

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO.768 OF 2022**

**DISTRICT : PUNE  
SUBJECT : TO REFUND  
RECOVERED GRAUITY AMT.**

Kedar Laxman Vartak, )  
(Retired Police Sub Inspector with )  
Respondents,) Age: 59, )  
R/o. 395, Kiran society, Sahakar Nagar No.1 )  
Pune-411 009. )... **Applicant**

**Versus**

- 1) State of Maharashtra, )  
Through Secretary, Home Department )  
Mantralaya, Mumbai-32. )
- 2) The Director General of Police, )  
Maharashtra State, Mumbai – 400001. )
- 3) The Additional Director General of )  
Police, Director of Police wireless, )  
Pune – 411008, Maharashtra State. )
- 4) The Office Superintend, )  
Under the Additional Director General )  
of Police, Director of Police wireless, )  
Maharashtra State, Pune – 411008. )...**Respondents**

Shri Sachin Salunke, learned Advocate for the Applicant.

Smt. Archana B. K., learned Presenting Officer for the Respondents.

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

DATE : 14.07.2023

**JUDGEMENT**

1. The Applicant has challenged orders dated 16.09.2021 and 20.09.2021 issued by the Respondent No.3 - Additional Director General of Police / Director of Police -Wireless after his retirement thereby withdrawing the benefit of step up given to the Applicant by orders dated 16.10.2002 and downgrading his pay and allowances resulting into recovery of Rs.4,76,406/- and also claimed refund of Rs.4,36,706/- already deducted from gratuity in view of impugned orders.

2. The Applicant stands retired on 31.05.2021 from the post of PSI-Wireless (Group 'B' Non-Gazetted). In 2002, while Applicant was serving as Wireless Operator (Class-III), the department gave benefit of step up in terms of Rule 9, Note 5 of Maharashtra Civil Services (Revised Pay) Rules, 1998 by equalizing him to pay scale of one Shri Panchmukh who was junior to Applicant. The Applicant was placed in pay scale of Rs.5750/- equal to Shri Panchmukh. Accordingly, the Applicant availed the benefit till retirement. After retirement when the service book of Applicant sent to Pay Verification Unit for disbursement of pension, the Pay Verification Unit sent service book with endorsement to submit necessary documents as well as service book of junior employee (Shri Panchmukh) as well as Circular dated 10.01.1999 with seniority list for further verification. However, instead of making compliance of the documents called by the Pay Verification Unit, the Respondent No.3 withdrew the benefit of step up given to the Applicant and revised his pay and allowances by order dated 16.09.2021 and recovery of excess amount was made from his gratuity by order dated 20.09.2021. Accordingly, sum of Rs.4,36,706/- was deducted from gratuity of the Applicant.

3. It is on the above background, the Applicant has filed present O.A. challenging orders dated 16.09.2021 and 20.09.2021 sought refund of Rs.4,36,706/-.

4. During the course of hearing, learned Counsel for the Applicant raised following grounds:-

(A) After revising pay and allowances, the department had not sent service book with orders of revision of pay for verification to Pay Verification Unit which was necessary for correctness of the steps taken by them before taking further action of recovery.

(B) No opportunity of hearing or notice was given to the Applicant before passing impugned orders dated 16.09.2021 and 20.09.2021.

(C) The Applicant was given the benefit of step up to remove anomaly rightly since his junior Shri Panchmukh was getting higher pay and, therefore, there was no necessity to withdraw the order dated 16.10.2002.

5. Learned P.O. fairly concedes that on receipt of objection raised by the Pay Verification Unit for supply of documents, the service book was not again sent back to Pay Verification Unit for verification of pay and allowances revised by the department. She also admits that before passing impugned order, no notice was given to the Applicant. She further contends that Applicant was not entitled to benefit of step up in terms of Rule 5 of Note 7 of Maharashtra Civil Services (Revised Pay), Rules 1998.

6. During the course of hearing, learned P.O. on telephonic instruction from Smt. Kavita Shinde, Office Superintendent & DDO submits that department is ready to send service book along with orders of revision of pay and allowances to Pay Verification Unit for verification and to ascertain the correctness of action taken by the department. She further submits that Respondent No.3 now intends to withdraw the impugned orders dated 16.09.2021 and 20.09.2021 with liberty to take further action of recovery after receipt of report of verification by Pay Verification Unit.

7. As regard the amount of Rs.4,36,706/- which is already deducted from the gratuity, she submits that said amount being already recovered from the gratuity, it should be left undisturbed at this stage subject to report of Pay Verification Unit and on receipt of Pay Verification Unit report, if the amount of recovery is found correct, the department will again issue notice to Applicant before passing further order afresh and if recovery found incorrect, it will be refunded.

8. Learned Counsel for the Applicant fairly stated that he has no objection for the aforesaid exercise but specific time limit should be given for all these exercises.

9. In view of above, the O.A. is disposed of in terms of following directions :-

(A) The Respondent No.3 shall withdraw the impugned orders dated 16.09.2021 and 20.09.2021 by passing formal order and thereafter shall send the service book along with necessary documents to Pay Verification Unit for verification and correctness of revision of pay and allowances within three weeks from today.

(B) On receipt of proposal and service book, the Pay Verification Unit shall examine the issue about correctness of revision of pay and allowances and shall submit report to Respondent No.3 within two weeks from the date of receipt of proposal from the Respondent No.3.

(C) The Respondent No.3 then shall take further appropriate action and if the amount is found correctly recoverable (which is already recovered), he shall issue notice to the Applicant giving opportunity to submit explanation and then shall pass order afresh and this exercise should be completed within three weeks from the date of receipt report from the Pay Verification Unit and order be communicated to the Applicant within a week from the date of order. In case, the amount is found wrongly recovered, it be refunded immediately.

(D) If the Applicant felt aggrieved by the order to be passed by the Respondent No.3 afresh as directed above, he is at liberty to challenge the same in accordance to law.

(E) No order as to costs.

Sd/-

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

Place: Mumbai

Date : 14.07.2023

Dictation taken by: Vaishali Santosh Mane

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