

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 916/2019(S.B.)

Shri Manish s/o Madhukar Pawde,
Aged – 47 years Occ. – Service,
R/o. Plot No.24, 25, Krushi Nagar,
Dabha, Nagpur, 440023.

Applicant.

Versus

- 1) The State of Maharashtra,
Through its Secretary, Department
Higher and Technical Education,
Mumbai.
- 2) Jt. Director of Education, Nagpur.
- 3) The Principal, Government
Polytechnic College, Sakoli,
Tq. Sakoli And Dist. Bhandara.
- 4) The Principal, Government
Polytechnic College, Arvi,
Tq. Arvi And Dist. Wardha.
- 5) Sub Treasury Officer, Arvi
Tq. Arvi, Dist. Wardha.

Respondents

Shri V.R.Deshpande, Ld. counsel for the applicant.
Shri A.M.Khadatakar, Ld. P.O. for the respondents.

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

Dated: - 22nd September 2022.

JUDGMENT

Judgment is reserved on 30th August, 2022.

Judgment is pronounced on 22nd September, 2022.

Heard Shri V.R.Deshpande, learned counsel for the applicant and Shri A.M.Khadatkar, learned P.O. for the Respondents.

2. Case of the applicant is as follows.

The applicant was appointed as Lecturer in the pay band Rs.7450-225-11500 by respondent no.1 vide order dated 20.08.2001 (Annexure A-1). He was posted in Government Polytechnic College, Nagpur. By order dated 15.04.2010 (Annexure A-2) he was granted 1st promotion to the cadre of Senior Lecturer in the pay scale 15600-39100 + AGP Rs. 6000/- which was rectified and fixed correctly at Rs.7,000/- (Annexure A-3). Vide order dated 7.7.2008 he was transferred to the Government Polytechnic College, Sakoli which is in a designated Naxalite Area. As per G.R. 6.08.2002 (Annexure A-4) he became entitled to higher pay band of the next promotional post for the duration of his posting in Naxalite Area. Accordingly, he was granted one step promotion and his AGP was increased to Rs.8,000/-. Vide G.R. dated 17.10.2015 (Annexure A-5) pay scales of certain teaching posts in degree/diploma level institutes were revised. As per this G.R. and recommendations of the 6th Pay Commission Notification dated 02.12.2016 (Annexure A-6) was issued and the applicant

was granted 2nd promotion (Selection Grade) w.e.f. 31.08.2011 fixing him in the pay band Rs.15600-39100+ AGP Rs. 8000/-. As he was posted in the Naxalite Area he was granted one step promotion and AGP was fixed at Rs.9000/- vide impugned order dated 23.11.2017 (Annexure A-7). As per one step promotion not only his AGP but also his basic pay scale ought to have been increased to Rs.37400-67000. He raised this grievance by representations (Annexures A-8, collectively). But the respondent deposited arrears only as per the impugned order. Vide order dated 02.12.2016, he was promoted to the post of Lecturer (Selection Grade) with retrospective effect and as per the Government resolution dated 17-10-2015, the pay scale for the said post is fixed at 15600-39100 + AGP Rs.8,000/-. As per the hierarchy of cadres in the Technical Education Department, next higher post for the applicant was that of Lecturer (Selection Grade) Rs.12000-18300 (3 or more than 3 years service in this scale) or in revised scale of Rs.15600-39100 with AGP Rs.8000 (3 or more than 3 years service in this scale). Pay scale fixed for said higher post is 37400-67000 + AGP Rs.9000. Thus, the applicant's pay scale ought to have been fixed at 37400-67000 + AGP Rs.9000 as per the one step promotion granted to him due to posting in Naxalite area for the period from 31.08.2011 to 27.08.2014. However, the Respondent Authorities merely increased the Annual Grade Pay of the applicant to Rs.9,000/- without

increasing his basic pay scale as is applicable to the next higher post as mentioned above. On 27.08.2014, the applicant was transferred to Government Polytechnic College, Arvi and thus fixation of pay scale as per next higher post is claimed only for the period from 31.8.2011 to 27.08.2014.

