

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.542/2017.

(S.B.)

- 1) Diwakar Yadavrao Tijare,
Aged about 61 years,
Occ-Retired Field Worker,
R/o Somnathe Layout, Sindhi Meghe,
Wardha.
- 2) Babanrao Vithobaji Barsagade,
Aged about 65 years,
Occ-Retired Field Worker,
R/o Wardha.
- 3) Namdeo Narayanrao Choudhari,
Aged about 63 years,
Occ-Retired Field Worker,
R/o Maroti Ward, Hinganghat,
District Wardha.
- 4) Shrinivas Narsingh Rao Bhapkar,
Aged about 58 years,
Occ- Field Worker,
R/o Pipri Meghe, District Wardha.
- 5) Dhanraj Kawaduji Ghodmare,
Aged about 56 years,
R/o Hinganghat, District Wardha.
- 6) Usman Turab Sayyad,
Aged about 59 years,
Occ-Field Worker,
R/o Patel Nagar, Nagpur.

- 7) Smt. Premrataji Govind Goswami,
L.R. of Govind Goswami,
- 8) Sheshrao Domlu Jambhulkar,
Aged about 64 years,
R/o Umri, Tehsil-Sakoli,
- 9) Baburao Kadu Nandeshwar,
Aged about 58 years,
Occ-Field Worker,
R/o Bhandara.
10. Mohammad Shoukat Sheikh,
Aged about 51 years,
R/o At Post Kardi, Tq. Mohadi, Dist. Bhandara.
11. Yadavrao Govindrao Suryavanshi,
Aged about 63 years,
R/o Bhandara.
12. Kisan Khatuji Gomase,
Aged about 72 years,
R/o Bhandara.
13. Shrawan Maroti Nimbarte,
Aged about 65 years,
R/o At Bela, Distt. Bhandara.
14. R.H. Bawanthade,
Aged about 62 years,
R/o Amgaon, Distt. Gondia.
15. Narayan Faguji Meshram,
Aged about 65 years,
R/o At Gond-umri, Tq. Sakoli, Distt. Bhandara.
16. Satyavijay Vinayak Khobragade,
Aged about 55 years,
R/o Rayyatwari Colony, Chandrapur

17. Namdeo Krishnarao Basande,
Aged about 63 years,
R/o Warud, Distt. Amravati.
18. Shankarrao Bapurao Gawande,
Aged about 61 years,
R/o Shivaji Nagar, Warud, Distt. Amravati.
19. Abdul Ishrar Abdul Sattar,
Aged about 64 years,
R/o Patur Road, At and Distt. Akola.
20. Vitthal Arjun Sapkal,,
Aged about 64 years,
R/o Shegaon, Distt. Buldana.
21. Vishwambhar Ramdas Ujnekar,
Aged about 63 years,
R/o Old City, Akola, Distt. Akola.
22. Ganesh Bisram Bawanthade,
Aged about 65 years,
R/o Tiroda, Distt.Gondia.
23. Hansraj Tukaram Nimgade,
Aged about 62 years,
R/o Mul, Distt. Chandrapur.

Applicants.

All are retired Field Workers (Except Sr. Nos. 5,10 & 16.)

-Versus-

- 1) The State of Maharashtra,
Through its Principal Secretary,
Department of Public Health,
Madam Cama Road, G.T. Hospital Premises,
Mumbai-400 001.
- 2) The Director of Health Services,
St. George Hospital Premises, 8th floor,
Mumbai-400 001.

- 3) The Joint Director of Health Services,
(Malaria and Filariasis), Arogya Bhavan,
Yerwada, Pune-06.

Respondents

Shri Bharat Kulkarni, the learned counsel for the applicants.
Shri P.N. Warjekar, the learned P.O. for the respondents.

Coram:-Shri J.D. Kulkarni,
Vice-Chairman (J)

JUDGMENT

(Delivered on this 14th day of March 2019.)

