

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.729/2014.

(S.B.)

Ghanshyam Mahadeorao Balki,
Aged about 69 years,
R/o Ambulkar Layout, Dhanwantari Colony,
Opp. Bhausahab Deshmukh Bungalow,
Wardha.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Principal Secretary,
Higher & Technical Education Department,
Mantralaya, Mumbai-32.
2. The Director of Technical Education,
3, Mahapalika Marg, Mumbai-01.
3. The Principal,
Govt. Polytechnic College, Vidya Nagar,
Karad, Distt. Satara.

Respondents

Shri Bharat Kulkarni, the learned counsel for the applicant.
Shri M.I. Khan, the Ld. P.O. for the respondents.

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

JUDGMENT

(Delivered on this 17th day of November 2017).

Heard Shri Bharat Kulkarni, the learned counsel for
the applicant and Shri M.I. Khan, the learned P.O. for the
respondents.

2. The applicant was appointed as Assistant Lecturer in 1976 and on 1.4.1979, he became Lecturer. He got retired on superannuation on 30.7.2003. As per G.R. dated 27.5.1998, the post of Assistant Lecturer has been upgraded in the post of Lecturer in Govt. Engineering Colleges and Polytechnics. The name of the applicant was at Sr. No.4 in the said G.R. and thereby applicant's post of Assistant Lecturer was upgraded as Lecturer w.e.f. 1.4.1979. Alongwith the applicant, one Shri J.G. Madne who was Assistant Lecturer in Electrical Engineering also got the benefit of the said G.R. and his post was also upgraded w.e.f. 1.4.1979. Shri Madne is at Sr. No.9 in the list of Assistant Lecturers whose posts were upgraded alongwith the applicant.

3. The applicant was facing one departmental enquiry and was kept under suspension. His suspension was revoked vide order dated 13.2.2017. The order of revocation in this case is at page No. 16 and is dated 26.3.2008. Applicant's period under suspension has been treated as duty period. It was, therefore, incumbent upon the respondents to upgrade the applicant's post of Assistant Lecturer as per G.R. dated 27.5.1988 with retrospective effect as has been done in the case of Shri Madne. However, the respondent authority did not take any action. The applicant has, therefore, claimed that the respondents be directed to give effect to the G.R. dated 22.11.1993 in

case of the applicant as it was given to Shri Madne and to direct the respondents to fix the applicant's pay as on 1.1.1986 and selection grade pay scale as on 1.1.1994 and update the pay as on 1.1.1996. He is seeking directions to the respondents to pay higher pay scale as on 1.1.1986 as per G.R. dated 22.11.1993 and also direct the respondents to pay arrears as per G.R. dated 29.12.2010 from 1.1.1996 and not from 27.8.1998.

4. The respondents resisted the claim and submitted that the applicant's pay has been fixed and sanctioned according to the senior scale and selection grade scale sanctioned to the applicant as per G.R. dated 29.12.2010. It is denied that the applicant's pay has been fixed without considering the G.R. dated 22.11.1993. It is stated that the applicant was acquitted by the Hon'ble High Court in Criminal Appeal No. 589/2004 on 29.6.2004 and, therefore, his pay was revised. It is stated that the proposal of the applicant for senior scale and selection grade scale was sent to respondent No.2 and applicant's pay was upgraded as Lecturer w.e.f. 1.4.1979. He was granted selection grade scale on 1.4.1995 and as per G.R. dated 29.10.2010, senior scale and the selection grade scale was sanctioned to the applicant from 1.1.1996. Applicant's pay fixation was, therefore, properly made.

5. The applicant filed rejoinder to the affidavit in reply filed by the respondents and submitted that the G.R. dated 22.11.1993

has not been interpreted properly and, therefore, wrong pay has been fixed. It is stated that the applicant's post and pay scale to the post of Lecturer by upgrading his post of Assistant Lecturer should have been with effect from 1.4.1979 and such pay scale was rightly granted to Shri Madne and, therefore, fixation is required to be modified.

