

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 290 of 2009 (S.B.)

Shri Vilas Vasudev Khare,
Aged about 43 years,
Occ. Plant Engineer,
R/o Flat no.15/7,
Dreamland Housing Society,
Priyadarshani Colony, Behind RTO,
Civil Lines, At & Dist. Nagpur- 440 001 (M.S.).

Applicants.

Versus

- 1) State of Maharashtra
through its Chief Secretary,
Mantralaya, Mumbai-400 032.
- 2) State of Maharashtra,
through its Secretary,
Department of Agriculture,
Animal Husbandry, Dairy Development &
Fisheries Department,
Mantralaya, Mumbai-400 032.
- 3) The Commissioner of Animal
Husbandry (Pashusamvardhan),
Maharashtra State, at & dist. Pune- 411 101 (M.S.).
- 4) The Regional Manager Frozen
Semen Laboratory, Telangkhedi,
At & Dist. Nagpur.

Respondents.

S/Shri Saurabh Chandramohan Gupta, A.S. Tiwari, P.J. Mehta,
Advocates for the applicant.

Shri H.K. Pande, learned P.O. for the respondents.

Coram :- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J)

JUDGMENT

(Delivered on this 11th day of April,2018)

Heard Shri A.S. Tiwari, learned counsel for the applicant and Shri H.K. Pande, learned P.O. for the respondents.

2. The applicant a Plant Engineer in the department of Animal Husbandry has filed this O.A. and is claiming the following reliefs :-

“(a) To direct the respondents to extend the Gazetted status and with suitable increase in increment and pay scale may be given to the applicant from 29/08/1996 (after completion of 5 years of service) till date and even in future on monthly basis according to the respondent no.1, in Irrigation Department vide its Government Resolution dated 16/04/1984 vide order no.CDS 1582/158 (215) Aa (10), as per Final Department recommendation 04/02/2009 at Annex-A-8.

(b) To direct the respondents to release all the consequential benefits flowing from the appointment of the applicant with effect from 29/08/1996.”

3. The applicant was appointed as Plant Engineer as per the order issued by the Commissioner of Animal Husbandry (Pashusamvarchan) (M.S.) on 09/10/1991. The applicant filed number of representations claiming Gazetted status with increase pay scale with the Government. One of such applications was filed on 16/01/2008. A legal notice was also issued with the respondents

through Advocate on 26/11/2008 and his case was recommended vide communication dated 5/7/2002 and on 04/02/2009. However, nothing was done.

4. According to the applicant, In O.A.No.666/2001 by this Tribunal at Aurangabad Bench on 07/02/2003 had issued directions to grant Gazetted status to the employees like applicant. A Govt. Resolution was issued on 15/10/2003 by the Animal Husbandry Department, Mantralaya in which the decision of the Hon'ble M.A.T. was accepted and Gazetted status and pay scale was increased for the Foremen Supervisor in the Department of Agriculture. The applicant has therefore filed this O.A. The applicant is claiming Gazetted status as per G.R. dated 16/04/1984 (Annex-A).

5. The respondents have filed reply-affidavit and it is submitted that the G.R. dated 16/04/1984 is of Irrigation Department, whereby Gazetted Officers' Class-II status has been granted to the Junior Engineers, who are degree and diploma holders and the said G.R. is not applicable to the Graduate Engineers working as Plant Engineer in the Administrative Department of Animal Husbandry. It is further stated that the proposal to grant status of Gazetted Officer to Plant Engineer of the Department has been moved to the Government and it was under consideration. However, some queries were made which are to be complied. It is also

recommended that the provisions of G.R. dated 16/04/1984 can be made applicable to the Junior Engineers of Urban Development Department and Rural Development Department.

6. The respondents admitted that the factual position mentioned by the applicant for grant of Gazetted status in para no.4.7 of the O.A. is true. The Department of Animal Husbandry is considering the feasibility of extending the benefits of granting gazetted status to the applicant.

