

THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

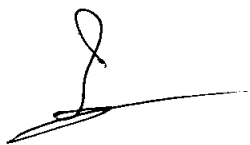
ORIGINAL APPLICATION NO.86 OF 2014

DISTRICT: PUNE

- | | | |
|-----|---|-----------------|
| 1. | Maharashtra Rajya Rekhachitra Shakha Karmachari |) |
| | Sanghatana, Maharashtra Rajya, |) |
| | Registered No.G.A.D.R.G.A. 1074-32098 |) |
| | dated 12/6/1975, having its office at |) |
| | GREVILLEA, B-206, Magarpatta City, |) |
| | Hadapsar, Pune 411 013 |) |
| | Through its President Shri Deepak Vasudeo Tonape, |) |
| | Vice President Shri Pratap Sahebrao Dhapte and |) |
| | Treasurer Shri Sudarshan Jagannath Sadamate |) |
| 2. | Shri Khalil Dagadubhai Shaikh |) |
| 3. | Shri Shankar Vithal Palaskar |) |
| 4. | Shri Adinath Dasharath Rawal |) |
| 5. | Shri Shivdas Bhagwan Ladkat |) |
| 6. | Shri Satish Damodar Dhumal |) |
| 7. | Shri Jayram Ramdas Bhor |) |
| 8. | Shri Subash Tanaji Shelar |) |
| 9. | Shri Satish Kaluram Jagtap |) |
| 10. | Shri Vijay Pandurang Gaikwad |) |
| 11. | Shri Babruwahan Vitthal Dhangekar |) |
| 12. | Shri Bhimrao Shivaji Bansode |) |
| 13. | Shri Dnyaneshwar Dhondu Hande |) |
| 14. | Shri Pravin Shivhar Haregaonkar |) |
| | Address of all the above Petitioners is |) |
| | GREVILLEA, B-206, Magarpatta City, |) |
| | Hadapsar, Pune 411 013. |) |
| | |) .. Applicants |

Versus

- | | | |
|----|-----------------------------|---|
| 1) | Principal Secretary, |) |
| | Water Resources Department, |) |
| | Mantralaya, Mumbai 400 032. |) |
| 2) | Principal Secretary, |) |
| | Public Works Department, |) |
| | Mantralaya, Mumbai 400 032. |) |



3) Principal Secretary,)
 Finance Department,)
 Mantralaya, Mumbai 400 032) **..Respondents**

Smt. Punam Mahajan, the learned Advocate for the Applicants.

Ms. N.G. Gohad, the learned Presenting Officer for the Respondents.

CORAM : JUSTICE SHRI A.H. JOSHI, CHAIRMAN

RESERVED ON : 05.07.2016.

PRONOUNCED ON : 22.07.2016.

J U D G M E N T

1. Heard Smt. Punam Mahajan, the learned Advocate for the Applicants and Shri Ms. N.G. Gohad, the learned Presenting Officer for the Respondents

2. Hon'ble Vice-Chairman Shri Rajiv Agarwal passed an order on 12.04.2016 and recorded that in view of His Honour's difference of opinion with the views expressed in earlier orders passed by the Single Benches in O.A.Nos.636, 733 and 599 of 2013 at Nagpur Bench, (Coram : Shri B. Majumdar, Vice-Chairman), dated 26.02.2015 as well as in O.A.Nos.233, 1000 to 1003 of 2013, [Coram : Shri M. Ramesh Kumar, Member(A)], dated 21.04.2015 at Mumbai, it was necessary to place the question before Larger Bench.

3. This Original Application was placed before me on administrative side for order as regards constitution of a Larger Bench. On 20.04.2016, I had recorded on the office note as follows :-

"Learned P.O. is directed to secure information as to whether the order passed by Nagpur Bench of this Tribunal is acquiesced and obeyed or is challenged. Statement be made on 4/5/2016. List this case on board before me on 4/5/2016. Concerned P.O. shall take a note of this order."

(Quoted from office submission and note of Hon'ble Chairman dated 20.04.2016.)