Heard Shri Bharat Kulkarni, the learned counsel for the applicants and Shri P.N. Warjekar, the learned P.O. for the respondents.

2. All the applicants in this O.A. are retired Field Workers, except the applicants at Sr. Nos. 5,10 and 16. They are working in Malaria and Filariasis Department under the control of respondent No.3 i.e. the Joint Director of Health Services, (Malaria and Filariasis), Pune. The applicants were drawing the pay scale of Rs. 750-12-870-EB-14-940.

3. As per G.R. dated 8.6.1995, the Government has taken a decision to grant time bound promotion to the Group-C and D employees who have completed continuous service of 12 years in one post. Those employees who have completed 12 years of

continuous service, have been granted the pay scale of the next promotional post and if the promotional post is not available, then the next higher promotional post has been granted. The exact relevant decision taken by the Government is as under:-

“गट “क” व “ड” (पूर्वीचे वर्ग ३ व ४) मधील पदधारकांना १२ वर्षांच्या नियमित सेवेनंतर त्यांच्या पदोन्नती साखळीतील वरच्या पदावरील वेतनश्रेणी देण्यात येईल. ज्या कर्मचाऱ्यांना पदोन्नती साखळीतील पदावर पदोन्नतीसाठी पद अस्तित्वात नाही अशा कर्मचाऱ्यांना या निर्णयासोबातच्या परीशिष्टामध्ये दर्शविण्यात आल्यानुसार वरिष्ठ वेतनश्रेणी देण्यात येईल.”

4. According to the applicants, higher pay scale promotional channel to the post of the applicant was Rs. 975-1660. However, the respondents have granted the pay scale in the scale of Rs. 775-12-955-EB-15-1030-20-1150 to the applicant. This is absolutely illegal. This has been done under the presumption that there is no promotional post available for the Field Workers and, therefore, higher pay scale has been granted.

5. The respondents in their affidavit-in-reply have stated that the promotional channel for Field Workers is the post of Multipurpose Health Workers but from 2003 and prior to that promotions were granted considering the next higher pay scale of senior field worker was granted to the applicants. Prior to 19.3.2003, the Senior Field Workers were being appointed to the post of

Multipurpose Health Workers and the District Malaria Officer was the appointing authority.

6. The applicants in this O.A. have prayed following reliefs:-

“1. Direct the respondent Nos. 1 to 3 to grant the pay scale of Rs. 975-1660 of Time Bound Promotion to the applicants at par to those granted as the promotional channel is available instead of scale of Rs. 775-1150 granted to the applicants on completion of 12 years of service.

2. Direct the respondent Nos. 1 to 3 to allow the relief at par at par to those given the pay scale of Rs. 975-1660 as the promotional scale to same employees and remove the discrimination.

3. Direct the respondents to pay the difference of pay and allowances with interest thereon from the date on which the first benefit granted of Time Bound Promotion to the applicants and decide their representations.

4. Direct the respondent Nos. 1 to 3 to revise the pension and retiral benefits of retired applicants with arrears and corresponding scale of Vth and VIth Pay Commission with interest thereon in the interest of justice.”

7. From the facts on record, it seems that the time bound promotional pay scale has come into force in the year 1994 as per G.R. dated 8.6.1995 and the said scheme specifies the pay scale to be given under the time bound promotional pay scale under two categories:- (i) When there is promotional avenue available and (ii) when there is no promotional avenue available. As per Schedule (Page 119), the respondents have granted pay scale of Rs. 775-12-955-EB-15-1030-20-1150 to the applicants, since the applicants were getting the pay scale of Rs. 750-12-870-14-940. The applicants are, however, claiming the scale of Rs. 975-25-1150-30-1660 which is the pay scale available to the Multipurpose Health Workers.

8. According to the learned counsel for the applicants, prior to 2003, the Field Workers were being promoted to the post of Multipurpose Health Workers by a concerned District Malaria Officer and accordingly number of Field Workers have been promoted. The respondents were, therefore, directed to produce on record the relevant documents regarding procedures and rules for appointment to the post of Multipurpose Health Workers prior to 2003.

