

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

O.A.NO. 234/2017 WITH O.A.NO. 235/2017

01. ORIGINAL APPLICATION NO. 234 OF 2017

DISTRICT: - JALNA.

01. Chandrakant S/o. Bhaguji Ghule,

Age : - 44 years, Occu: Service,
R/o. 488, Near Police Quarters,
Tal. & Dist. Jalna.

02. Shekhar S/o Sampatrao Athavale

Age : - 45 years, Occu: Service,
R/o. Satwai Tanda, Behind S.P. Office,
Tal. & Dist. Jalna.

03. Rajesh S/o Ramphal Bohot

Age : - 35 years, Occu: Service,
R/o. Walmik Nagar, New Jalna
Tal. & Dist. Jalna

04. Smt. Rani w/o Sandip Gaikwad

Age : - 38 years, Occu: Service,
R/o. Arif Colony, Mangal Bajar,
New Jalna, Tal. & Dist. Jalna.

.. APPLICANTS

V E R S U S

01. The State of Maharashtra

Through Secretary,
Home Department,
Mantralaya, Mumbai.

02. The Superintendent of Police, Jalna,

Beside Collector Office,
By-pass Road, Jalna.

.. RESPONDENTS.

W I T H

02. ORIGINAL APPLICATION NO. 235 OF 2017

DISTRICT: - JALNA

01. Krishna Pandurang Kotole
Age – 41 years, Occu. – Service
R/o. Paradh, Tal. Bhokardhan
Dist – Jalna.

02. Siddheshwar Narayan Sable
Age – 27 years, Occ. – Service
R/o. Rajur,
Tal. & Dist. – Jalna

.. APPLICANTS.

V E R S U S

01. The State of Maharashtra
Through Secretary
Home Department,
Mantralaya, Mumbai.

02. The Superintendent of Police, Jalna,
Beside Collector Office,
By-pass Road, Jalna.

.. RESPONDENTS.

APPEARANCE : Shri Ashutosh S. Kulkarni, learned
Advocate for the applicants in both
these cases.

: Shri D.R. Patil – learned Presenting
Officer for the respondents in both
these cases.

CORAM : **B.P. PATIL, MEMBER (JUDICIAL)**

DATE : **27TH JULY, 2018.**

COMMON ORDER

Since the issue involved in the present Original Applications is one and the same, they are disposed of by this common order.

2. The present applicants have prayed to direct the respondents to increase and pay the wages to them as per Government Notification dated 28.09.2010 i.e. Rs. 2670/- per month w.e.f. 18.02.2017 along with arrears of wages and interest by filing the present Original Applications.

3. The applicants are working as Part Time Sweeper at different Police Stations under the control and supervision of respondent No. 2 i.e. Superintendent of Police, Jalna. They are working as Part Time Sweeper since 20-30 years. Initially they were getting wages Rs. 252/- per month. Thereafter, it was increased to Rs. 900/- and then to Rs. 1200/- per month. It is their contention that on 28.09.2010 the Government of Maharashtra issued Notification and increased the wages of Part Time Sweepers to the extent of 60% of salary of Full Time Sweepers. It is their contention that in view of the said

Notification dated 28.09.2010 the Commissioner of Police, Aurangabad, as well as, Superintendent of Police (Rural), Aurangabad increased the wages of the Part Time Sweepers. As the similarly placed Sweepers are getting salary at higher rate in view of the Notification dated 28.09.2010, some of the Sweepers working in the Jalna District approached this Tribunal by filing O.A. No. 166/2016 seeking directions to the respondent No. 2 to increase their salary / wages as per the Notification dated 28.09.2010. The said O.A. came to be allowed on 25.02.2016. Accordingly, the respondent No. 2 increased the salary of those applicants in O.A. No. 166/2016 by an order dated 25.1.2017 but on 18.02.2017 respondent No. 2 issued a fresh order fixing the salary of the applicants and other workers in Jalna District @ 1200/- per month only. It is their contention that the said order has been issued by the respondent No. 2 with malice and ulterior motive to deprive the applicants from their legal rights. Therefore, they approached this Tribunal by filing the present Original Applications and prayed to direct the respondent No. 2 to increase and pay their wages as per

the Notification dated 28.09.2010 w.e.f. the date of the said Notification along with interest @ 9% p.a.