4. Coincidentally on the same dated i.e. 20.04.2016, the Applicants filed M.A.No.191 of 2016. By this M.A. the Applicants have bought on record the copy of order passed by the Hon'ble High Court Bench at Nagpur in Writ Petition No.6329 of 2015 which arose



out to order passed by this Tribunal (Nagpur Bench) in O.A.Nos.636, 733 and 599 of 2013.

5. It is seen that by the order passed in Writ Petition No.6329 of 2015 passed on 23.11.2015, the Hon'ble High Court Bench at Nagpur has, by a speaking order put seal of approval on the judgment rendered in O.A.Nos.636, 733 and 599 of 2013 (Nagpur Bench).

6. In order to ascertain and reaffirm that the question involved in two decided cases and present case is one and the same, it would be useful to refer to factual aspect referred to in the orders passed in this case. The exercise is done in following paragraphs.

7. In O.A.Nos.636, 733 and 599 of 2013 (Nagpur Bench) decided by order dated 26.02.2015, (Coram : Shri B. Majumdar, Vice-Chairman), this Tribunal has recorded from the Government Resolution (G.R.) as follows :-

"शासन निर्णय " दुग्ध व्यवसाय विकास विभागातील दूध प्रापण पर्यवेक्षक तथा दूध संकलन पर्यवेक्षक, ज्यांची वेतनश्रेणी १२००-१८०० आहे, त्यांना १३५० ही सुधारीत वेतनश्रेणी लागू करण्याचा प्रस्ताव शासनाच्या विचाराधीन होता.

१) शासन आता आदेश देत आहे की दुग्ध व्यवसाय विकास विभागात काम करणा-या ज्या दूध प्रापण पर्यवेक्षक तथा दूध संकलन पर्यवेक्षकांची अर्हताकारी सेवा दूध प्रापण पर्यवेक्षक या संवर्गात नियमित ७ वर्षे पूर्ण झालेली आहे अशांना व ज्यांची विद्यमान वेतनश्रेणी १२००-१८०० आहे त्यांना रु.१३५०-२२०० ही सुधारित वेतनश्रेणी दि.१.१.१९८६ पासून लागू करण्यात येत आहे. हे आदेश वित्त विभागाच्या दि.३१.१०.९८ च्या शासन निर्णय व ७.११.९८ शासन निर्णय च्या अधिसूचनेतील तरतूदीस अधीन राहून निर्गमित करण्यात येत आहे."

(Quoted from page 19 and 20 from copy of order dated 20.02.2015.)

8. In O.A.Nos.233, 1000 to 1003 of 2013 (Mumbai) decided by order dated 21.04.2015, [Coram : Shri M. Ramesh Kumar, Member(A)], this Tribunal recorded as regards benefit which the Applicants' wherein were given by the same G.R., has recorded in paragraph 11 as follows :-

"A plain reading of the GR dated 8.12.1984 shows that the pay scales of Agriculture Assistants, Supervisors and Agriculture Officers, Junior Class II, were revised. Those who have completed 7 years would get the revised scale. The pay scales of the aforesaid cadres and revised pay scales are as follows :

Cadre	Existing (then)	Revised
Agriculture Assistant	1200-1800	1350-2200
Agriculture Supervisor	1400-2600	1600-2660
Agriculture Officer	1640-2900	2000-3200

These revised pay scales have been made applicable w.e.f. 1.1.1986 i.e. on the day 4th Pay Commission recommendations were made applicable."

(Quoted from copy of order dated 21.04.2015 passed in said O.A.Nos.233, 1000 to 1003/ 2013.)

9. Thus, it is evident that the question which was involved in the decided O.A.Nos.636, 733 and 599 of 2013 (Nagpur Bench) as well as in O.A.Nos.233, 1000 to 1003 of 2013 (Mumbai) is paraphrased as follows :-

Whether the benefit which was given to the group of applicants in respective cases was given as Non Functional Financial Upgradation, analogous to one contemplated by the policy decision of the Government giving improvised Assures Career Progression (A.C.P.) Scheme conferred on the Government servants by Government Resolution (G.R.) dated 01.10.2006 ?