7. The learned counsel for the applicant submits that as per G.R. dated 16/04/1984 it has been decided to grant Gazetted status to the Junior Engineers, who are Graduate and holding diploma in engineering with particular experience as specified in the said G.R. and the said G.R. has been made applicable to some departments.

8. The learned counsel for the applicant placed reliance on the Judgment delivered by this Tribunal in O.A.661 of 2001 at Aurangabad Bench in case of **Subhash Phulsing Jadhav Vs. State of Maharashtra & Ors.**, on 07/02/2003. The observations in some of the paras in the said Judgment are material and same are reproduced as under :-

“(2) We are reluctant to observe that this again is a case where unnecessary litigation is being sought to be promoted which is against the public policy. We are also constrained to observe at

the outset that some incorrect averments have been made in the affidavit in reply of respondent nos. 1 to 3 which have ingredients of misleading the judicial forum.

(4) Consistent with the said pronouncement made on the floor of the House, the G.R. dated 16/04/1984 came to be issued by the Irrigation Department. This G.R. expressly covers the Engineering personnel working under the Irrigation Department and the Public Works Department. From the text of the GR, it is seen that the Agricultural Engineering is also a discipline or a branch which has stood covered. We may extract the relevant portion from sub para no.1 of para no.1 of the G.R.

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(6) Though the policy indisputably covered all engineering personnel working under various Administrative Departments of the State Government, the action initially taken was only by the Irrigation Department in relation to the said Department and the Public Works Department. The Engineering personnel working under the administrative control of Forests Department, Urban Development Department and the Rural Development Department etc. had to knock the doors of the Courts/ Tribunal to get what was legitimately due to them. It is on record that those Departments namely the Revenue & Forests Department, Urban Development Department and the Rural Development Department etc. issued GRs. extending the benefits to the

Engineering personnel working under their administrative control in compliance with the directions and orders issued by the judicial forum from time to time. The last of these is the Government in Water Supply & Sanitation Department's Resolution dated 2/7/2002. This GR pertains to the Engineering personnel working with the Ground Water Survey and Development Agency under the administrative control of the Water Supply and Sanitation Department. Those employees were compelled to file Original Application no.457/1996 before Nagpur Bench of this Tribunal. The said O.A. came to be decided by Tribunal's order dated 12/9/2001. The operative part of the order is as follows :-

ORDER

The application is allowed. Respondent no.1 is directed to extent the benefits of GR no.CDS-1582/158(215) AA (10), dated 16/4/1984 to the applicant with effect from 1/4/1981 and grant them the further consequential benefits and monetary benefits. The process of issuing the Govt. Resolution extending the benefits to the applicants from 1/4/1981 should be completed within a period of three months from the date of this order and the arrears on account of pay and allowances, if any, shall be paid to the applicants within next six months."

9. Admittedly, the case of the applicant has been recommended for the Gazetted status, but no decision has been taken by the Government in respect of applicant. One of such recommendations seems to be dated 18/06/2009, copy of which is filed at P.B. page nos.55 & 56 (both inclusive). The applicant was

informed vide said communication that the Government was of the opinion that the Plant Engineers are entitled for the benefit of G.R. dated 16/04/1984.

10. Considering the aforesaid aspects, it is not known as to why the applicant has not been given status as per the G.R. dated 16/04/1984. If he is otherwise fit to be considered as per the said G.R. I, therefore, pass following order :-

ORDER

The O.A. is partly allowed. The respondents are directed to consider the case of the applicant for consideration for the Gazetted status as per G.R. dated 16/04/1984 and the decision in this regard shall be taken on its own merits within a period of two months from the date of this order. The respondents are further directed to release all consequential benefits to which the applicant may be eligible, if his case falls within the G.R. dated 16/04/1984. It is made clear that the applicant's claim may not be rejected only on the ground that the G.R. dated 16/04/1984 is not applicable to applicant's department. No order as to costs.

Dated :- 11/04/2018.

**(J.D. Kulkarni)
Vice-Chairman (J).**