Hence, this Original Application for following reliefs-

- i) Quash and set aside impugned order dated 23.11.2017 passed by Respondent No.3-Principal, Government Polytechnic College, Sakoli at Annexure-A7.***
- ii) By appropriate order be pleased to direct the respondents to fix the pay scale of applicant at Rs.37400-67000 + Annual Grade Pay Rs.9000/- as per the provisions of Government Resolutions dated 06.08.2002, 17.10.2015 and other relevant resolutions.***
- iii) Further direct the respondents to release the remaining arrears of salary of the applicant for the period from 31.08.2011 to 27.08.2014 with interest at the appropriate rate.***
- iv) To grant any other remedy, which this Hon'ble Tribunal deems fit.***

3. Reply of the respondents is at pp.54 to 61. They have resisted the application on the following grounds-

- 1) All India Council for Technical Education, New Delhi, hereinafter referred as AICTE recommends the pay scales for teaching staff in Diploma and Degree level institutes***

under Technical Education Department in the country. The Government of Maharashtra from time to time has adopted the pay scales recommended by the AICTE as per the State Policy in order to improve the quality of technical education in the State. The posts of Lecturer, Workshop Superintendent, Head of the Department and Principal which are Group 'A' posts in the Government Polytechnics under the Directorate of Technical Education, Maharashtra State have the pay scale recommended by AICTE which are subsequently adopted by the Government of Maharashtra.

- 2) As per Clause No.7 of the G.R. dated 06-08-2002, officials belonging to the group A to D category of employees are entitled to get nearest higher/promotional pay scale. It has been made clear that those officials who have benefitted from "Ashwashit Pragati Yojana" scheme will not get further benefit of higher post pay scale during posting in the Naxalite affected area.*
- 3) As per G.R. dated 06/08/2002 the applicant cannot be given further higher/promotional pay under one step promotion as he was already promoted under CAS in the year 2006.*
- 4) The Government of Maharashtra introduced the "Ashwashit Pragati Yojana" for group C & D employees w.e.f. 01-08-2001 vide G.R. dated 20-07-2001 for having time bound promotion in a fixed period of time (1st benefit after completion of 12 years of service and 2nd benefit after completion of 24 years of service). The scheme was made applicable up to Rs.8000-13500 pay scale in 5th pay commission. Later on the Government of Maharashtra vide*

G.R. dated 01-04-2010 modified this scheme as "Revised Ashwashit Pragati Yojana" and implemented the scheme with effect from 01-04-2010, As per clause No.2 (a) of the G.R. dated 01-04-2010, the scheme is made applicable up to the pay band in 6th pay commission (PB-3) of pay band Rs. 15600-39100 with AGP Rs.5400/- along with other conditions mentioned in the above said clause. The copy of G.R. dated 01-04-2010 is annexed herewith as Annexure-R-4.

- 5) *Government of Maharashtra has made applicable the "Career Advancement Scheme" to the teaching staff of Government Polytechnics which is also in the form and in line with the "Ashwashit Pragati Yojana", which grants next higher pay scales after a fix period of service i.e. lecturers appointed in the pay band of 6th pay commission PB-3 pay band Rs.15600-39100 with AGP Rs.5000/- are eligible to be placed as a lecturer (Senior Scale) in the PB-3 pay band of Rs.15600-39100/- with AGP Rs.7000/- on completion of 6 years' service. This is the first assured promotion under CAS. Then a lecturer (Senior Scale) who completes 5 years' service in this grade as a lecturer (Senior Scale) is eligible to be placed as a lecturer (Selection Grade) in the PB-3 pay band of Rs.15600-39100/- with AGP Rs.8000/-. This is the second assured promotion under CAS. A Lecturer (Selection Grade) who completes 3 years' service is placed in the PB-4 pay band of Rs.37440-67000 with AGP Rs.9000/- as per the terms and conditions, laid down in the G.R. dated 27/2/2003. Earlier, it was under Career Advancement*

Scheme (CAS) and here pay band as well as AGP also changes to higher level.