9. The learned P.O. has referred to the G.R. dated 12.9.1985 and particularly clause 4-A of the said G.R. which reads as under:-

“आरोग्य कर्मचारी: भौतिकशास्त्र, रसायनशास्त्र आणि जीवशास्त्र किंवा सामान्य विज्ञान हे विषय घेऊन एस.एस.सी. परीक्षा उत्तीर्ण झालेल्या व बहुउद्देशिय कर्मचाऱ्यांसाठी विहित केलेल्या अठरा महिनांचा मूलोध्योग प्रशिक्षण पाठ्यक्रम यशस्वीपणे पूर्ण केलेल्या उमेदवारांतून या पदावर नियुक्ती करण्यात यावी.”

10. As per the aforesaid G.R. two qualifications are necessary for promotion of the post of Field Workers to the post of Multipurpose Health Workers i.e. (i) Field Workers must have passed SSC examination in the subject of Physics, Chemistry and Biology or General Science and (ii) they must have undergone 18 months' training meant for Health Workers. The respondents were, therefore, directed to file an affidavit in reply as to whether the applicants are qualified under the said clause and if yes, why they shall not be given promotional pay scale. In consequence of the aforesaid order, the respondent Nos. 1 to 3 have filed their reply affidavit on 26.2.2019. Alongwith the said affidavit, a Chart has also been filed showing qualifications of the respective applicants. From the said Chart, it seems that almost all the applicants have passed SSC examination and they have also completed requisite training

required for promotion to the post of Field Workers and, therefore, it is clear that the applicants were qualified to be promoted to the post of Multipurpose Health Workers.

11. From record, it is clear that prior to 2003, though, there were no service rules framed for promotion to the post of Multipurpose Health Workers from the feeder cadre of Field Workers, promotion were being given from the post of Field Workers to the post of Multipurpose Health Workers by the concerned District Malaria Officer as per G.R. dated 12.9.1985. Thus, it seems that the post of Multipurpose Health Worker was a promotional post to the cadre of Field Worker and it cannot be said that since no avenue for promotion was available, thenext promotional pay scale have been granted to the applicants.

12. The G.R. dated 8.6.1995 is very clear and it says that those employees who are qualified to be promoted on the next promotional post and have been completed 12 years' of continuous service, will be granted promotional pay scale of the said promotional post. The pay scale of the promotional post to the Field Workers is that of Multipurpose Health Worker and the said pay scale is Rs. 975-1660 and there is absolutely no reason as to why said pay scale

has not been granted to the present applicants. From record, it seems that in number of cases, the respondents have granted this promotional pay scale for the post of Multipurpose Health Worker to the post of Field Workers in other Divisions and, therefore, the respondents cannot act discriminately with the applicants.

13. Thus, from the discussion in foregoing paras, it will be clear that all the applicants were working as Field Workers in the pay scale of Rs. 750-12-870-EB-14-940 and the promotional avenue available to them was that of the post of Multipurpose Health Workers which falls within the pay scale of Rs. 975-1660 and, therefore, the applicants should have been granted the pay scale of the post of Multipurpose Health Workers. Thus, granting the pay scale of Rs. 775-12-955-EB-15-1030-20-1150 to the applicants on the ground that the promotional avenue was not available to them, is incorrect. Hence, I proceed to pass the following order:-

ORDER

- (i) The O.A. is allowed in terms of prayer clauses (i), (ii) and (iii) of the O.A.
- (ii) The respondent Nos. 1 to 3 are directed to consider cases of each individuals in view of observation as above and to revise the pension and grant retiral benefits to the eligible

applicants and arrears thereof in view of relief clauses (i), (ii) and (iii) above within three months from the date of this order, failing which the eligible applicants will be at liberty to file representation for grant of interest on the arrears to be paid to them in view of such revision of pay scale and revised pension.

(iii) No order as to costs.

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

Dt. 14.3.2019.
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