

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 488/2019 (S.B.)

1. Pramod Manoharrao Wargantiwar,
Age: 48 years, Occu: Secondary Teacher,
Add: Government Secondary and
Higher Secondary Ashram School,
Rangi, Taluka: Dhanora,
Distt. Gadchiroli.
2. Sanjay Dadaji Gottamwar,
Age: 46 years, Occu: Secondary Teacher,
Add: Government Secondary Ashram School,
Bhadbhidi, Taluka: Chamorshi,
Distt. Gadchiroli.
3. Nagesh Kisan Wanjari,
Age: 46 years, Occu: Secondary Teacher,
Add: Government Secondary Ashram School,
Halewara, Taluka: Ettapalli,
Distt. Gadchiroli.
4. Vijay Jayram Deotale,
Age: 52 years, Occu: Secondary Teacher,
Add: Government Secondary Ashram School,
Markhandadeo, Taluka: Chamorshi,

Distt. Gadchiroli.

5. Dulsa Gassi Rapanji,
Age: 47 years, Occu: Secondary Teacher,
Add: Government Secondary Ashram School,
Markhandadeo, Taluka: Chamorshi,
Distt. Gadchiroli.
6. Chandrashekhar Shivram Dharne,
Age: 49 years, Occu: Secondary Teacher,
Add: Government Secondary Ashram School,
Zinganur, Taluka: Sironcha,
Distt. Gadchiroli.
7. Siddharth Laxmanrao Padvekar,
Age: 56 years, Occu: Secondary Teacher,
Add: Government Secondary Ashram School,
Mulchera, Taluka: Mulchera,
Distt. Gadchiroli.
8. Surendra Deoram Nandanwar,
Age: 50 years, Occu: Secondary Teacher,
Add: Government Secondary and
Higher Secondary Ashram School,
Sode, Taluka: Dhanora,
Distt. Gadchiroli.

9. Jayshree Dhanilal Sahare,
Age: 46 years, Occu: Secondary Teacher,
Add: Government Secondary and
Higher Secondary Ashram School,
Sode, Taluka: Dhanora,
Distt. Gadchiroli.
10. Purushottam Vithoba Bhojar,
Age: 48 years, Occu: Secondary Teacher,
Add: Government Secondary and
Higher Secondary Ashram School,
Rangi, Taluka: Dhanora,
Distt. Gadchiroli.
11. Kishor Kashiram Barde,
Age: 53 years, Occu: Secondary Teacher,
Add: Government Secondary Ashram School,
Gyarapatti, Taluka: Korchi,
Distt. Gadchiroli.
12. Manish Waman Ghodam,
Age: 46 years, Occu: Secondary Teacher,
Add: Government Secondary Ashram School,
Tadgaon, Taluka: Bhamragadh,
Distt. Gadchiroli.
13. Shadanan Damodar Bhure,

Age: 51 years, Occu: Secondary Teacher,
Add: Government Secondary Ashram School,
Gyarapatti, Taluka: Korchi,
Distt. Gadchiroli.

14. Pushpalata Sanjay Kokode,
Age: 47 years, Occu: Secondary Teacher,
Add: Government Secondary and
Higher Secondary Ashram School,
Yengalkheda, Taluka: Kurkheda,
Distt. Gadchiroli.
15. Suman Bhudaram Madavi,
Age: 50 years, Occu: Secondary Teacher,
Add: Government Secondary and
Higher Secondary Ashram School,
Korchi, Taluka: Korchi,
Distt. Gadchiroli.
16. Kishor Baburaoji Bezalwar,
Age: 52 years, Occu: Secondary Teacher,
Add: Government Secondary and
Higher Secondary Ashram School,
Karwafa, Taluka: Dhanora,
Distt. Gadchiroli.
17. Jayraj Rupsen Sonule,

Age: 48 years, Occu: Secondary Teacher,
Add: Government Secondary Ashram School,
Mulchera, Taluka: Mulchera,
Distt. Gadchiroli.