- 6) *The Applicant had drawn the pay in the PB-3 pay band of Rs.15600-39100 with AGP Rs.7000/- as a lecturer (Senior Scale) w.e.f. 31/8/2006 has already got two promotions under Career Advancement Scheme (CAS). Therefore, the applicant is not eligible to get the benefit cited in the clause No.7 of G.R. dated 06-08-2002. As such, the applicant cannot be extended further higher/promotional pay under one-step promotion while being posted in the Naxalite affected area.*

4. The applicant has relied on G.R. dated 06.08.2002 (Annexure A-4).

Heading of this G.R. is as under-

नक्षलग्रस्त भागासाठी विशेष कृती कार्यक्रम कार्यक्षम अधिका-यांची नियुक्ती करण्यासाठी मार्गदर्शक तत्वे विहित करणे, विविध सवलतीचे एकत्रित आदेश निर्गमित करणे.

Clause 7 of this G.R. is as under-

(७) सर्व पदांसाठी एकस्तर 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 मूळ पदाच्या नजीकची वरिष्ठ/ पदोन्नतीची वेतनश्रेणी व त्या अनुषंगाने वेतननिश्चितीचा लाभ देण्यात यावा. ज्या कर्मचारी /अधिका-यांना सेवांतर्गत आश्वासित प्रगती योजनेचा लाभ देण्यात आलेला आहे त्यांना आणखी वरीष्ठ पदाच्या वेतनश्रेणीचा लाभ अनुज्ञेय नसेल. ही एकतर पदोन्नतीची योजना दि.१ जुलै, २००२ पासून अमंलात येईल आणि ती संबंधित कर्मचारी/अधिकारी आदिवासी/नक्षलग्रस्त क्षेत्रात कार्यरत असेपर्यंतच अनुज्ञेय राहिल. त्या क्षेत्रातून कर्मचारी/अधिकारी बिगर आदिवासी क्षेत्रात परत आल्यावर तो त्याच्या मूळच्या संवर्गातील वेतनश्रेणीत पूर्वीच्या वेतनाच्या अनुषंगाने वेतन घेईल.

5. The applicant has also relied on G.R. dated 17.10.2015 (Annexure A-5) issued by the Government of Maharashtra, Higher and Technical Education Department. Relevant portion of heading of this G.R. is as under-

Career Advancement Scheme (CAS) guidelines for Teachers & equivalent cadre, Librarian and other Academic staff in Degree/Diploma Level institutes.

Relevant portion of preamble of this G.R. states as under-

All India Council for Technical Education (AICTE) had revised the pay scales of teachers and equivalent cadre, Librarian and other Academic staff equivalent cadre, in degree/diploma level institutions in Technical Education in accordance with the recommendations of 6th pay commission vide Notification stated at reference 1 & 2.

On internal page 3 of this G.R. hierarchy of posts in diploma level institutes and their revised designation/pay band + AGP are given.

Following hierarchy is relevant in this case.

Lecturer Rs.15600-39100 + AGP Rs.5000.

Lecturer (Sr. Grade) Rs.15600-39100 + AGP Rs.7000

Lecturer (Selection Grade) Rs.15600-39100 + AGP Rs.8000

Lecturer (Selection Grade) Rs.37400-67000 + AGP Rs.9000

Though as per G.R. dated 6.08.2002 benefit has to be extended by granting one step higher pay band + AGP of next promotional post, what was in fact done by the impugned order was that only the AGP payable to

the next promotional post was granted and the pay band was kept as it was. This, precisely, is the grievance of the applicant.

6. In his representation (Annexure A-8) the applicant stated-

सहाय्या वेतन आयोगात रु.१५६००-३९१०० + ए.जी.पी. रु.८०००/- नंतर नजीकची / पदोन्नतीची वेतनश्रेणी ३७४००-६७००० + A.G.P. ९०००/- हिच आहे. पे बॅंड रु.१५६००-३९१०० तसाच ठेऊन त्याला A.G.P. ९०००/- जोडण्याची तरतूद शासन निर्णयात नमूद नाही.