10. In the present O.A., the reasons due to which Applicants were given higher pay is eloquent from page 41, Annexure A-8, Government decision dated 28.07.2009. It is very brief and hence text thereof, adverbium, is quoted below :-

"रेखाचित्र संवर्गातील कर्मचा-यांच्या पदनामात बदल करणेबाबत.

शासन निर्णय
वित्त विभाग

शासन निर्णय, क्रमांक : संकीर्ण १००९/प्र.क्र.४०/सेवा-९
मंत्रालय, मुंबई :- ४०० ०३२
दिनांक :- २८ जुलै, २००९

पहा: (१) केंद्र शासनाच्या वित्त मंत्रालयाच्या कार्यालयातील जापन क्रमांक : १३(१) आयसी ९१, दिनांक १९.१०.१९९४.
(२) शासन निर्णय वित्त विभाग, क्रमांक : वेपुर १२९८/प्र.क्र.१५/९८/सेवा-१०, दिनांक ३९.१०.१९९८.

निर्णय:- रेखाचित्र संवर्गात एकाच वेतनश्रेणीत विविध विभागात वेगवेगळ्या पदनामाने पदे अस्तित्वात आहेत. यामध्ये सुसुत्रता आणण्याच्या दृष्टीने रेखाचित्र संवर्गातील पदनामे केंद्र शासनाकडील पदनामांच्या आधारे सर्व विभागात सारखीच करण्याचा प्रस्ताव शासनाच्या विचाराधीन होता.

२. शासन आता आदेश देत आहे की, रेखाचित्र संवर्गातील विविध विभागात असलेल्या पदांचे पदनाम खाली दर्शविल्याप्रमाणे करण्यात आले आहे:-

अ.क्र	पदनाम	असुधारित वेतनश्रेणी (रुपये)	सुधारित वेतन संरचना		सुधारित पदनाम
			वेतन बँड (रुपये)	ग्रेड वेतन (रुपये)	
१	अनुरेखक	(१) ३२००-४९००	५२००-२०२००	२,०००	अनुरेखक
		(२) ४०००-६००० (१ वर्षांच्या अहत्कारी सेवेनंतर)	५२००-२०२००	२,४००	आरेखक श्रेणी-३ (१ वर्षांच्या अहत्कारी सेवेनंतर)
२	सहाय्यक आरेखक	(१) ४०००-६०००	५२००-२०२००	२,४००	सहाय्यक आरेखक
		(२) ५०००-८००० (१ वर्षांच्या अहत्कारी सेवेनंतर)	९३००-३४८००	४,२००	आरेखक श्रेणी-२ (१ वर्षांच्या अहत्कारी सेवेनंतर)
३	आरेखक	(१) ४५००-७०००	५२००-२०२००	२,८००	आरेखक
		(२) ५५००-९००० (१ वर्षांच्या अहत्कारी सेवेनंतर)	९३००-३४८००	४,३००	आरेखक श्रेणी-१ (१ वर्षांच्या अहत्कारी सेवेनंतर)

३. वरीलप्रमाणे पदनामातील बदलामुळे संबंधीत कर्मचा-यांच्या वेतनश्रेणी/वेतन संरचनेत तसेच त्यांच्या कर्तव्य व जबाबदा-यांत कोणताही बदल होणार नाही.

४. सदर शासन निर्णय महाराष्ट्र शासनाच्या www.maharashtra.gov.in या वेबसाईटवर उपलब्ध करण्यात आला असून त्याचा सांकेतांक २००९०७२८१५५१००००९ असा आहे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने.

(शि.म. महाने)
उप सचिव, वित्त विभाग

(Quoted from page 41 and 42 of G.R. dated 28.07.2009.)

11. Underlined portion contained in first / opening paragraph, of the text quoted in foregoing paragraph quoted for reiteration as follows :-

“रेखाचित्र संवर्गात एकाच वेतनश्रेणीत विविध विभागात वेगवेगळ्या पदनामाने पदे अस्तित्वात आहेत. यामध्ये सुसुत्रता आणण्याच्या दृष्टीने रेखाचित्र संवर्गातील पदनामे केंद्र शासनाकडील पदनामांच्या आधारे सर्व विभागात सारखीच करण्याचा प्रस्ताव शासनाच्या विचाराधीन होता.

