

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 394 / 2019 (S.B.)**

- 1) Bhaurao S/o Chintamanji Kuralkar,
Age, 61 retired field worker,
At & post Tal. Parshivani, Dist. Nagpur.
- 2) Bhauraoji S/o Zibaji Manwatkar,
Age 63 yrs., field worker, retired
At post-Metpanjara, Tal. Katol, Distt. Nagpur.
- 3) Keshav S/o Namdeorao Thakre,
Age : 59 yrs., field worker, retired,
Kadu Layout, Tah. Katol, Dist. Nagpur.
- 4) Purushottam S/o Fattuji Wankhede,
Age : 59 yrs., retired field worker,
Chandak Nagar, Tah. Katol, Dist. Nagpur.
- 5) Bhimrao Mahadeo Jaitgude,
Age : 58 yrs., Plot No. 28, Vishwakarma Nagar, Nagpur.
- 6) Smt. Indrawati W/o Late Shankar Dupare,
LR Age : 53 yrs., R/o Thaore Colony, Nagpur.
- 7) Smt. Kaushalya W/o Late Shankar Golait,
LR Age : 52 yrs., R/o Daulameti, Nagpur 23.
- 8) Smt. Bebi W/o late Ramchandra Sarode,
LR Age : 57 yrs., Peth Wibhag, Tal. Narkhed, Dist. Nagpur.

(All are retired as field workers, except Sr. No. 5,
Sr. Nos. 6, 7 & 8 are L.Rs.)

Applicants**Versus**

- 1) State of Maharashtra,
through it's Principal Secretary,
Public Health Department,
Madam Kama Road, G.T. Hospital Premises,
Mumbai- 01.

- 2) The Director of Health Services,
Mumbai-01.
- 3) The Joint Director of Health Services (Malaria and Filaria),
वर्जक; ककु] Yerwada,
Pune-06.
- 4) Assistant Director of Health Services,
Malaria/Filaria, Mata Kacheri, Nagpur.

Respondents

Shri Bharat Kulkarni, the Id. Advocate for the applicant.

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

Coram :- Hon'ble Shri Shree Bhagwan, Vice Chairman.

JUDGMENT

Judgment is reserved on 21st November, 2019.

Judgment is pronounced on 03rd January, 2020.

Heard Shri Bharat Kulkarni, Id. counsel for the applicant and
Shri A.M.Khadatkar, Id. P.O. for the respondents.

2. All the applicants in this O.A. are retired Field Workers, except the applicants at Sr. No. 5 of Malaria and Filaria Department under the control of R. No. 3, Joint Director of Malaria & Filaria Pune, in group-D. They are working in Malaria and Filaria Department under the control of respondent No. 3 i.e. the Joint Director of Health Services, (Malaria and Filaria), Pune. The applicants were drawing the pay scale of Rs.775-1150.

3. As per G.R. dated 08.06.1995 (Annexure-A-3, P.B., Pg. No. 24), the Government has taken a decision to grant time bound promotion to the Group-C and D employees who have completed continuous service of 12 years in one post. Those employees who have completed 12 years of continuous service, have been granted the payscale of the next promotional post and if the promotional post is not available, then the next higher promotional post has been granted. The exact relevant decision taken by the Government is as under:-

^xV d o M ¼i whpsoxZ 3 o 4½ e/khy in/kkj dkauk 12 o"kkP; k fu; fer I surj R; kP; k i nkturh I k[kGhrhy ojP; k i nkojhy oruJskh ns; kr ; bzy- T; k deþk&; kauk i nkturh I k[kGhrhy i nkoj i nkturhI kBh i n vflRokR ukgh v'kk deþk&; kauk ; k fu.kZ; kI kcrP; k i jhf'k" Bke/; sn'kzo.; kr vKY; kuq kj ofj" B oruJskh ns; kr ; bzy-*

4. According to the applicants, higher payscale promotional channel to the post of the applicant was Rs. 975-1660. However, the respondents have granted the pay scale in the scale of Rs. 775-1150 to the applicant. This is absolutely illegal. This has been done under the presumption that there is no promotional post available for the Field Workers and, therefore, higher pay scale has been granted.

5. The respondents in their affidavit-in-reply have stated that the promotional channel for Field Workers is the post of Multipurpose Health Workers but from 2003 and prior to that promotions were granted considering the next higher pay scale of senior field worker was granted to the applicants. Prior to 19.03.2003, the Senior Field Workers were being appointed to the post of Multipurpose Health Workers and the District Malaria Officer was the appointing authority.

6. The applicants in this O.A. have prayed following reliefs:-

"1. Direct the respondent No. 1 to 3 to grant the pay scale of Rs. 975-1660 of Time Bound Promotion to the applicants at

par to those granted as the promotional channel is available instead of scale of Rs. 775-1150 granted to the applicants on completion of 12 years of service.

