

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI
ORIGINAL APPLICATION NO.740, 741 & 1197 OF 2016**

ORIGINAL APPLICATION NO.740 OF 2016

DISTRICT : SATARA

1. Shri Prakash Nivrutti Jadhav,)
2. Shri Sunil Namdev Jadhav,)
3. Shri Prakash Yashwantrao Pisal,)
4. Shri Shripati Anandrao Jadhav,)
5. Shri Sanjay Sakharam Bhope,)
6. Shri Dnyaneshwar Dattoba Bandal,)
7. Shri Ramesh Balu Shedge,)
8. Shri Machindra Bhau Gaikwad,)
All working as Wireless Operator)
C/o Shri V.V. Joshi, Advocatc, MAT, Mumbai)..Applicants

Versus

1. The Secretary,)
Water Resources Department,)
Mantralaya, Mumbai)
2. The Secretary,)
Finance Department, Mantralaya, Mumbai)
3. The Superintending Engineer,)
Satara Sinchan Mandal, Satara)
4. The Executive Engineer,)
Irrigation Division, Satara)..Rcspondents

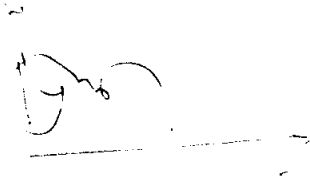


WITH**ORIGINAL APPLICATION NO.741 OF 2016****DISTRICT : PUNE**

1. Shri Yashwant Dadu Londhe,)
2. Shri Rajendra Sarjerao Dhawade,)
3. Shri Buwaji Baban Gore,)
All working as Canal Inspector,)
C/o Shri V.V. Joshi, Advocate, MAT, Mumbai)..Applicants

Versus

1. The Secretary,)
Water Resources Department,)
Mantralaya, Mumbai)
2. The Secretary,)
Finance Department, Mantralaya, Mumbai)
3. The Superintending Engineer,)
Pune Irrigation Circle, Sinchan Bhavan,)
Mangalwar Peth, Barne Road, Pune 41101)
4. The Executive Engineer,)
Khadakwasla Irrigation Division,)
Sinchan Bhavan, Mangalwar Peth,)
Barne Road, Pune 41101)..Respondents

AND

ORIGINAL APPLICATION NO.1197 OF 2016**DISTRICT : PUNE**

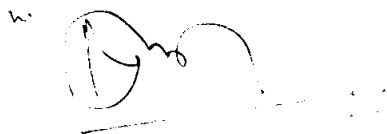
1. Shri Shankar Maruti Mane,)
2. Shri Gangaram Laxman Mergal,)
3. Shri Sadashiv Ganpat Gawade,)
- All working as Measurer/Canal Inspector,)
- C/o Shri V.V. Joshi, Advocate, MAT, Mumbai)..Applicants

Versus

1. The Secretary,)
Water Resources Department,)
Mantralaya, Mumbai)
2. The Secretary,)
Finance Department, Mantralaya, Mumbai)
3. The Superintending Engineer,)
Pune Irrigation Circle, Sinchan Bhavan,)
Mangalwar Peth, Barne Road, Pune 41101)
4. The Executive Engineer,)
Khadakwasla Irrigation Division,)
Sinchan Bhavan, Mangalwar Peth,)
Barne Road, Pune 41101)..Respondents

Shri V.V. Joshi – Advocate for the Applicants

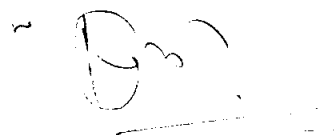
Shri N.K. Rajpurohit – Chief Presenting Officer for the Respondents



CORAM : Shri R.B. Malik, Vice-Chairman
DATE : 29th August, 2017

J U D G M E N T

1. These three OAs are being disposed off by common judgment because the facts are exactly identical.
2. The applicants in these OAs seek the benefit of the declaration of entitlement to the grant of pay scale w.e.f. 29.9.2003 vide the GR of that date issued by the State in Public Works Department.
3. I have perused the record and proceedings and heard Shri V.V. Joshi, learned Advocate for the Applicants and Shri N.K. Rajpurohit, learned Chief Presenting Officer for the Respondents.
4. The first respondent is the State in Water Resources Department, second respondent is State in Finance Department, third respondent is Superintending Engineer, Irrigation Circle, Satara/Pune and the fourth respondent is the Executive Engineer, Irrigation Division, Satara/Pune.
5. The facts herein despite minor difference like the post held pre 1997 are exactly similar like the facts in a few earlier decided judgments of this Tribunal one of which was confirmed by the Hon'ble Bombay High Court in its Aurangabad Bench. Those judgments also include a common judgment rendered by me in a fasciculus of 8 OAs being **OA No.849 of 2015 (Shri Dilip Chandu Bhosale & Anr. Vs. The Secretary, Water Resources Department & 3 Ors. and 7 OAs. dated 3.11.2015.** Just like in Dilip C. Bhosale's matter here also the applicants came to be appointed as Labourers at different points of time prior to 31.12.1997. The GR of



29.9.2003 was based on the principle of 'designation as per work and pay as per designation'. Having said this much, I think instead of paraphrasing, I can straight away reproduce para 5 of Dilip Bhosale's judgment which reads as follows:

