

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL NAGPUR**  
**BENCH : NAGPUR**

**ORIGINAL APPLICATION NO.294 /2023**

Ramesh S/o Bapurao Take,  
Age about 73 years,  
R/o Adarsh Nagar,  
Yavatmal : 445 002

.....**Applicant.**

-Versus -

1. State of Maharashtra, through its Principal Secretary,  
Agriculture, Animal Husbandry,  
Dairy Development & Fisheries Department,  
Mantralaya, Mumbai -32.
2. The Commissioner, Dairy Development Department,  
Administrative Building, Varli Sea Face,  
Abdul Gaffarkhan Marg, Mumbai : 18
3. The Regional Dairy Development Officer,  
Congress Nagar, Amravati Region,  
Amravati : 444604

...**Respondents.**

1. Shri Bharat Kulkarni, S. Pande
2. P.O. for the State

...Adv. for the applicant.

...Adv. for the Respondents.

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1. Shri Bharat Kulkarni & S. Pande

... Adv. for the applicant.

2. Shri S.A. Sainis

.... P.O. for Respondents

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**CORAM : HON. SHRI M.A. LOVEKAR : MEMBER ( J )**

**DATED : 10/10/2023**

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**Judgment is reserved on this 15<sup>th</sup> day of Sept., 2023**  
**Judgment is pronounced on this 10<sup>th</sup> day of Oct., 2023**

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**JUDGMENT**

Heard Shri Bharat Kulikarni, Id. Counsel for the applicant & Shri S.A. Sainis, Id. P.O . for the Respondents.

2. Case of the applicant is as follows :-

The applicant joined the Respondent department as Milk Procurement Supervisor on 17/03/1981. By order dt.18/03/1996 ( at pages 19-21) 1<sup>st</sup> Time Bound Promotion was given to him w.e.f. 01/10/1994. Thereafter, on completion of 7 years his pay scale and that of similarly placed persons was revised. This Tribunal, in common judgment dt.26/02/2015 ( Annex.A-5) held that grant of said higher pay scale could not be equated with grant of higher (Non-functional) pay scale as it was merely a revision of pay scale. This judgment was upheld by the Hon'ble Bombay High Court and it attained finality as the Special Leave Petition directed against the judgment of the Hon'ble High Court was dismissed by the Hon'ble Supreme Court. On 01/10/2006, the applicant became entitled to 2<sup>nd</sup> Time Bound Promotion. It was, however, deferred on the ground of

non-availability of his ACRs. This deferral was communicated by letter dt.02/06/2018( Annex.A-2). Against said deferral the applicant made a complaint before the Hon'ble 'Up-Lok-Ayukta' who, by order dt.04/10/2019( Annex.A-1) filed it by observing that it was for the State Government to take a policy decision in the matter. Hence, this O.A. seeking directions to the Respondents to extend benefits of 2<sup>nd</sup> Time Bound Promotion to the applicant w.e.f. 01/10/2006, by relying on judgment of this Tribunal dt.26/02/2015( Annex.A-5).

3. Stand of Respondents No.1 to 3 is based on what is stated in communication dt.15/06/2022( Annex.A-4). It is as follows :-

“ मा. उपलोकायुक्त यांनी केलेल्या सुचनेस अनुसरून प्रधान सचिव (पदुम) यांचेकडे दिनांक 03.03.2022 रोजी सुनावणी घेण्यात आली आहे. श्री. टाके यांनी मागणी केल्याप्रमाणे इतर न्यायालयीन निर्णय त्यांना आपोआप लागू ठरणार नाही. याशिवाय श्री. टाके यांना दूध संकलन पर्यवेक्षक या पदावर 7 वर्षांच्या सेवेनंतर विशेष वेतनाचा लाभ देण्यात आला असून, तदनंतर आश्वासित प्रगती योजने अंतर्गत एक लाभ देण्यात आला आहे. त्यामुळे दुसरा लाभ देण्याची मागणी अमान्य करण्यात येत असल्याचे व सदर निर्णयाने श्री. टाके हे व्यथित झाले असल्यास सदर निर्णयाविरुद्ध त्यांनी मा. न्यायालयात दाद मागण्यास हरकत नाही, असे कळविले आहे.”

4. Following facts are not in dispute. On completion of service of 12 years, 1<sup>st</sup> Time Bound Promotion was given to the applicant w.e.f.01/10/1994. 7 years thereafter revised pay scale was given to similarly placed employees. By judgment dt.26/02/2015, this Tribunal held that said higher pay scale could not be equated with grant of higher ( Non-functional) pay scale. Judgment of this Tribunal dt.26/02/2015 attained finality. This view was reiterated by this Tribunal in judgment dt.20/02/2017. Annex.A-3 inter-alia refers to judgment dt.20/02/2017 as follows :-

“ उपरोक्त संदर्भीय विषयास अनुसरुन आपणांस कळविण्यात येते की, दुध संकलन तथा दुध प्रावण पर्यवेक्षक यांना चौथ्या वेतन आयोगानुसार दिनांक 01.01.1986 रोजी सुधारीत वेतनश्रेणी लागू करण्यात आली. त्यानंतर 7 वर्ष पुर्ण केलेल्या कर्मचा-यांना अकार्यात्मक श्रेणी वाढ करुन नंतर प्रथम कालपद्ध पदोन्नती दिनांक 01.10.1994 पासुन लागू करण्यात आली म्हणजेच शासन निर्णय दिनांक 01.04.2010 च्या तरतुदीनुसार दोन लाम मिळाले असल्याने सुधारीत आश्वासित प्रगती योजनेंतर्गत संबंधित कर्मचा-यांना दिलेला लाम तिसरा लाम होत असल्याने संदर्भीय आदेश कमांक 2 नुसार निर्गमित करण्यात आलेले आदेश कमांक 3 ते 4 नुसार रद्द करण्यात आलेले होते.