18. Vidhya Dinkar Shrigurwar,
Age: 50 years, Occu: Secondary Teacher,
Add: Government Secondary and
Higher Secondary Ashram School,
Regadi, Taluka: Chamorshi,
Distt. Gadchiroli.
19. Jiwandas Vinayak Abhare,
Age: 51 years, Occu: Secondary Teacher,
Add: Government Secondary and
Higher Secondary Ashram School,
Khamancheru, Taluka: Aheri,
Distt. Gadchiroli.
20. Manikrao Govindji Maind,
Age: 53 years, Occu: Secondary Teacher,
Add: Government Secondary Ashram School,
Angara, Taluka: Kurkheda,
Distt. Gadchiroli.
21. Anil Wasudeorao Somankar,
Age: 52 years, Occu: Secondary Teacher,

Add: Government Secondary Ashram School,
Bhadbhidi, Taluka: Chamorshi,
Distt. Gadchiroli.

22. Ravilal Kewadram Lade,
Age: 54 years, Occu: Secondary Teacher,
Add: Government Secondary and
Higher Secondary Ashram School,
Yengalkheda, Taluka: Kurkheda,
Distt. Gadchiroli.
23. Prashant Shrikant Giri,
Age: 48 years, Occu: Secondary Teacher,
Add: Government Secondary Ashram School,
Sonsari, Taluka: Kurkheda,
Distt. Gadchiroli.
24. Vyankatrao Gomaji Chacharkar,
Age: 48 years, Occu: Secondary Teacher,
Add: Government Secondary and
Higher Secondary Ashram School,
Karwafa, Taluka: Dhanora,
Distt. Gadchiroli.
25. Kishor Monaji Misar,
Age: 47 years, Occu: Secondary Teacher,
Add: Government Secondary and

Higher Secondary Ashram School,
Yengalkheda, Taluka: Kurkheda,
Distt. Gadchiroli.

26. Rupchand Gopalrao Tumram,
Age: 50 years, Occu: Secondary Teacher,
Add: Government Secondary and
Higher Secondary Ashram School,
Karwafa, Taluka: Dhanora,
Distt. Gadchiroli.
27. Daulat Chintaman Shimpi,
Age: 46 years, Occu: Secondary Teacher,
Add: Government Secondary Ashram School,
Halewara, Taluka: Ettapalli,
Distt. Gadchiroli.
28. Milind Haridas Nimgade,
Age: 51 years, Occu: Secondary Teacher,
Add: Government Secondary and
Higher Secondary Ashram School,
Yengalkheda, Taluka: Kurkheda,
Distt. Gadchiroli.
29. Dadaji Pandhurang Deshmukh,
Age: 54 years, Occu: Secondary Teacher,
Add: Government Secondary and

Higher Secondary Ashram School,
Ramgad, Taluka: Korchi,
Distt. Gadchiroli.

30. Manohar Lachcha Medi,
Age: 46 years, Occu: Secondary Teacher,
Add: Government Secondary Ashram School,
Todsas, Taluka: Ettapalli,
Distt. Gadchiroli.
31. Shankar Bapuji Yadawar,
Age: 53 years, Occu: Secondary Teacher
Add: Government Secondary Ashram School,
Halewara, Taluka: Ettapalli,
Distt. Gadchiroli.
32. Prakash Shyamgiri Rignathe,
Age: 47 years, Occu: Secondary Teacher,
Add: Government Secondary and
Higher Secondary Ashram School,
Karwafa, Taluka: Dhanora,
Distt. Gadchiroli.
33. Ishwardas Kiasan Janbandhu,
Age: 53 years, Occu: Secondary Teacher,
Add: Government Secondary and
Higher Secondary Ashram School,

Ramgad, Taluka: Korchi,
Distt. Gadchiroli.

34. Sudhir Shantaram Shende,
Age: 52 years, Occu: Secondary Teacher,
Add: Government Secondary Ashram School,
Potegaon, Taluka: Gadchiroli,
Distt. Gadchiroli.
35. Prabhudas Punnaya Sadamwar,
Age: 50 years, Occu: Secondary Teacher,
Add: Government Secondary and
Higher Secondary Ashram School,
Jarawandi, Taluka: Ettapalli,
Distt. Gadchiroli.
36. Pritam Sukhdev Khobragade,
Age: 55 years, Occu: Secondary Teacher,
Add: Government Secondary Ashram School,
Markhandadeo, Taluka: Chamorshi,
Distt. Gadchiroli.
37. Kishor Shivram Tumsare,
Age: 50 years, Occu: Secondary Teacher,
Add: Government Secondary Ashram School,
Bhakrondi, Taluka: Kurkheda,
Distt. Gadchiroli.

