

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 232 OF 2022

(Subject:- Pay Fixation/Recovery)

DISTRICT:-AURANGABAD

Sudhakar S/o Yesaji Dandge,)
Age : 59 years, Occ. Retired (Technical Officer))
R/o. Plot No.16 Gat No. 27/3)
Nav Merunagar Co-Op. Housing Society,)
Pethenagar, Bhavsingpura.)
Aurangabad.) **APPLICANT**

V E R S U S

1. **The State of Maharashtra**)
Through: Secretary,)
Food, Civil Supply & Consumer)
Protection Department, Mantralaya,)
Mumbai-32.)
2. **The Divisional Commissioner,**)
Aurangabad Division, Aurangabad.)
3. **The Deputy Commissioner (Supply)**)
Aurangabad Division, Aurangabad.) **RESPONDENTS**

APPEARANCE : Shri R.O. Awasarmol, learned Counsel
for the applicant.

: Smt. Sanjivani K. Deshmukh-Ghate,
learned Presenting Officer for the
respondent authorities.

CORAM : **Hon'ble Justice Shri V.K. Jadhav, Member (J)**

DATED : **07.02.2024.**

O R A L- O R D E R

Heard Shri R.O. Awasarmol, learned counsel for the applicant and Smt. Sanjivani K. Deshmukh-Ghate, learned Presenting Officer for the respondent authorities.

2. Learned counsel for the applicant on instructions submits that the applicant do not want to press prayer clause 'C' at this stage. Learned counsel for the applicant submits that the respondent No.3 has submitted detailed proposal about the fixation of pay of the applicant by communication dated 31.07.2019 to the respondent No.1. However, the said proposal is still pending for consideration. Learned counsel for the applicant submits that if the said proposal is decided positively in favour of the applicant, the applicant will be entitled for the pay and allowances as paid to him and there is no question of any recovery. In case of any adverse order, the applicant may be given liberty to claim the refund of the recovered amount along with the main prayer. Thus at present, the applicant is only pressing the prayer clause 'B'.

3. By filing this Original Application the applicant is seeking direction to the respondents to decide the proposal

dated 31.07.2019 submitted by Deputy Commissioner (Supply) Aurangabad to the respondent No.1 about the pay fixation of the applicant with the consequential relief about the refund of the amount which was deducted due to wrong pay fixation.

4. Brief facts giving rise to the Original Application are as follows:-

(i) The applicant was working as a Awwal Karkoon at District Collector's Office, Jalna and in his tenure of service, in the year 2006, under the orders of the Government, the applicant had undergone long term training on "Scientific Storage and Inspection of Foodgrains" in the department of Civil Supplies at the Indian Grain Storage Management situated at Hyderabad. Upon completion of his training and attaining technical qualification, the Divisional Commissioner, Aurangabad has appointed the applicant on the post of Divisional Godown Inspector from the post of Awwal Karkoon in terms of Government Circular dated 18.10.1957. The applicant has been appointed by order dated 16.06.2012 issued by the Divisional Commissioner, Aurangabad in this regard. The said appointment order is marked as Annexure 'A-1'.

(ii) It is the further case of the applicant that the applicant has worked for the period of 3 years and 8 months as a Divisional Godown Inspector in the pay scale of Rs. 9300-34800 with grade pay of Rs. 4200 as directed by the Pay Commission. However, suddenly after 3 years and 8 months the Divisional Commissioner's Office, Aurangabad unilaterally removed the pay scale without any order and started paying the applicant Senior Clerk's pay scale showing that the applicant has been overpaid for 3 years and 8 months. Moreover, the said overpaid amount was recovered from the salary of the applicant. The applicant has many times requested for rectification of his pay scale and he has finally submitted the request application dated 14.06.2019 to the Divisional Commissioner's Officer, Aurangabad specifically mentioning therein that the responsibilities of the post of Divisional Godown Inspector and the pay scale has been made as per the report of the Pay Commission.

(iii) Learned counsel for the applicant submits that the Divisional Commissioner's office, Aurangabad has submitted a written proposal dated 31.07.2019 to respondent No.1 requesting therein that the applicant's claim may be decided

at earliest. However, the Government has not considered the said proposal. The said proposal is marked as Annexure 'A-6'.

5. Learned Presenting Officer for the respondents submits that there are no specific instructions about pendency of the said proposal (Annexure 'A-6').

6. It appears that without any order though the applicant had worked as a Divisional Godown Inspector for the period of 3 years and 8 months on the pay scale admissible to the said post, suddenly the department has removed the said pay scale and started paying him Senior Clerk's pay scale of Rs. 5200-20200 with grade pay of Rs. 2800/-.

7. On careful perusal of the Annexure 'A-6' it appears that the respondent No.3 in the said proposal has given reference to the Government Circular dated 18.10.1957 and informed that in view of the said Government Circular the employee who has completed the training of Scientific Methods of Storage and Inspection would be entitled to be promoted as a Divisional Godown Inspector. It is also

accepted in the said proposal that on 16.06.2012 the applicant was given the said post as Divisional Godown Inspector and he had worked on that post from 26.06.2012 to 31.05.2016 and thereafter, one Shri Nitin Tukaram Jadhav was working on the said post since 03.01.2017. It is further informed in the said proposal that there is confusion as to the pay scale admissible to the post of Divisional Godown Inspector and in view of same, the respondent No.3 has sought the advice from respondent No. 1.

8. In view of above and since the proposal (Annexure 'A-6') is still pending, this Original Application deserves to be allowed to the extent of prayer clause 'B' by giving suitable direction to respondent No.1 to decide the said proposal in time bound manner. Hence, the following order:-

ORDER

- (A) The Original Application No. 232 of 2022 is partly allowed.
- (B) The respondent No.1 is hereby directed to decide the proposal forwarded by respondent No.3 dated 31.07.2019 (Annexure 'A-6') as expeditiously as possible preferably within the period of three

months from the date of this order and communicate the said order to the applicant.

(C) In the circumstances there shall be no order as to costs.

(D) The Original Application stands disposed of.

MEMBER (J)

Place:-Aurangabad

Date : 07.02.2024

SAS O.A. 232/2022 (S.B.) VKJ Recovery.