

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 674 of 2016 (SB)**

Kishor Ramchandrarao Kemalkar,
Aged about 57 years,
Occ. Service,
R/o Plot No.3, Surve Layout,
Ayodhya Nagar Road, Behind
Chhota Tajbag, Nagpur-24.

Applicant.

Versus

- 1) State of Maharashtra
through its Additional Chief Secretary,
Home Department,
Mantralaya, Mumbai-32.
- 2) The Director General of Police,
Maharashtra State, Kulaba,
Mumbai-39.
- 3) The Commissioner of Police,
Nagpur City, Nagpur.

Respondents.

Shri N.D. Thombre, Advocate for the applicant.

Shri V.A. Kulkarni, P.O. for respondents.

**Coram :- Shri Anand Karanjkar,
Member (J).**

JUDGMENT

(Delivered on this 25th day of March,2019)

Heard Shri N.D. Thombre, learned counsel for the applicant and Shri V.A. Kulkarni, learned P.O. for the respondents.

2. The applicant was appointed as Higher Grade Stenographer in year 1988. The applicant completed 12 years service on 31/08/1998 and he was granted first Assured Career Progressive Scheme (ACP). The applicant was entitled for the 2nd ACP after completion of 24 years of service. That before 6-3-2012 the applicant was serving in the office of Police Training School Nagpur and he completed 24 years service on 30/08/2010, therefore, the office of Police Training School Nagpur granted 2nd ACP to the applicant w.e.f. 01/09/2010 vide order dated 04/01/2012.

3. It is submitted that the respondent no.3 withdrew the said ACP by issuing order dated 15/02/2012, for the reason that the post of Senior Personal Assistant was not on the establishment of the Police Department. The respondent no.3 modified the order and granted higher stage in the same pay scale as 2nd ACP to the applicant. The respondent no.1 thereafter issued G.R. dated 29/01/2014 and created the post of Senior Personal Assistant. It is submission of the applicant that when this G.R. came in force he became entitled for the benefit of this G.R. and he should have been

given the pay admissible to the post of Senior Personal Assistant as 2nd ACP. It is submission of the applicant that the other Higher Grade Stenographers Shri Ashok Kamdi and Shri P.V. Patil have enjoyed such benefits, therefore, on the granted of parity the applicant is entitled for the pay scale admissible to the post of Senior Personal Assistant (Grade-A).

4. The respondents have objected this claim of the applicant on the ground that when 2nd ACP was granted to the applicant there was no post of Senior Personal Assistant on the establishment. The applicant was erroneously granted the pay scale admissible to the post of Senior Personal Assistant, but as there was no post, therefore, the order was modified. It is contended that later on the Government of Maharashtra issued the G.R. dated 01/10/2014 and post of Senior Personal Assistant was created in the Police Department and such 10 posts were created but as the benefit of 2nd ACP was already granted, therefore, merely because the Government created the post of Senior Personal Assistant the applicant cannot claim that post. It is submission of the respondents that though benefit was given to other Personal Assistants but objection was raised by the Accountant General office and consequently the benefit given came to be withdrawn. It is submitted that there is no substance in this application and it is liable to be dismissed.

5. I have heard the submissions on behalf of the applicant and on behalf of the respondents. There is no dispute about the fact that the till coming in the force of G.R. dated 01/10/2014 the post of Senior Personal Assistant was not in existence in the Police Department. By issuing this G.R. 10 posts of Senior Personal Assistants Grade A were created in the pay scale of Rs.15600-39100 with Grade Pay Rs.6600. Out of 10 posts one post was created in the office of Commissioner of Police, Nagpur.

6. It is contention of the respondents that when 2nd ACP was given to the applicant at that time, there was no post of Senior Personal Assistant, therefore, the erroneous order was corrected and 2nd ACP was given to the applicant after correction. It is submitted that merely because the post of Senior Personal Assistant was created later on, this does not give right to the applicant to claim that post or the salary admissible to that post. It is contended that error was committed by the department in giving the benefit of the G.R. to Shri Ashok Kamdi and Shri P.V.Patil but now the department has withdrawn the relief.

7. The learned P.O. has placed on record letter dated 15/11/2016 written by the Section Officer, Home Department. In para-2 of the letter it is specifically mentioned that the when applicant was given 2nd ACP there was no promotional post of Senior P.A.,

therefore, though the post was created vide G.R. dt/1-10-2014, the applicant was not entitled to claim the pay scale admissible to the post of Senior Personal Assistant. The case of the applicant was referred to the Finance Department and as per the opinion of the Finance Department the decision was taken by the Home Department. The learned P.O. has also invited my attention to the order passed by the Deputy Police Commissioner, Nagpur. It is dated 18/06/2015. It seems that the benefit of the G.R. dated 01/10/2014 was given to Shri Ashok P. Kamdi and he was given the pay scale admissible to the post of Senior Personal Assistant, but objection was raised by the A.G. II, Nagpur vide letter dated 01/06/2015 and consequently salary of Shri Ashok P. Kamdi was revised and direction was issued to recover the excess payment paid to him. I have also perused the letter dated 01/06/2015 written by the A.G., Nagpur. Vide this letter objection was raised by the A.G. that benefit of two ACP's was already given to Shri Ashok P. Kamdi then again how ACP was granted to him on 01/07/2014. It appears that in view of this objection the benefit given to Shri Ashok P. Kamdi was withdrawn. Thus it seems that when 2nd ACP was granted to the applicant in the year 2010 the post of Senior Personal Assistant was not created by the Government and as per the rules which were in force at the relevant time, the benefit was granted to the applicant. The post of Senior Personal Assistant was created for the first time in

the year 2014, therefore, question does not arise to revive the order of 2nd ACP. Under these circumstances, I do not see any merit in this application. Hence, the following order –

ORDER

The O.A. stands dismissed with no order as to costs.

**(Anand Karanjkar) ,
Member(J).**

Dated :- 25/03/2019.

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