6. Shri Bharat Kulkarni, the learned counsel for the applicant invited my attention to the G.R. dated 27.5.1988. Copy of the said G.R. is placed on record at page Nos. 97 & 98 (both inclusive). The said G.R. states about upgradation of the post of Assistant Lecturer in the post of Lecturer in Govt. Engineering Colleges and Polytechnics in Maharashtra Educational Service, Class-II. It is dated 27.5.1988 and the relevant Resolution reads as under:-

in pursuance of Govt. Resolution, Education, Employment and Youth Services Department, dated 2nd April 1979, the claims of persons working as Assistant Lecturers in Maharashtra Educational Service, Class-II and of persons officiating on temporary basis as Lecturers in Class-II under the Directorate of Technical Education for appointment in the upgraded posts of Assistant Lecturers to Lecturers w.e.f. 1.4.1979 are being examined in consultation with the M.P.S.C. Govt. is pleased to direct in continuation of the orders issued under G.Rs, Education and Employment Department No. SCT 6579/ (2747-II/TE-2 dated 22nd May 1981, 5th

June 1982 and 4th January 1985, that the claims for appointment of the following officers to the upgraded posts mentioned against their names as below should be accepted w.e.f. 1.4.1979. Orders in regard to the remaining officers will be issued later.+

7. Plain reading of the aforesaid Resolution clearly shows that the upgradation of the post of the applicant as Assistant Lecturer to the post of Lecturer has been accepted w.e.f. 1.4.1979. The applicant stands at Sr. No.4 and Shri J.G. Madne stands at Sr. No.9 in the list of Assistant Lecturers, whose posts were to be upgraded from the post of Assistant Lecturer to the post of Lecturer that too w.e.f. 1.4.1979. As already stated, Shri J.G. Madne's post of Assistant Lecturer has been upgraded w.e.f. 1.4.1979 and, therefore, applicant's post also should have been upgraded w.e.f. 1.4.1979. Admittedly now, a criminal case against the applicant has come to an end and the applicant has been acquitted from the said criminal case by the Hon'ble High Court and, therefore, his suspension period has been treated as duty period and, therefore, there was no impediment in upgrading the applicant's post w.e.f. 1.4.1979. It, however, seems that the applicant has been granted pay scale on the upgraded post w.e.f. 1.1.1996. The same should have been granted w.e.f. 1.4.1979 as has been granted to Shri Madne.

8. If the post of the applicant is upgraded as per G.R. dated 27.5.1988 w.e.f. 1.4.1979, consequently the applicant will be entitled to his upgradation in the subsequent pay scales at the earlier point of time. For the same purpose, the applicant seems to have been filed representations to respondent No.3 on 30.9.2009 and 10.7.2012. The said representations are at page Nos. 35 to 37 (both inclusive) and respondent No.3 should have considered those representations with a proper perspective.

9. In view of discussion in foregoing paras, following order is passed :-

ORDER

- (i) The O.A. is partly allowed.
- (ii) It is hereby declared that the applicant is entitled for upgradation of his post as Assistant Lecturer to the post of Lecturer in Govt. Engineering Colleges and Polytechnics as per G.R. dated 27.5.1988 w.e.f. 1.4.1979.
- (iii) The respondents are directed to grant the benefit of the G.R. to the applicant dated 27.5.1988 w.e.f. 1.4.1979 and shall consider his representation in view of the said benefit to be given to the applicant **within a period of three months** from the date of this order.
- (iv) It is needless to mention that the applicant will be entitled to re-fixation of pay and selection

grade pay in view of application of benefit to the applicant as per G.R. dated 27.5.1988 w.e.f. 1.4.1979 and all financial benefits as may be admissible by such application of G.R.

(v) No order as to costs.

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

Dt. 17.11.2017.

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