सदर आदेश कर्मचा-यांना मान्य नसल्याने श्री. अं.श्री. मानके व इतर तसेच श्री. अ.एम. वाकोडे व इतर यांनी महाराष्ट्र प्रशासकीय न्यायाधिकरण, नागपुर येथे मुळ अर्ज कमांक 380/2016 श्री. मानके व इतर, तसेच 381/2016 श्री. वाकोडे व इतर दाखल केलेले

होते. सदर मुळ अर्जाचा निकाल महाराष्ट्र प्रशासकीय न्यायाधिकरण, नागपुर यांनी दिनांक 20.02.2017 रोजी कर्मचा-यांच्या बाजूने दिला.

प्रस्तुत प्रकरणी संबंधित कर्मचा-यांनी महाराष्ट्र प्रशासकीय न्यायाधिकरण, नागपुर येथे C.A.106/2017 in C.P. st.No.554/2017 in O.A. 380 to 381/2016 अवमान याचीका दाखल केलेली होती. त्या अनुषंगाने शासनाचे उपरोक्त संदर्भीय पत्र कमांक 5 नुसार मा. न्यायाधिकरणाने दिनांक 20.02.2017 रोजी दिलेल्या आदेशातील अंमलबजावणी करण्यास मान्यता देण्याबाबतचा प्रस्ताव शासनाने उच्च न्यायालयात दाखल करावयाचे प्रस्तावित असलेल्या अपिलाच्या निर्णयाच्या अधिन राहून मा. न्यायाधिकरणाच्या दिनांक 20.02.2017 च्या आदेशाची अंमलबजावणी करण्यास मान्यता दिलेली आहे.”

5. From contents of Annex.A-2, it can be gathered that the Respondents were aware that on 01/10/2006 i.e. 12 years after grant of 1<sup>st</sup> Time Bound Promotion , the applicant had become eligible for 2<sup>nd</sup> Time Bound Promotion. The applicant retired on superannuation on 31/07/2007. In the DPC held for the purpose of considering grant of Time Bound Promotion, case of the applicant was deferred on the untenable ground of non-availability of his ACRs. As per Annex.R-3, benefit of 2<sup>nd</sup> Time Bound Promotion was not extended to the employees who had not approached the Tribunal. The applicant was one such employee. Annex.R-3 states :-

“ तेव्हा आपणांस सविनय सादर करण्यात येते की, वरील प्रमाणे न्यायालयात गेलेल्या 17 कर्मचा-यांना न्यायालयाचे निर्णयानुसार दुस-या लामांतर्गत रकमेची अदायगी व्याजाच्या रकमेसह देण्यात आलेली आहे. तसेच न्यायालयात न गेलेल्या कार्यरत/सेवानिवृत्त एकुण 29 कर्मचारी तसेच न्यायालयात न गेलेले परंतु दिनांक 01.10.2006 ते 31.03.2010 या कालावधीत सेवानिवृत्त/मृत्यु झालेले एकुण 08 कर्मचारी असे एकुण 37 कर्मचा-यांना सुधारीत आस्वासित प्रगती योजनेंतर्गत दुसरा लाम देण्यात आलेला नाही. सदरची माहिती सुनावणी दरम्यान मा. उप लोक आयुक्त, मुंबई यांनी विचारणा केल्याप्रमाणे विस्तृत माहिती सांगण्यात आली असुन सदरची सुधारीत माहिती आपल्या अवलोकनार्थ सादर करण्यात येत आहे.”

It is apparent that the applicant stood on par with those to whom benefit was extended by this Tribunal by orders dt.26/02/2015 and 20/02/2017.

6. It was submitted by Id. P.O. that the applicant was guilty of laches and hence benefit of parity cannot be extended to him. In reply, it was submitted by Id. Advocate for the applicant that cause of action asserted by the applicant being a continuing one, question of laches would not arise. I am inclined to accept this contention of the applicant. Hence, the order :-

**ORDER**

The O.A. is allowed in the following terms :-

The Respondents are directed to extend benefits of 2<sup>nd</sup> Time Bound Promotion to the applicant w.e.f. the relevant date, and on par with the employees who had approached this Tribunal, if he is otherwise found entitled thereto. This exercise, including payment of monetary benefits to the applicant, shall be completed with 3 months from today. No order as to costs.

**M.A. Lovekar  
( Member ( J) )**

DATE : 10/10/2023