38. Vandana Wamanrao Mahale,
Age: 50 years, Occu: Secondary Teacher,
Add: Government Secondary and
Higher Secondary Ashram School,
Regdi, Taluka: Chamorshi,
Distt. Gadchiroli.
39. Shyamrao Rajeshwar Mandalwar,
Age: 50 years, Occu: Secondary Teacher,
Add: Government Secondary and
Higher Secondary Ashram School,
Potegaon, Taluka: Gadchiroli,
Distt. Gadchiroli.
40. Dhanwanti Yashwantrao Meshram,
Age: 52 years, Occu: Secondary Teacher,
Add: Government Secondary Ashram School,
Markhandadeo, Taluka: Chamorshi,
Distt. Gadchiroli.
41. Anandrao Wasudeo Borkar,
Age: 51 years, Occu: Secondary Teacher,
Add: Government Secondary Ashram School,
Potegaon, Taluka: Gadchiroli,
Distt. Gadchiroli.

42. Anil Ambadas Ramteke,
Age: 54 years, Occu: Secondary Teacher,
Add: Government Secondary and
Higher Secondary Ashram School,
Rangi, Taluka: Dhanora,
Distt. Gadchiroli.
43. Umakant Uttamrao Dhok,
Age: 47 years, Occu: Secondary Teacher,
Add: Government Secondary Ashram School,
Murumgaon, Taluka: Dhanora,
Distt. Gadchiroli.
44. Radheshyam Motiram Patre,
Age: 56 years, Occu: Secondary Teacher,
Add: Government Secondary Ashram School,
Ghati, Taluka: Kurkheda,
Distt. Gadchiroli.
45. Mangeshkumar Waman Bramhankar,
Age: 46 years, Occu: Secondary Teacher,
Add: Government Secondary and
Higher Secondary Ashram School,
Ghati, Taluka: Kurkheda,
Distt. Gadchiroli.

Versus

Applicants.

- 1 The State of Maharashtra,
through its Secretary,
Tribal Development Department,
M.S., Mantralaya, Mumbai-32.
- 2 Tribal Commissioner,
Commissionate, Nashik.
3. Additional Tribal Commissioner,
Adiwasi Vikas Bhawan, Giripeth,
Nagpur.
4. Project Officer,
Integrated Tribal Development Project,
Gadchiroli,
Dist. Gadchiroli.
5. Project Officer,
Integrated Tribal Development Project,
Aheri,
Dist. Gadchiroli
6. Project Officer,
Integrated Tribal Development Project,
Bhamragarh,
Dist. Gadchiroli.

Respondents

Shri S.N.Gaikwad, Id. Advocate for the applicants.

Shri A.M.Khadatkar, Id. P.O. for the respondents.

Coram :- Hon'ble Shri M.A.Lovekar, Member (J).

JUDGMENT

Judgment is reserved on 03rd Jan., 2024.

Judgment is pronounced on 10th Jan., 2024.

Heard Shri S.N.Gaikwad, ld. counsel for the applicants and Shri A.M.Khadatkar, ld. P.O. for the Respondents.

2. The applicants are working as Secondary School Teachers in various Ashram Schools in Naxal Affected Area.

3. The impugned orders of recovery dated 18.04.2019, 29.04.2019 and 30.04.2019 are collectively marked A-11.

4. It is the contention of the applicants that as per G.R. dated 06.08.2002, on getting benefits of one step promotion from pay scale of Rs. 9,300-34,800/- they became entitled to Grade Pay of Rs. 4,800/-. Stand of the respondents, on the other hand, is that Grade Pay of Rs. 4,400/- was payable considering Pay Band/ Grade Pay made applicable to Secondary Teachers (Trained/Assistant Teacher) as follows:-

Pay Band- 9300-34800 - Grade Pay 4300 (Original Pay Scale)

Pay Band- 9300-34800 - Grade Pay 4400 (Senior Pay Scale)

Pay Band-9300-34800 -Grade Pay 4800 (Selection Pay Scale)

5. The issue involved in this O.A. is already decided by this Bench by judgment dated 25.04.2023 in O.A. No. 719/2017. In this judgment it is held:-

5. The applicants have relied on Clause 7 of G.R. dated 06.08.2002 (A-3). The heading, opening part and Clause 7 of the G.R. read as under :-

नक्षलग्रस्त भागासाठी विशेष कृती कार्यक्रम कार्यक्षम अधिका-यांची नियुक्ती करण्यासाठी मार्गदर्शक तत्वे विहित करणे विविध सवलतीलचे एकत्रीत आदेश निर्गमित करणे.

