dated 29.4.2013, the respondents have fixed the pay of the applicants in the pay scale of Rs. 4000-6000 on the revised pay and also fixed in the Sixth Pay Commission in the pay scale of Rs. 5200-20200 plus grade pay of Rs. 2400/-. The service book has been submitted to the Pay Verification Unit. In short, the respondents justified the revision of pay scale and recovery of excess amount due to wrong pay fixation.

11. The respondent No.4 has also filed affidavit in reply. According to the respondent No.4, the promotional post of Electrician is Sr. Electrician and, therefore, the applicants were not entitled to the pay scale of Rs. 4500-7000. As per Fifth Pay Commission, pay scale of the said post was revised under the Maharashtra Civil Services (Revised Pay) Rules, 1988 as Rs. 4000-6000, which is the pay scale of Senior Electrician. Since the pay scale of Electrician and Senior Electrician is one and the same i.e. Rs. 4000-6000, with intention to give benefit to the holder, the pay scale which was for the post Assistant Chargeman i.e. Rs. 4500-7000 was given to the applicants. However, there was no post of Assistant Chargeman in Nashik Division and, therefore, the said pay scale was withdrawn and the pay scale of the post of Chargeman i.e. Rs. 5500-9000 was made applicable to the applicant under the Time Bound Promotional scheme.

12. When the case of the applicants was referred to the Pay Verification Unit, the Pay Verification Unit took objection and found that the pay scale of Rs. 4000-6000 was applicable to the applicants and as such the pay scale of Rs. 5500-9000 was not applicable to them and, therefore, it was corrected.

13. On going through the arguments putforth by the learned counsel for both the parties, it will be clear that two material points are to be considered in these cases:-

(i) Whether the applicants are entitled to the pay scale of Rs. 4500-700 as Electrician ?

(ii) Whether the respondent No.3 has rightly reduced the pay scale of Rs. 4500-7000 granted to the applicants vide impugned order dated 30.4.2013 and if yes, whether the respondents are entitled to recover the said excess amount paid to the applicants ?

(iii) Whether the applicants are entitled to grant the benefit of pay scale of Rs. 5500-9000 under the Time Bound Promotional scheme ?

14. The learned counsel for the applicants submits that the applicants are similarly situated employees who are entitled to claim the pay scale of Rs. 4500-7000 and this issue has been finally decided by this Tribunal and a decision of this Tribunal has been upheld by the Hon'ble High Court. The learned counsel for the applicants has also placed reliance on the judgment delivered by Principal Bench of this Tribunal at Mumbai in **O.A. No. 744/2013 in case of Shri Panedharinath Mahadeo Gharate V/s Dairy**

Manager, Govt. Milk Scheme, Nasik. We have perused that judgment and are satisfied that the observations made in the said judgment are sufficient to decide the present controversy, as the facts of the present case are analogous with those before this Tribunal. The said relevant observations in para Nos. 5 and 6 of the judgment are as under :-

“5. I have carefully perused the case papers and considered the arguments on behalf of the applicant and the respondents. It is an admitted fact that order dated 30.4.2013 impugned here was passed behind the back of the applicant and without any notice to him. The order is issued in clear violation of the principles of natural justice. The impugned order is bad on that count. It is seen that another Electrician, who was working in the Greater Mumbai Milk Scheme has been ordered to be given pay scale of Rs. 4500-7000 by the Industrial Court, Mumbai. The order has been confirmed by the Hon'ble Bombay High Court. This Tribunal has also taken a similar view in M.C.A. No. 437/2009 in O.A. No.704/2008. The applicant is also entitled to the same treatment on the basis of doctrine of similarly situated persons. On that ground also, the impugned order is unsustainable.

6. It is contended by the respondents that the posts of Electrician and Senior Electrician are merged as a result

of merger of earlier pay scale of Rs. 1200-1800 (Electrician) and 1320-2040 (Senior Electrician) into a single pay scale of Rs. 4000-6000 w.e.f. 1.1.1996 consequent upon implementation of Vth Pay Commission recommendations. If the applicant was not given benefit of Time Bound Promotion, even then he pay scale would have been fixed in the pay scale of Rs. 4000-6000 w.e.f. 1.1.1996 as per Vth Pay Commission recommendations. If the applicant is to be given pay scale of Rs. 4000-6000 w.e.f. 1.1.1996 on Time Bound Promotion, in effect he would get nothing. I do not see the logic of the action of the respondents that the applicant has to be given Rs. 4000-6000 on Time Bound Promotion, when he was entitled to get the same scale on the basis of Vth Pay Commission recommendations, merging pay scale of Rs. 1200-1800 and Rs. 1320-20140 and having a common pay scale of Rs. 4000-6000 w.e.f. 1.1.1996. Those were in the pay scale of Rs. 4000-6000 on 1.1.1996 and become eligible to grant Time Bound Promotion, after that date have been given pay scale of Rs. 4500-7000. The order dated 30.4.2013 is arbitrary and has caused grave injustice to the applicant, who has been, in effect denied benefit of Time Bound Promotion for which he was found eligible.”