4. Respondent No. 2 has filed his affidavit in reply and resisted the contentions of the applicants. He has not disputed the fact that the applicants are working as Part Time Sweepers in different Police Stations under his control. It is his contention that the applicants are engaged as Part Time Sweepers for the period of 29 days on temporary basis and they are working purely on temporary basis for 4 hours in morning session and not working for full day. They were paid wages of Rs. 1200/- per month as per the Government Resolution dated 27th February, 2009. It is his contention that the Director General of Police, Maharashtra State, Mumbai has issued Circular dated 25.4.2017 directing all the Unit Commanders that resolution dated 6th September, 2010 is not applicable for Part Time Sweepers of the State Government, as the Government has already increased pay of such Part Time Sweepers by issuing Government Resolution dated 27th February, 2009. It is his further contention that the Director General of Police, M.S.,

Mumbai by Circular dated 25.04.2017 communicated that Notification dated 28.09.2010 is not applicable to such Part Time Sweepers. It is his contention that the respondents had challenged the order of this Tribunal passed in O.A. No. 166/2016 by approaching the Hon'ble High Court and, therefore, the applicants are not entitled to seek directions as prayed for. On these grounds he prayed to reject the present Original Applications.

5. During the pendency of the present Original Applications, the respondents produced a copy of Government Resolution dated 7th March, 2018 issued by Home Department, Government of Maharashtra, by which wages of the Part Time Sweepers has been increased on the basis of Notification dated 28th September, 2010. Not only this, respondent No. 2 issued the order dated 10.5.2018 granting wages / salary to the applicants on the basis of Notification dated 28th September, 2010 w.e.f. April, 2018.

6. I have heard Shri Ashutosh S. Kulkarni, learned Advocate for the applicants and Shri D.R. Patil, learned

Presenting Officer for the respondents. I have perused the application, affidavit, affidavit in reply filed by respondents. I have also perused the documents placed on record by both the sides.

7. Admittedly, the applicants were serving as Part Time Sweepers and working for 4 hours daily since 20-30 years at different Police Stations under the control of respondent No. 2. Admittedly, they were getting wages, salary of Rs. 1200/- per month, at the time of filing of the present Original Applications. Admittedly, the respondent No. 2 granted salary and wages to the applicants as per the Notification dated 28th September, 2010 w.e.f. April, 2018, as the Home Department of Government of Maharashtra issued Government Resolution dated 7th March, 2018 and revised the salary / wages of the Part Time Sweepers on the basis of the Notification dated 28th September, 2010 issued by Industry, Energy and Labour Department of the Government of Maharashtra.

8. Learned Advocate for the applicant has submitted that at present the applicants are getting salary / wages

on the basis of the Notification dated 28th September, 2010 and, therefore, the applicants have no grievance to that extent. He has submitted that the respondent No. 2 has not granted arrears of the wages to the applicants since the date of issuance of Notification dated 28th September, 2010. Therefore, they are entitled to get it. He has submitted that this Tribunal passed the order in **O.A. No. 166/2016** in case of **Mr. Deepak S/o Namdeo Dongre and Others. Vs. State of Maharashtra and Others on 25.02.2016** and directed the respondents to grant benefit of the Notification dated 28th September, 2010. He has submitted that accordingly the applicants in that O.A. are getting the salary from the date of the said order. He has submitted that the applicants are also similarly situated persons and, therefore, it is incumbent on the part of the respondent No. 2 to grant the same wages / salary to the applicants on the basis of the Notification dated 28th September, 2010 and, therefore, they are entitled to get arrears of wages and interest thereon and, therefore, he prayed to allow the present Original Applications to that extent.