आदिवासी/ नक्षलग्रस्त भागातील प्रशासन हे तेथील जनतेच्या अडीअडचणीबद्दल जागरूक, संवेदनशिल व कार्यशील होण्यासाठी त्या भागात अधिकारी वर्ग अतिशय काळजीने नियुक्त करणे आवश्यक आहे. या दृष्टीने विचार करून राज्यातील आदिवासी/नक्षलग्रस्त क्षेत्रात होतकरू संवेदनशील व कार्यक्षम अधिकारी/ कर्मचारी यांची नेमणूक करण्यासाठी शासन खालील प्रमाणे मार्गदर्शक सुचना देत आहे.

७. सर्व पदासाठी एकस्त पदोन्नती-

आदिवासी व नक्षलग्रस्त क्षेत्रात काम करण्यासाठी प्रोत्साहन म्हणून गट-अ ते ड मधील सर्व पदधारकांना संबंधित कर्मचारी/ अधिकारी त्या क्षेत्रात कार्यरत असेपर्यंतच्या काळात त्यांनी धारण केलेल्या मुळ पदाच्या नजीकची वरीष्ठ पदोन्नतीची वेतनश्रेणी व त्या अनुषंगाने वेतन निश्चितीचा लाभ देण्यात यावा. ज्या कर्मचारी/अधिका-यांना सेवाअंतर्गत आश्वासीत प्रगती योजनेतूर केलेला आहे त्यांना आणखी वरिष्ठ पदांच्या वेतनश्रेणीचा लाभ अनुज्ञेय नसेल. ही एकस्तर पदोन्नतीची योजना दिनांक १ जुलै २००२ पासून अमलात येईल ती संबंधित कर्मचारी/अधिकारी आदिवासी/नक्षलग्रस्त क्षेत्रात कार्यरत असे पर्यंतच अनुज्ञेय राहिल. त्या क्षेत्रातून कर्मचारी/अधिकारी बिगर आदिवासी क्षेत्रात परत आल्यावर तो त्यांच्या मुळच्या संवर्गातील वेतनश्रेणीत पुर्वीच्या वेतनाच्या अनुषंगाने वेतन होईल.

6. Annexure-4 is the clarification dated 18.04.2011 in respect of implementation of G.R. dated 06.08.2002. It states :-

सदर परिच्छेदानुसार कर्मचा-यास/ अधिका-यास जर पदोन्नतीचे पद उपलब्ध असेल तर पदोन्नतीच्या पदाची वेतनश्रेणी एकस्तर पदोन्नती अंतर्गत अनुज्ञेय राहिल व जर पदोन्नती साखळीतील पद उपलब्ध नसेल तर शासनाने ठरवून दिलेल्या नजीकची वरिष्ठ वेतनश्रेणी अनुज्ञेय राहिल.

Thereafter a circular was issued on 28.01.2003 (A-5). It states:-

या कार्यालयाचे असे निर्देशनास येते की, या विभागातील आदिवासी नक्षलग्रस्त क्षेत्रात काम करणा-यांना उक्त शासनानिर्णयातील तरतुदी नुसार वेतन निश्चितीचा लाभ दिला जात नाही. तद्बतच प्राथमिक शिक्षकांना, माध्यमिक शिक्षकांना कोणत्या वेतन श्रेणीत वेतन निश्चिती करावे अशी विचारणा केली जाते, तसेच संघटनेचे पदाधिकारी सभेच्या वेळी वारंवार वेतन निश्चिती बाबत मुद्या उपस्थित करीत असतात. उपरोक्त संदर्भीय १ चे शासन निर्णयातील तरतुदी स्पष्ट असतांना तसेच आयुक्तालयाकडील संदर्भीय क्रंमाक २ चे पत्र आपले कार्यालयास या कार्यालयाकडून उपलब्ध करून दिले व त्यात सुध्दा मार्गदर्शन दिले असतांना वेगवेगळ्या पदाबाबत मार्गदर्शन मागविणे कर्मचारी/अधिकारी यांना उक्त शासन निर्णयानुसार एकस्तर पदोन्नतीचा लाभ न देणे हे वेळ काढू धोरण दिसून येत आहे.