२.

३. वरीलप्रमाणे पदनामातील बदलामुळे संबंधीत कर्मचा-यांच्या वेतनश्रेणी/वेतन संरचनेत तसेच त्यांच्या कर्तव्य व जबाबदा-यांत कोणताही बदल होणार नाही.”

(Quoted from page 41 of G.R. dated 28.07.2009.)

12. From portion quoted in foregoing paragraph, it shall be evident that the idea or object behind issuance of said policy decision dated 28.07.2009 (quoted in foregoing paragraph no.10) was to undo the discrimination between group of Government servants performing certain duties under particular nomenclature, with different nomenclature from another group of Government servant performing same duties and functions, and enjoying different pay bands in different Departments. It is also evident that Government intended to bring these different group of Government servants performing same duties and functions on par with Government servants serving in Central Government with the same job structure.

13. It is thus evident that the object behind issuance of said decision was not of giving Non Functional Financial Upgradation but was bringing equality.

14. Moreover, the judgment of the Hon'ble High Court in Writ Petition No.6329 of 2015 dated 23.11.2015 at Nagpur by which view taken by the Member (A) at Mumbai and Vice-Chairman (A) at Nagpur is confirmed by Hon'ble High Court, and now taking any other and different view is not possible or permissible. The judgment of Hon'ble High Court in Writ Petition No.6329 of 2015 is a binding precedent.

15. In the result the question which had to be referred to Larger Bench due to difference of opinion, now need not be referred.

16. Hence, this O.A. can be disposed without reference to Larger Bench.

17. For the reasons recorded in foregoing paragraphs, this Original Application succeeds.

18. Declaration is granted in terms of prayer clause 9(a) and relief in terms of prayer clause 9(a) and 9(b) which read as follows :-

"9)

- a) *That this Hon'ble Tribunal be pleased to direct the Respondents to grant the benefit of Modified Assured Career Progress Scheme to Tracers by declaring that clause 2(b)(3) of Government Resolution dated 1/4/2010 is not applicable to Tracers, with all other consequential benefits within a reasonable period of one month from the date of issuance of the order by this Hon'ble Tribunal.*
- b) *That this Hon'ble Tribunal also be pleased to quash and set aside the recovery orders dated 30/7/2011 and 2/11/2013, qua the Petitioner No.2, 13 and 14 and be pleased to direct the Respondents to repay the amount recovered from the Petitioner No.2, 13 and 14 by the orders dated 30/7/2011 and 2/11/2013 , alongwith interest, within a period of one month, from the date of the order passed by this Hon'ble Tribunal."*

(Quoted from page 16 of the O.A. paper book.)

19. In the circumstances parties are directly to bear their own costs.



Sd/-
(A.H. Joshi, J.)
Chairman

prk

MaKUT

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI

Original Application No. _____ of 20 _____ DISTRICT _____
..... Applicants

(Advocate)

versus

The State of Maharashtra and others

..... Respondents

(Presenting Officer)

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
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Date : 22.07.2016.

M.A.No.191 of 2016 in O.A.No.86 of 2014

Maharashtra Rajya Rekhachitra Shakna
Karmachari Sanghatana & 13 Ors. Applicants.

versus

The State of Maharashtra & Orsrespondents.

1. Heard Smt. Punam Mahajan, the learned Advocate for the Applicants and Ms. N.G. Gonaq, the learned Presenting Officer for the Respondents.

2. In view of the order /judgment passed in O.A.No.86 of 2014, M.A. does not survive and is disposed of accordingly.

DATE : 22/7/16

CORAM:

Hon. the Justice Sri A. H. Joshi (Chairman)

Hon. the Justice P. N. Patil (Member) A

Presented by:

Sd/- Punam Mahajan

Presented for the Respondents:

Sd/- N.G. Gonaq

C.P.O / P.O. for the Respondents

Adj. To.....M.A. disposed of.....

[Handwritten initials]

Sd/-
(A.H. Joshi, J.)
Chairman

prk

TRUE COPY

[Handwritten signature]
25/7/2016
Asst. Registrar/Research Officer
Maharashtra Administrative Tribunal
Mumbai