

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 711 OF 2018
(Subject:- Benefit of G.R./ Higher Pay Scale)**

DISTRICT:-AURANGABAD

Sanjay S/o. Natha Nade,)
Age : 43 years, Occu.)
Service as Laboratory Assistant)
R/o- Aurangabad, Dist- Aurangabad)
Govt. Medical Quarter, C-1-11, Aurangabad.) **APPLICANT**

V E R S U S

1. **The Secretary,**)
Public Health Department,)
Mantralaya, Mumbai-32.)
2. **The Director of Health Services,**)
Saint Gordges Hospital, Near CST)
Mumbai.)
3. **The Dean,**)
Government Medical College and)
Hospital at Aurangabad.) **RESPONDENTS**

APPEARANCE : Shri V.G. Pingle, learned Counsel
for the applicant.
: Shri I.S. Thorat, learned Presenting
Officer for the respondent authorities.

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

DATED : **09.01.2024.**

ORDER

Heard Shri V.G. Pingle, learned counsel for the applicant and Shri I.S. Thorat, learned Presenting Officer for the respondent authorities.

2. By filing this Original Application, the applicant is seeking equal pay for equal work in terms of the G.R. dated 29.09.2003 and 15.09.2021 to the extent of benefit of higher pay scale.

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

(i) The applicant is possessing the qualification B.Sc. M.Lt. (Medical Laboratory Technician). Pursuant to the V.R.S. taken by the father of the applicant while in service, the applicant came to be appointed on compassionate ground on ad-hoc basis as a Laboratory Attendant since 03.10.1992 till 31.05.1995. Later on by order dated 22.06.1995 the services of the applicant came to be regularized w.e.f. 01.06.1995 and he is appointed on Class-IV post i.e. Laboratory Attendant in the pay scale of Rs. 750-12-870-EB-14-940. The copy of ad-hoc appointment and order dated

22.06.1995 is annexed and marked as Annexure 'A-1' collectively.

(ii) It is further case of the applicant that though the applicant came to be appointed on Class-IV post, the applicant has worked and performed the duties of the higher post since the date of initial appointment. However, the applicant is deprived from the getting the pay scale of higher post.

(iii) The applicant has no grievance in respect of regularization as well as time bound promotion pay scale. However the applicant is aggrieved with the action of the respondent authorities in not granting the benefit to him of equal pay for equal work in terms of G.R.s dated 29.09.2003 and 15.09.2011.

(iv) The applicant has submitted the representation on 31.08.2017 and thereby claimed the benefit of higher pay scale on the ground that he has performed the work of higher post. However, by ignoring the mandate of G.Rs. dated 29.09.2003 and 15.09.2011 by impugned communication dated 16.09.2017 (Annexure 'A-6' Colly.) the respondent

authorities turned down his representation. Hence, this Original Application.

4. Learned counsel for the applicant submits that in terms of the G.R. dated 29.09.2003, if the person is holding the lower post and performing the work of higher post, then such person /employee is entitled for getting pay scale of higher post. Learned counsel for the applicant submits that the said G.R. is squarely applicable to the case of applicant. It is clearly reflected from the said G.R. that those employees who are working in the feeder cadre but performing the duties of higher cadre they will be entitled for higher pay scale as per cut-off date mentioned in the G.R.

5. Learned counsel for the applicant in order to substantiate his contention pointed out the certificates Annexure 'A-5' collectively. Learned counsel for the applicant submits that the first certificate issued by the respondent authorities wherein it is certified that the applicant is working as Class-IV employee since 01.06.1995 and he worked as mentioned in the certificate in Laboratory. Learned counsel for the applicant submits that similarly in the second certificate, the details of duties performing by the applicant

are described. Learned counsel for the applicant also demonstrates the same from experience certificate. Learned counsel for the applicant submits that the Original Application thus deserves to be allowed by directing the respondent authorities to grant higher pay scale to the applicant from the date on which the applicant is performing the duties by quashing and setting aside the impugned communication dated 16.09.2017.

6. The respondent Nos. 1 to 3 have filed short affidavit in reply. Learned P.O. submits that since the beginning of the services, the applicant is performing the duties as required to be performed by Class-IV Laboratory Attendant. On completion of 12 years in regular service he was given time bound promotional pay scale by order dated 25.04.2007. After regularization of the services and on completion of 12 years in regular service as per the Government policy, the applicant was granted time bound promotional pay scale from the initial pay scale of 2500-50-55-2660-60-3200 to 2610-60-2910-65-3300-70-4000. Learned P.O. submits that the applicant himself has no grievance in respect of regular promotion as well as time

bound promotion pay scale. So far as his grievance about not granting equal pay for equal work, learned P.O. submits that the applicant was regularized as Lab Attendant Class-IV on 22.06.1995. After completion of 12 years in regular service he was given pay scale hike as per Government Policy. As per the letters issued by the authorities of the applicant, the applicant had worked in the capacity of Lab Attendant and performed the work as has been allotted to Lab Attendant.

7. Learned P.O. submits that there is no cause of action and even the applicant has not made it clear as to how he is entitled for higher pay scale of higher post. Learned P.O. submits that there is no substance in the Original Application and the same is liable to be dismissed with costs.

8. Learned counsel for the applicant submits that the respondent No.3 by order dated 02.09.2000 revised the pay scale of similarly situated other three Class-IV employees thereby extending benefit of equal pay for equal work in view of G.R. dated 30.01.1990. Further the respondent No.3 has also given effect to the order passed by this Tribunal in O.A.No. 116/2001 and extended the similar benefit to one

Supda Tukaram Dabhade who was initially appointed as Gangman, Class-IV.

9. On careful perusal of the contents of the Original Application and having due regard to the submissions made on behalf of the applicant, I do not find any substance in the Original Application. The applicant has failed to demonstrate as to how he is entitled for higher pay scale in terms of the principles of equal pay for equal work. It is clear from the appointment order that the applicant was appointed as Lab Attendant and he was assigned with the duties and he has also performed the duties of Lab Attendant. He was given time bound promotion pay scale on completion of 12 years of service on that post and also considered for regular promotion. On perusal of the certificates as pointed out by learned counsel for the applicant which are at Annexure 'A-5' collectively, I do not think that the applicant has performed and discharged the duties of higher post and thus entitled to get higher pay scale. There is no substance in the Original Application. Hence, the following order:-

ORDER

- (A) The Original Application No. 711 of 2018 is hereby dismissed.

- (B) In the circumstances, there shall be no order as to costs.
- (C) Accordingly, the Original Application stands disposed of.

MEMBER (J)

Place:-Aurangabad

Date : 09.01.2024

SAS O.A. 711/2018 (S.B.) VKJ Benefit of G.R./ higher pay scale.