तेव्हा आपणास पुनःश्च सुचित करण्यात येते की, शासन निर्णय दिनांक ०६.०८.२००२ परिच्छेद ७ मधील तरतुदी स्वयंस्पष्ट असल्याने त्याप्रमाणे तसेच आयुक्तालयाचे पत्र दिनांक १८.०४.२०११ अन्वये आपले स्तरावर कार्यवाही करावी व केलेल्या कार्यवाहीचा अहवाल या कार्यालयास विनाविलंब सादर करावा.

7. Annexure-A-6 shows that the applicants have been fixed in the pay scale of Rs. 9,300-34,800/- with G.P. Rs.4,400/-. It is their contention that they are entitled to get pay scale of Rs. 9,300 – 34,800/- with G.P. 4,800/-. According to the applicants, some employees whose cases are identical have been fixed in the pay scale of Rs. 9,300-34,800/- with G.P. 4,800/- as can be gathered from perusal of

documents collectively marked A-7 (at PP. 70 to 78), and further perusal of A-8 (at PP. 79 to 82) will reveal that this pay fixation has been verified by pay verification unit.

8. Grievance of the applicants is that various representations (Collectively marked A-9) made by them have gone unheeded. Hence, this original application.

9. In his reply at PP. 94 to 98 respondent no. 2 has raised following contentions:-

"The applicants are presently working in the pay scale of Rs. 9300-34800 in Grade Pay of Rs. 4300/-. Therefore, as per G.R. dated 6.8.2002 the applicants are eligible to get the benefit of one step promotion in the nearest higher pay scale (Senior Scale) i.e. Rs.9300-34800 in Grade Pay of Rs.4400/-. As per Maharashtra Civil Service (Revised Pay) Rule, 2009, there are three tier pay scales for Secondary Teachers (Trained)/Assistant Teachers working in Tribal Development Department. Therefore, the applicants are only eligible to get the immediate next pay scale i.e. Rs. 9300-34800 in Grade Pay of Rs.4400/-."

The Finance Department vide Govt. Resolution dated 05.05.2010 has categorically clarified about the pay fixation of the government employees. As per para 2.1 (b) (1) of the G.R. dated 05.05.2010, if the post does not carry additional job and responsibilities after the promotion and if it is sanctioned in Non- Functional Pay Structure, then such employees shall be granted promotion in the Grade Pay of appropriate promotional post of pay structure or Non Functional Pay Structure. Therefore, it is crystal clear that the applicants fall in this category and no additional job and responsibilities lie on them after the promotion. Hence, they are only entitled to next promotional pay structure i.e. Rs.9300-34800 in Grade Pay of Rs.4400/-"

To support these contentions respondent no. 3 has relied on the entry at Sr. No. 33 in A-R-3-I. It is as under:-

३३.माध्यमिक शिक्षक (प्रशिक्षित)/सहायक शिक्षक ५५००-९००० ९३००-३४८०० ४३००

33.Secondary Teacher (Trained)/Assistant Teacher 6500-10500 9300-34800 4400
(Senior Scale)

7500-12000 9300-34800 4800

10. Respondent no. 3 has also relied on the following portion of the Maharashtra Civil Services (Revised Pay) Rules, 2009 (A-R-3-II):-

२.१ महाराष्ट्र नागरी सेवा (वेतन) नियम, १९८१ च्या नियम १९(१) व ११(२) नुसार

वेतननिश्चितीसंदर्भात :-

(अ) वरील नियम ११(१) मधील तरतूदी अंमलात असून त्यामध्ये महाराष्ट्र नागरी सेवा (सुधारित वेतन) नियम, २००९ च्या नियम १३ च्या मर्यादेत सुधारणा झाली आहे. म्हणजेच पदोन्नतीनंतर अधिक महत्त्वाची कर्तव्ये किंवा जबाबदाऱ्या येत असतील तरच उक्त नियम १३ नुसार वेतननिश्चिती करून वेतनवाढ विनियमित करण्यात यावी.

