

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 72/2023(S.B.)

Smt.Asha Rangrao Maske.
Legal heir & family pensioner
of late Shri Rangrao Maske,
aged about 63 years,
R/o plot No.747, Ashirwad Nagar,
Hudkeshwar Road, Nagpur-24.

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary,
Industry, Labour and Energy Department,
Mantralaya, MUMBAI, 32.
- 2) The Director,
Printing and Stationary Department,
Charni Road, MUMBAI-04
- 3) The Manager,
Central Jail Press,
Wardha Road, Nagpur-20

Respondents

Shri B.Kulkarni, Ld. Counsel for the applicant.
Shri A.P.Potnis, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri M.A.Lovekar, Member (J).
Dated: - 25th July 2023.

JUDGMENT

Judgment is reserved on 19th July, 2023.

Judgment is pronounced on 25th July, 2023.

Heard Shri B.Kulkarni, learned counsel for the applicant and Shri A.P.Potnis, learned P.O. for the respondents.

2. Case of the applicant, who is widow of one R.L.Maske, is as follows. By order dated 22.01.1998 (Annexure A-4) pay-scale of display compositor was granted to one R.R.Jangde, applicant's husband R.L.Maske and 4 others. By order dated 10.01.2008 (at P.18) said pay scale was withdrawn on the ground that it was wrongly granted, and recovery from all six employees including R.R.Jangde and husband of the applicant, was ordered. By order dated 31.01.2008 (Annexure A-3) recovery of Rs.1,33,176/- from R.L.Maske was directed. The amount said to have been paid in excess on account of wrong Pay fixation was recovered from R.L.Maske as well as R.R.Jangde. Against this recovery R.R.Jangde filed O.A.No.122/2010 before this Bench. By Judgment dated 28.07.2015 (Annexure A-7) the O.A. was allowed, impugned orders were quashed and further order of refund was passed.

R.L.Maske died on 23.11.2015. Judgment of this Bench dated 28.06.2015 was maintained by the Hon'ble Bombay High Court by Judgment dated 26.02.2020 (Annexure A-8) in W.P.No.6874/2016. The

applicant, by making representations (Annexure A-2, collectively) sought parity with R.R.Jangde. It was declined by the impugned order dated 26.03.2021 (Annexure A-1) on the ground that the Judgment directing refund to R.R.Jangde was applicable only to him. Hence, this O.A..

3. Respondent no.3 has taken a stand that recovery from husband of the applicant was proper. Respondents do not dispute that husband of the applicant and R.R.Jangde stood on par in every respect.

4. Claim of the applicant is sought to be defeated on the ground that directions to refund the amount were applicable only to R.R.Jangde. This stand cannot be sustained. In support of this conclusion reliance may be placed on the legal position incorporated in Circular dated 28.02.2017 issued by Law and Judiciary Department of Government of Maharashtra.

2: The Hon'ble Tribunal, in Para 8 of aforesaid Judgment, has observed as under:-

"If a principle of general applicability is capable of being culled out from a particular pronouncement of this Tribunal, then similarly placed employees, though not before the Tribunal should be given the benefit thereof without actually moving this Tribunal for relief. If on the other hand, the relief is person specific, then of course, this direction will not apply."

Therefore, the Hon'ble Tribunal has directed the undersigned to inform all the concerned departments regarding applicability of general judicial principle as explained in Para 8 of the aforesaid Judgment.

3. The Hon'ble Supreme Court in the case of **State of Uttar Pradesh & Ors Vs. Arvind Kumar Srivastava** reported in **2015 (1) SCC 347** has laid down similar principle, thus:

"Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently"

5. In view of aforesaid factual and legal position I pass the following order.

ORDER

1) The O.A. is allowed.

2) The impugned communication dtd. 10/1/2008 is quashed and set aside. Consequently the order dtd. 22/1/1998 granting Time Bound Promotional pay scale of Display Compositor to the applicant's husband dtd. 1/10/1994 stands restored.

3) The order of Respondent dtd. 31/1/2008 is quashed and set aside.

4) The respondents will refund to the applicant the amount of recoveries that have been made from her husband as per the above order. This will be done within 4 months from the date of receipt of this order.

5) The applicant will be entitled to interest at the rate applicable to the delayed grant of retiral benefits for any delay in refunding the amount as also payments due to her husband by virtue of this order beyond the period of 4 months.

6) No order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 25/07/2023
rsm.

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

Name of Steno : Raksha Shashikant Mankawde
Court Name : Court of Hon'ble Member (J).
Judgment signed on : 25/07/2023.
and pronounced on