~5. All these Applicants came to be initially appointed as Labourers at different points of time prior to 31st December, 1997. Though they were so appointed in Class 'D' posts, they were being made to work in various capacities which varies from OA to OA like Wireless Operator, etc. but all in Group 'C' posts. In that background, they relied upon a G.R. of 29th September, 2003 and sought benefit thereunder. That G.R. was based on the principle of, "कामानुसार हुद्दा व हुद्दानुसार वेतनश्रेणी" (Designation as per work and pay as per designation). It so happened that even as this G.R. became effective w.e.f.29th September, 2003, but actual benefit thereof to the various employees which I am informed could be even more than 5000 got delayed. The orders in case of each of them in fact took a long time and in this scenario, some Applicants so similarly placed as the present ones, moved the Aurangabad Bench of this Tribunal with OAs 64, 65, 66 and 194/2011, dated 20.6.2011 (Names of the parties are not there)(hereinafter called Aurangabad judgment). The case of the Respondents is that even under the G.R. of 29th September, 2003 (the said G.R. hereinafter), the Applicants could not claim arrears (the exact Marathi word being "अकबाकी"). As a necessary corollary, the fact at issue got narrowed down to whether the date relevant for seeking the benefit would be the date of the G.R. that is 29th September, 2003 or the date on which the orders were made permitting the said benefit."

6. Here also as already mentioned above the present applicants are at par with the applicants in the above referred OAs. Here also a crucial



issue would be the date from which the relief should be extended to the present applicants. Thereafter in Dilip Bhosale's matter in para 7, 8 and 9, I referred to the other judgments of this Tribunal at Principal Bench as well as Aurangabad Bench and the judgment of the Hon'ble High Court. Para 7 to 9 from that particular judgment needs to be fully reproduced so as to avoid unnecessary paraphrasing, which reads as follows:

7. In the above background, I may now somewhat closely read the Aurangabad judgment. It itself follows an earlier judgment of the Tribunal in OA 818/2009 and OAs 342 and 464/2008, dated 16.2.2010 and 14.12.2009. On Page 6 of the Aurangabad judgment, it was noted that just because the governmental procedures take long, the deserving Applicants should not be made to suffer. The narration of facts, would reinforce the above conclusion that the Applicants therein were on all fours with the present Applicants. Thereafter, the Aurangabad Bench referred to and in fact quoted from one of the earlier judgments discussed above in so far as the construction to be accorded to the word, "arrears" in the said G.R. That particular Paragraph enshrines within itself the basic philosophy and principle as to why a particular date chosen therein viz. 29th September, 2003 should be adopted. Para 8 thereof, in fact needs to be fully quoted for facility.

8. For the guidance of respondents we may say that even in future, if the Respondents grant benefit of scheme to any of the employees, whose cases are not processed earlier, their salaries should be fixed as on 29.9.2003 and they should be allowed arrears from 29.9.2003 onwards and such employees need not be compelled to approach this Tribunal, even if as on today they are not applicants before us. This is because it is informed by learned Counsel for the Applicants that, order of



this Tribunal in original application No.818 of 2009 was challenged by the Respondents before Hon'ble Bombay High Court, Bench at Aurangabad by writ petition no.10069 of 2010 and the said writ petition was dismissed on 25.10.2010 by upholding our order. Copy of order of Hon'ble High Court is at P.B. pages 60 and 61 of O.A.No.64 of 2011."

8. It is, therefore, quite clear that the Aurangabad Bench held the entitlement w.e.f. 29th September, 2003 and not from the date, the Government may have passed orders which in a good number of cases was 18th March, 2008.

9. Further, in **OA 197/2013 (Laxman D. Talekar and 12 others Vs. State of Maharashtra and 2 others, dated 19.9.2014)**, a Division Bench of this Tribunal in the principal Bench of which I was also a Member spoke through Hon'ble Vice-Chairman and the same issue arose in a fasciculus of **OAs NOs.1105/2013 and others (Shri Uddhav J. Thorat and others Vs. Secretary, Water Resources Department, dated 24.3.2015)**. In both these judgments, relying upon the earlier judgments of the Tribunal, the Respondents were directed to fix the pay of the Applicants therein w.e.f. 29th September, 2003 in accordance with the G.R. of 29.9.2003 and arrears were also directed to be paid."

7. In para 11 thereof I had observed that it ought not to have become necessary for the respondents to drive the similarly placed employees for further avoidable litigation.

8. The Ld. CPO made some submissions about the requirement of time to take a policy decision. As to this submission of the Ld. CPO I find that as by now this is not the first OA of its kind. It is one in the series of OAs



and, therefore, the judicial process does not brook any further delay in deciding the matter.

9. The upshot, therefore, is that the applicants have made out a case for relief. In whichever way the relief clause may have been phrased, in my opinion, the final order shall be in line with Dilip Bhosale's case. The respondents are hereby directed to fix the pay of each applicants in these three OAs to the posts that was certified by the respondents in the orders issued in that behalf w.e.f. 29.9.2003 in accordance with the GR of 29.9.2003. The arrears be paid to each of the applicants within three months from today. These OAs are allowed in these terms with no order as to costs.

Sd/-
(K.B. MAHAK)
Vice-Chairman
29.8.2017

Dictation taken by: S.G. Jawalkar.