(ब) पदोन्नतीनंतर अधिक महत्त्वाची कर्तव्ये किंवा जबाबदाऱ्या येत नसतील तेव्हा तसेच अकार्यात्मक वेतनसंरचना (Non Functional Pay Structure) मंजूर केल्यानंतर पुढीलप्रमाणे वेतननिश्चिती करण्यात यावी.

(१) वेतन बँडमध्ये बदल होत नसल्यास, कर्मचाऱ्याच्या वेतनबँडमधील वेतनात बदल होणार नाही मात्र, त्याला यथास्थिती पदोन्नतीच्या पदाच्या वेतनसंरचनेतील / अकार्यात्मक वेतनसंरचनेतील ग्रेड वेतन मंजूर करण्यात यावे.

11. In their rejoinder the applicants have contended as follows:-

As per Rule 2.38 (b) of the Ashram School Code, the promotional post of Secondary School Teacher is Head Master, Secondary School, as nearest post for the applicants is in existence, therefore, as per the Government Resolution, the applicants are entitled to the pay-scale and grade pay of that particular promotional post and not to the senior scale of the same post i.e. Rs.4400/-, as erroneously interpreted by the Respondent No.3. A copy of the relevant provision of the Ashram School Code is annexed herewith and marked as ANNEXURE-'A-10'.

The Maharashtra Civil Services (Revised Pay) Rules, 2009, in its schedule under part (24), Tribal Development Department, entry No. 16, clearly provide for the pay-scale and grade pay designated for the post of Head Master, Secondary School, working in the Tribal Development Department as Rs.9300-34800 and 4800 Grade Pay respectively. Therefore, the applicants are entitled to the Grade Pay of Rs.4800/- as per the provision of the said Government Resolution. The Respondent No.3, in his reply, has deliberately annexed only that page of the said Schedule, as Annexure R-3-1, which is next to the page, where the relevant Grade Pay of the Head Master, Secondary School, has been provided for, thereby suppressing the material provision and misleading this Hon'ble Court. A Copy of the aforementioned provision is annexed herewith and marked as ANNEXURE 'A-11'.

The Respondent No. 3, has contended that the applicants are entitled to Grade Pay of Rs.4400/- as per the Government Resolution dated 05-05-2010 which provides for pay-fixation of Government employees. Part 2.1(b) of the said Government Resolution provides that if the post does not carry additional job and responsibility after the promotion and if it is sanctioned in non-functional pay-structure, then such employees shall be granted promotion in the grade-pay of appropriate promotional post of pay structure or non- functional pay-structure.

This contention is baseless and without merit as the said Government Resolution is of general application to all employees while the applicants come within a specific category of employees who are working in tribal and Naxalite areas, for the benefit of whom Clause 7 of the Government Resolution dated 06-08- 2002 has been specially brought into effect. The purpose of the said Clause is to provide incremental pay to employees as incentive and encouragement for working and living in such remote areas and not for performance of additional duties.

12. In chart at P. 118 pay band of Headmaster, Secondary School is given as follows:-

16.माध्यमिक मुख्याध्यापक/Head Master, Secondary School 7500-12000 9300-34800 4800/-

13. The applicants, on the basis of documents relied upon by them, have demonstrated that they are entitled to pay scale of Rs. 9,300-34,800 with G.P. 4,800/- from the relevant, respective dates and Rules 11 (1) and 11 (2) of the Maharashtra Civil Services (Revised Pay) Rules, 2009 shall not be applicable to their cases in view of clear intendment of G.R. dated 06.08.2002. The applicants are held entitled to pay scale of Rs. 9,300-34,800/- with G.P. 4,800/- from the date applicable to each one of them.

6. It may be reiterated that stand of the respondents in O.A. No.

719/2017 was identical to the one taken in this O.A..

7. In the result the impugned communications (A-11, collectively) are quashed and set aside. **The O.A. is allowed with no order as to costs.**

Member (J)

Dated :- 10/01/2024

aps

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 10/01/2024
and pronounced on

Uploaded on : 11/01/2024