या संदर्भात सविनयपणे निदर्शनास आणून देण्यात येते की, आपल्याच संस्थेत २०१३-२०१४ मध्ये कार्यरत असलेले प्रा.आर.आर.रामटेके, प्रा.एस.डब्लू राजूरकर, प्रा.डी.एन.कोंगरे, प्रा.पी.टी.खोब्रागडे व प्रा.एन.यु.सुलभेवार यांची ही एकस्तर वेतन निश्चिती करण्यात आलेली आहे. त्या वेळीही पे बॅंड रु.१५६००-३९१०० ठेऊन त्यांना फक्त ग्रेड वेतन वाढवून रु.९०००/- देण्याबाबत सांगण्यात आलेले होते. परंतु अश्या वेतनश्रेणीला कोणत्याही शासन निर्णयाचा आधार नाही हे स्पष्ट झाल्यावर त्यांना देण्यात आलेली ३७४००-६७००० + A.G.P. ९०००/- ची वेतनश्रेणी कायम ठेवण्यात आली.

7. I have referred to the grounds on which the respondents have resisted this O.A.

8. The respondents have relied on G.R. dated 27.02.2003 (Annexure R-1). Its heading is -

Revision of Pay scales of Teachers/Librarians in Government/Non-Government Engineering/Technology Architectural and Pharmacy Polytechnic.

9. The respondents have further relied on G.R. dated 20.08.2010 issued by Higher and Technical Education Department (Annexure R-3). Its heading is –

Revision of Pay Scales of Teachers and equivalent cadre in Degree/Diploma Level Technical Education as per AICTE Scheme (6th Pay Commission).

Appendix 1 to this G.R. inter alia refers to revised designation / pay band + AGP in the ascending order. Relevant details of this appendix are as follows-

Revised Designation / Pay band + AGP

Assistant Professor Rs.15600-39100 + AGP Rs.6000

Assistant Professor Rs.15600-39100 + AGP Rs.7000

Lecturer (Selection Grade) Rs.15600-39100 + AGP Rs.8000

Assistant Professor Rs.15600-39100 + AGP Rs.8000

Associate Professor Rs.37400-67000 + AGP Rs.9000

10. The respondents have also relied on G.R. dated 1.4.2010 (Annexure R-4). It inter alia states-

(अ) योजनेचा तपशील : सुधारीत सेवांतर्गत आश्वासित प्रगती योजना कमाल वेतन बँड पी.बी. - ३ (१५६००-३९१००) + ५४०० पर्यंत ग्रेड वेतन घेणा-या कर्मचा-यांना लागू राहिल.

11. With pursis at page 122 the applicant has placed on record orders dated 23.08.2011, 26.09.2014 and 21.08.2017. The first of these orders is passed by Principal, Government Polytechnic College, Sakoli whereas the 2nd and 3rd order are passed by Principal, Government Polytechnic College,

Gondia. With covering letter dated 30.10.2019 at page 127 the applicant has also placed information furnished by the Information Officer, Government Polytechnic College, Gadchiroli regarding pay fixation of teaching staff in the pay band Rs.15600-39100 + AGP Rs. 8000/-. In all these institutions the persons in the said pay band were, while extending them the benefit of G.R. dated 6.8.2002, fixed in the pay band of next promotional post i.e. 37400-67000 + AGP Rs. 9000/-.

12. The applicant was appointed on 20.08.2001. By order dated 15.04.2010 (Annexure A-2) he was promoted to the cadre of Senior Lecturer w.e.f. 31.08.2006. In between, vide order dated 7.7.2008 he was transferred to Government Polytechnic College, Sakoli. By order dated 02.12.2016 (Annexure A-6) he was granted 2nd promotion (Selection Grade) w.e.f. 31.08.2011 and fixed in the pay band 15600-39100 + AGP Rs.8000/-. For the next promotional post the pay band was 37400-67000 + AGP Rs.9000/-. Considering these factual aspects, various G.Rs. and orders of pay fixation of similarly placed persons, the O.A. deserves to be allowed. Hence, the order.

ORDER

The O.A. is allowed. The impugned order dated 23.11.2017 (Annexure A-7) is quashed and set aside. The respondents are directed to fix the pay scale of the applicant at Rs.37400-67000 + AGP Rs. 9000/-, as

per G.Rs. dated 6.8.2002 and 17.10.2015 for the period 31.08.2011 to 27.08.2014 and pay him the arrears i.e. net amount after deducting the amount already paid – within three months from today. No order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 22/09/2022

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 : 22/09/2022.
and pronounced on
Uploaded on : 22/09/2022.