15. In view of the above observations made by this Tribunal, it will be clear that reduction of pay scale from Rs. 4500-7000 to Rs. 4000-6000 vide impugned order is absolutely illegal. No opportunity

was also given to the applicants before reduction of such pay scale and, therefore, we are satisfied that the impugned order passed by respondent No.3 revising pay scale of the applicants dated 30.4.2013 whereby the pay scale of Rs. 4500-7000 has been reduced and recovery of so-called excess amount has been ordered is illegal and arbitrary and hence is required to be quashed and aside.

16. Under clause (C) of the reliefs, the applicants are requesting for directions to the respondents to grant them pay and salary as per order of respondent No.2 dated 29.10.2012 and to grant them revised pay scale of Rs. 5500-9000. The learned counsel for the applicants submits that the said pay scale has already been granted earlier to the applicants and it was rightly granted. The learned counsel for the applicants also invited our attention to one order passed on 30.8.2011 by Nashik Division in respect of some Electricians. The said order is marked "X" for identification. From the said order, it seems that the Electricians were granted pay scale of Rs. 5200-20222 with grade pay of Rs. 2400/- as per Six Pay Commission and by virtue of 'Career Progressive Scheme' they have been granted pay scale fo Rs.

9300-34800 with grade pay of Rs. 4300/- and the applicants are also entitled to such pay scale under the scheme.

17. The learned P.O. has invited our attention to one judgment in O.A. No. 154/1999 delivered by this Tribunal at Aurangabad Bench on 3.1.2008 in case of **Santaram Anna Somase and six others V/s State of Maharashtra and others.**

The learned P.O. submits in the said judgment that this Tribunal observed that there are promotional posts available other than Chargemen to the Electrician and accordingly the Electrician can be promoted to the post of Senior Electrician and thereafter to the post of Chargeman. This judgment has been delivered prior to Fifth Pay Commission. It is an admitted fact that the Pay Commission has equated the posts of Electrician and Senior Electrician, granting them similar benefit and this judgment in O.A. No. 154/1999 cannot be considered in view of the fact that this Tribunal in number of judgments such as O.A. No. 744/2013 , Pandharinath Gharate V/s Dairy Manager delivered on 13.2.2014 by Principal Bench of this Tribunal at Mumbai and O.A. No. 744/2013, D.T. Chemte V/s State of Maharashtra and four others, as already referred (supra), have categorically held that the employee like the applicants will be entitled to pay scale of Rs. 4500-7000.

18. The learned P.O. submits that in order to get Time Bound Promotional pay scale, the applicants must qualify certain conditions such as passing of required qualifying examination and departmental professional examination. It is stated that some of the applicants have not passed the required qualifying examination and, therefore, they are not entitled for promotional pay scale. The learned counsel for the applicants submits that the applicant in O.A.No. 322/2013, 333/2013, 330/2013 and 721/2015 are qualified and, therefore, at least they can be considered. The other applicants are entitled for such promotional pay scale, since they might have been exempted due to attaining the age of 45 years from appearing such qualifying examination. In any case, whether the applicants will be entitled to Time Bound Promotional pay scale in the pay scale of Rs. 5500-9000 or its equivalent, will have to be considered by the respondents on its own merits and, therefore, blanket order cannot be passed, directing the respondents to grant Time Bound Promotional pay scale as per prayer (c) to the applicants at this juncture. We are satisfied that for this purpose, the respondents will have to consider the cases of each and every applicant separately on its own merits. We, therefore, proceed to pass the following order:-

ORDER

- (i) The O.A. Nos. 319/2013, 321/2013, 322/2013, 33/2013, 324/2013, 330/2013, 332/2013, 744/2013, 7221/2015 722/2015 and 340/2016 are partly allowed.
- (ii) The impugned orders passed by respondent No.3 dated 29.4.2013 and 30.4.2013, reducing the pay scale of the applicants from Rs. 4500-7000 to the lower pay scale and directing recovery of so-called excess amount made to the applicants are quashed and set aside.
- (iii) The respondents are directed to consider the cases of each applicants on its own merits and to see as to whether the applicants are entitled to the promotional pay scale n the pay scale of Rs. 5500-9000 as prayed for by the applicants or to the equivalent pay scale and to grant such pay scale to the eligible applicants.
- (iv) Such exercise shall be completed as early as possible and in any case **within six months** from the date of passing of this order.
- (v) It is needless to mention that in case the applicants are entitled to such higher pay scale of Rs. 5500-9000 or other equivalent pay scale, the same shall be granted

alongwith arrears thereof from the date of their eligibility.

(vi) No order as to costs.

(P.N. Dixit)
Member (A)

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