2. Direct the respondent Nos. 1 to 3 to Direct the Respondents to allow the relief at par to those given the pay scale of Rs. 975-1660 as the promotional scale to same employees and remove the discrimination at par in O.A. No. 542/2017.

3. Direct the respondents to pay the difference of pay and allowances with interest thereon from the date on which the first benefit granted of Time Bound Promotion to the applicants.

4. Direct the respondent Nos. 1 to 3 to revise the pension and retiral benefits of retired applicants with arrears and interest thereon in the interest of justice."

7. From the facts on record, it seems that the time bound promotional pay scale has come into force in the year 1994 as per G.R. dated 08.06.1995 and the said scheme specifies the pay scale to be given under the time bound promotional pay scale under two categories:-(i) When there is promotional avenue available and (ii) when there is no promotional avenue available. The respondents have granted pay scale of Rs.775-1150 to the applicants, the applicants are, however, claiming the scale of Rs. 975-1660 which is the pay scale available to the Multipurpose Health Workers.

8. According to the learned counsel for the applicants, prior to 2003, the Field Workers were being promoted to the post of Multipurpose Health Workers by a concerned District Malaria Officer and accordingly number of Field Workers have been promoted. The

respondents were, therefore, directed to produce on record the relevant documents regarding procedures and rules for appointment to the post of Multipurpose Health Workers prior to 2003.

9. The learned P.O. has referred to the G.R. dated 12.09.1985 and particularly clause 4-A of the said G.R. which reads as under:-

“vkjkk; dephk& Hkk&rd'kkL=] j l k; u'kkL= vkf.k tho'kkL= fdok l keku; foKku gsfo”k;
?knu , l -, l - l h i jh{kk mRrh.kz >kyY; k o cgmnf'k; dephk& kl kBh fofgr dsyY; k vBjk
efgukpk enyks; ksx i f'k{k.k i kB; dæ ; 'kLohi .ks i wkZ dsyY; k menokjkaru ; k i nkoj fu; Prh
dj.; kr ; kolt”

10. As per the aforesaid G.R. two qualifications are necessary for promotion of the post of Field Workers to the post of Multipurpose Health Workers i.e. (i) field Workers must have passed SSC examination in the subject of Physics, Chemistry and Biology or General Science and (ii) they must have undergone 18 months training meant for Health Workers. The respondents were, therefore, directed to file an affidavit in reply as to whether the applicants are qualified under the said clause and if yes, why they shall not be given promotional pay scale. In consequence of the aforesaid order, the respondent no. 4 has filed their reply affidavit on 24.09.2019.

11. From record, it is clear that prior to 2003, though, there were no service rules framed for promotion to the post of Multipurpose Health Workers from the feeder cadre of Field Workers, promotion were being given from the post of Field Workers to the post of Multipurpose Health Workers by the concerned District Malaria Officer as per G.R. dated 12.09.1985. Thus, it seems that the post of Multipurpose Health Worker was a promotional post to the cadre of Field Worker and it cannot be said that since no avenue for promotion was available, the next promotional payscale have been granted to the applicants.

12. The G.R. dated 08.06.1995 is very clear and it says that those employees who are qualified to be promoted on the next promotional post and have been completed 12 years' of continuous service, will be granted promotional pay scale of the said promotional post. The pay scale of the promotional post to the Field Workers is that of Multipurpose Health Worker and the said payscale is Rs. 975-1660 and there is absolutely no reason as to why said payscale has not been granted to the present applicants. From record, it seems that in number of cases, the respondents have granted this promotional pay scale for the post of Multipurpose Health Worker to the post of Field Workers in other Divisions and, therefore, the respondents cannot act discriminately with the applicants.

13. Thus, from the discussion in foregoing paras, it will be clear that all the applicants were working as Field Workers in the pay scale of Rs. 750-940 and the promotional avenue available to them was that of the post of Multipurpose Health Workers which falls within the pay scale of Rs.975-1660 and, therefore, the applicants should have been granted the pay scale of the post of Multipurpose Health Workers. Hence, I proceed to pass the following order:-

ORDER

(i)The O.A. is allowed in terms of prayer clauses (i), (ii) and (iii) of the O.A..

(ii)The respondent Nos. 1 to 3 are directed to consider cases of each individuals in view of observation as above and to revise the pension and grant retiral benefits to the eligible applicants and arrears thereof in view of relief clauses (i), (ii) and (iii) above **within three months** from the date of this order, failing which the eligible applicants will be at liberty to file representation for grant

of interest on the arrears to be paid to them in view of such revision of pay scale and revised pension.

(iii) No order as to costs.

(Shri Shree Bhagwan)
Vice Chairman

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 Vice Chairman.

Judgment signed on : 03/01/2020.
and pronounced on

Uploaded on : 04/01/2020.