9. Learned Presenting Officer has submitted that the Notification dated 28th September, 2010 has been issued by the Industry, Energy and Labour Department of Government of Maharashtra and this was applicable to the employees employed under the said Act. Therefore, the said Notification is not applicable to the Home Department and the Part Time Sweepers working under it. He has submitted that the said fact has been clarified by the Home Department, as well as, the Finance Department time and again and accordingly the Additional Director General of Police (Administration) has issued Circular dated 25th April, 2017 and, therefore, the applicants are not entitled to claim back-wages on the basis of Notification dated 28th September, 2010. He has submitted that the order passed by this Tribunal in O.A. No. 166/2016, as well as, orders passed by this Tribunal in other OAs have been challenged by the respondents in the Hon'ble Bombay High Court by filing Writ Petition Nos. 1485 & 1497 both of 2018 and the same are still pending. However, considering the demand of the Part Time Sweepers, the Home Department of Government of

Maharashtra has decided to increase the wages and salary of the Part Time Sweepers on the basis of the Notification dated 28th September, 2010 subject to the final decision in those Writ Petitions and accordingly, issued Government Resolution dated 7th March, 2018. He has submitted that on the basis of the said Government Resolution dated 7th March, 2018, the salary / wages of the applicants has been increased w.e.f. April, 2018 by order dated 10th May, 2018 issued by respondent No. 2. He has submitted that the effect of the said G.R. dated 7th March, 2018 is not retrospective. Moreover, the decision rendered by this Tribunal in O.A. No. 166/2016 has been challenged before this Hon'ble High Court and, therefore, subject to the decision in WPs such benefit was extended to the applicants in those OAs supra and, therefore, they cannot claim back-wages, as well as, interest thereon on the basis of the Notification dated 28th September, 2010, which is not applicable to the Part Time Sweepers working under Home Department. Therefore, he prayed to reject the present Original Applications.

10. On perusal of the record, it reveals that this Tribunal has passed the order in O.A. No. 166/2016 on 25.02.2016 directing the respondents to extend the benefit to the applicants in that O.A. as per the Notification dated 28th September, 2010. Accordingly, the respondent No. 2 extended the benefit to those applicants. Thereafter, this Tribunal has passed orders in other matters also, but the respondents challenged the said decisions before the Hon'ble High Court by filing WPs bearing Nos. 1485 & 1497 both of 2018. However, during the pendency of the WPs, the respondent No. 1 issued G.R. dated 7th March, 2018 and increased the wages / salary of the Part Time Sweepers on the basis of the Notification dated 28th September, 2010. On the basis of the said Notification the respondent No. 2 issued the order dated 10th May, 2018 and increased the wages / salary of the applicants w.e.f. April, 2018. The decision in O.A. No. 166/2018 and other OAs in which the directions were given to the respondents to extend the benefit of the Notification dated 28th September, 2010 to the Part Time Sweepers like the applicants, has been challenged before the Hon'ble High

Court and the issue is subjudice. Therefore, on the basis of said Notification the applicants cannot claim back-wages and interest thereon. The benefit was extended to the applicants in those OAs subject to the final decision in the Writ Petitions. In these circumstances, in my opinion the present applicants cannot claim the back wages and interest thereon and, therefore, their prayer to that extent, requires to be rejected. Since respondent No. 2 has issued the order dated 10th May, 2018 granting salary to the applicants on the basis of Notification dated 28th September, 2010 in view of the G.R. dated 7th March, 2018, nothing survives in the present Original Applications. Therefore, the present OAs required to be disposed of accordingly.

11. In view of the above, the present Original Applications are disposed of accordingly with no order as to costs.

MEMBER (J)

PLACE : AURANGABAD.

DATE : 27TH JULY, 2018.