

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.824 OF 2018

DISTRICT : AURANGABAD

Shivaji Ramro Tidke,
Age : 59 years, Occu. : Retired,
R/o. N-7/P-12, Cidco,
Near Ramlila Maidan,
New Aurangabad.

...APPLICANT

V E R S U S

- 1) The State of Maharashtra,
Through Principal Secretary,
Water Resources Department,
Mantralaya, Mumbai-32.
- 2) The Superintending Engineer,
Jayakwadi Project Circle,
Post Box No.310, Aurangabad.
- 3) The Executive Engineer,
Majalgaon Canal Division No.10,
Parbhani.

...RESPONDENTS

APPEARANCE : Smt. Suchita Dhongde, Advocate for
Applicant.
: Shri M.P.Gude, Presenting Officer for
the Respondents.
: Shri S.B.Mene, Advocate for respondent
no.3.

CORAM : **JUSTICE A.H. JOSHI, CHAIRMAN.**

RESERVED ON : **04.06.2019.**

PRONOUNCED ON : **26.06.2019.**

ORDER:

1. Heard Smt. Suchita Dhongde learned Advocate for the applicant, Shri M.P.Gude learned Presenting Officer for the respondents and Shri S.B.Mene learned Advocate for respondent no.3.

2. In this O.A. applicant has challenged order dated 28-09-2017. Text thereof reads as follows:

“कार्यालयीन आदेश क्र.माकावि-१०/आ-१/१७९, दिनांक : २८/९/२०१७

विषय : चुकीचे अर्थ विवरण करून कार्यकारी अभियंता पदाच्या वेतन संरचनेत आश्वसित प्रगती योजनेअंतर्गत मंजूर केलेला तिसरा लाभ रद्द करणे बाबत.

संदर्भ : १) या कार्यालयाचे कार्यालयीन आदेश क्र. माकावि-१०/आ-१/पृ-क९३९ दिनांक-६/५/२०१४.

२) शासन परिपत्रक क्र.आप्रचे/१०१६/पृ.क. ५८/२०१६/सेवा-३ दिनांक १३/०६/२०१६.

३) मंडळ कार्यालयाचे पत्र क्र. जाप्रमं/आस्था-१/धा-१९५/३१२४ दिनांक-१५/७/१७ व त्या सोबतची पत्रे.

१) या विभागांतर्गत कार्यरत अधिकारी/कर्मचारी यांची संदर्भ क्र.१ च्या आदेशान्वये दि.१/८/२०१३ पासून दुसरी सेवांतर्गत आश्वसित प्रगती योजना मंजूर करण्यात आली होती.

२) तथापी संदर्भ क्र.२ च्या शासन परिपत्रकान्वये व मंडळ कार्यालयाच्या संदर्भ पत्र क्र.३ च्या सुचनेनुसार संदर्भ क्र.१ अन्वये दिलेला लाभ रद्द करून त्याची पूर्ववेतननिश्चिती सोबतच्या विवरणपत्रानुसार करण्यात येऊन मा. उच्च न्यायालय मुंबई यांनी दि.०८/०३/१७ रोजी दिलेल्या अंतिम आदेशामध्ये 'In the

meanwhile no coercive recovery be enforced against the petitioners' दिलेल्या निर्देशांचे पालन करण्यात येत आहे. त्यानुसार दि.१/८/२०१३ रोजी संदर्भ क्र.१ अन्वये मंजूर केलेले ग्रेड वेतन रु.६६००/- रद्द करून ग्रेड वेतन रु.५४००/- प्रमाणे वेतन निश्चिती करण्यात येत आहे.

३) सदर वेतन निश्चितीमूळे विवरण पत्रातील अभियंत्यांचे दि.०१/०८/२०१३ पासून होणारी अतिप्रदानाची रक्कम मा. उच्च न्यायालय मुंबई यांनी त्यांच्या दि. ८/३/२०१७ च्या आदेशा मध्ये दर्शविल्या प्रमाणे अतिप्रदानाची वसुली शासनाच्या पुढील आदेशा पर्यंत वसुली करण्यात येवू नये.

कार्यकारी अभियंता
माजलगांव कालवा विभाग क्र.१०
परभणी

सोबत : विवरण पत्र”

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

3. Reference No.2 quoted in foregoing para though apparent, is once again extracted which is as follows:

२) शासन परिपत्रक क्र.आप्रचे/१०१६/पु.क. ५८/२०१६/सेवा-३ दिनांक १३/०६/२०१६.

4. Applicant has averred in O.A., as amended, in ground No.K as follows:

“K) The applicant submits that, the impugned order was issued in view of Govt. Circular dated 13.06.2016, this circular was challenge before Hon’ble High Court by the Association of the Sub-ordinate service of Engineer Maharashtra State in Writ Petition No.2605/2017. This writ petition allow on dated

06.02.2019 and the Hon'ble High Court states that in para :-

42. In this view of the matter, the denial of the 'second benefit' under the MACP Scheme, with reference to an exercise of cadre restructuring and the revision in pay scale, in the year 1984, appears to be legally unsustainable. We are, thus, inclined to answer the aforesaid question in the 'negative'. We hold and declare that the upgradation under GR dated 16th April, 1984 does not constitute grant of non-functional pay scale and cannot be treated as the 'first benefit' within the meaning of Clause 2(b)(3) of the GR dated 1st April, 2010, we are, thus, inclined to allow the petition.

43) Rule made absolute in terms of prayer Clauses (a) and (b).

44) If any amount is recovered from the salary of the Petitioners in pursuance of the Circular dated 13th June, 2016, the same be refunded to the Petitioners within a period of three months from today.

45) In the result, the Writ Petition is allowed in the above terms. There shall be no order as to costs

The applicant submits that, during the pendency of this original application, the Hon'ble High Court set aside a Govt. circular dated 13.06.2016. The applicant

submits that thus the impugne order was issued in view of that circular only, the issued involved in the instant original application has dealt with by the Writ Petition No.2605/2017 by the Hon'ble High Court. The instant original application is very much covered by the said judgment."

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

5. It is not disputed by the respondents that the judgment rendered in Writ Petition No.2605/2017 by which the Circular dated 13-06-2016 is quashed and set aside. Copy of the same Circular dated 13-06-2016 is already on record at page 21 and copy of judgment in Writ Petition No.2605/2017 is on record at page no.25 onwards.

6. In the aforesaid situation, present case is governed by said judgment of Hon'ble High Court in Writ Petition No.2605/2017. In the result present O.A. succeeds in terms of prayer clauses 9B) to E) which reads as follows:

"9B) The impugned order dated 28-9-2017 reducing the grade pay of the applicant retrospectively from 1-8-2013 be quashed and set aside.

C) The pay of the applicant be restored to its original position and the applicant be paid consequential arrears of difference of pay and allowance from 1-8-2013 onwards.

*D) The pension of the applicant which is determined on the basis of reduced pay of the applicant considering his grade pay as *Rs.5,400 instead of Rs.6,600 be revised and the applicant be directed to be paid the arrears thereof.*

E) Any other equitable and appropriate relief to which the applicant is found due and entitled in the facts & circumstances of the case may kindly be granted in favour of the applicant.”

(Quoted from paper book page 6 & 7 of O.A.)

7. Compliance of this order be done within 3 months from today.

8. In the facts and circumstances of the case, parties are directed to bear their own costs.

(A.H.JOSHI)
CHAIRMAN

Place : Aurangabad
Date : 26.06.2019.

*Corrected as per order dated 02-07-2019 passed by Hon'ble Chairman.

Sd/-
Registrar,
M.A.T., Aurangabad

**FARAD CONTINUATION SHEET
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD**

**ORIGINAL APPLICATION NO.824/2018
(Shivaji Ramrao Tidke V/s. State of Maharashtra &
Ors.)**

OFFICE ORDER

TRIBUNAL'S ORDERS

CORAM : JUSTICE A.H.JOSHI, CHAIRMAN

DATE : 02.07.2019

ORAL ORDER :

Heard Smt. Suchita Dhongde learned Advocate for the applicant and Shri M.S.Mahajan learned Chief Presenting Officer for the respondents.

2. Today the case is not on board. Learned Advocate for the applicant has filed an application for speaking to minutes praying for correction of typographic error in order dated 26-06-2019 to the extent of correction in paragraph 6(D) as "Rs.5400/-" instead of "Rs.15400/-".

3. Hence, figure "Rs.15400/-" in paragraph no.6(D) of order dated 26-06-2019 be corrected and read as "Rs.5400/-".

4. Registry is directed to carry out the correction as above and issue certified copy to the parties as per procedure.

CHAIRMAN