

MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO.962/2020(S.B.)

1. Indutai Ramchandra Chorghade,
aged about: 67 years, Occ: Retired,
R/o. Plot No. 27, Neelkamal Nagar,
Behind Thote College, Narsala Road,
Nagpur - 440044. (Deceased)

- 1.A) Raju Rambhau @ Ramchandra Chorghade
Aged - 55 years, Occu. Service,
R/o. Ward No. 1, Near Barde Hospital, Gandhi Chowk,
Narkhed, Nagpur – 441304. (LR)

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary,
Department of Finance,
Mantralaya, FORT, MUMBAI – 400032.

- 2) Vidarbha Irrigation Development Corporation,
Through its Chairman,
South Amabazari Road, Nagpur.

- 3) Superintending Engineer,
Gosekhurd Project Circle,
Sinchan Bhawan, Nagpur.

4) Executive Engineer,
Gosekhurd Dam Division,
Wahi, Tq. Paoni, Dist. Bhandara.

5) The Assistant Engineer (Grade -1),
Gosekhurd Dam Division no.1,
Wahi, Tq. Paoni, Dist. Bhandara.

Respondents

Shri K.V.Bhoskar, Ld. Counsel for the applicant.
Shri A.M.Khadatkar, Ld. P.O. for the respondents 1 and 2.
Shri U.A.Gosavi, Ld. Counsel for the respondents 3 to 5.

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

Dated: - 23rd February, 2024.

JUDGMENT

Judgment is reserved on 21st February, 2024.

Judgment is pronounced on 23rd February, 2024.

Heard Shri K.V.Bhoskar, learned counsel for the applicant,
Shri A.M.Khadatkar, learned P.O. for the respondents 1 and 2 and Shri
U.A.Gosavi, Ld. Counsel for the respondents 3 to 5.

2. By the impugned order dated 03.6.2003 (Annexure A) pay
scale of the applicant (since deceased) was reduced from Rs.1200-1800
to Rs.975-1660 w.e.f. 01.01.1986 as per G.R. dated 15.11.1995, and

recovery of Rs.9597/- said to have been paid in excess was directed. The applicant seeks parity with one Smt.Usha Nagrale to whom this Bench had granted relief by Judgment dated 03.09.2015 (Annexure C) in O.A.No.437/2005 setting aside order of reduction of pay with retrospective effect. The applicant as well as Smt.Usha Nagrale both were working in the respondent department as Auxiliary Nurse Midwife (ANM). Hence, this O.A..

3. On the basis of what respondents 3 to 5 have pleaded their learned Advocate Shri U.A.Gosavi submitted that the applicant had accepted reduction in pay scale, she herself had requested that excess amount be recovered in instalments (Annexure B) and such conduct would operate as estoppel. This submission cannot be accepted for there can be no estoppel against law.

4. It was further submitted that this Bench had granted relief to Smt.Usha Nagrale quashing the G.R. dated 25.11.1995 qua her alone and hence, this Judgment will not help the applicant. While allowing O.A.No.437/2005 this Bench observed-

The applicant has to succeed mainly on two grounds. Firstly, on the ground that after being placed in the scale of Rs. 1200- 1800, it was totally unfair, unjust and illegal to reduce her scale retrospectively and that too without hearing her. Second ground in

her favour is, even as on today, the scale of ANM working in Public Health Department and the Zilla Parishad, have not been reduced.

5. In Circular of Law and Judiciary Department, Government of Maharashtra dated 28.02.2017 following observations are incorporated

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*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".

6. Cases of the applicant and Smt.Usha Nagrale are identical.
7. For the reasons discussed above the impugned order dated 03.06.2003 (Annexure A) is quashed and set aside. Recovered amount

shall be refunded to legal heir of the applicant who is on record. The O.A. is allowed in these terms with no order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 23/02/2024
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 : 23/02/2024.
and pronounced on
Uploaded on : 23/02/2024.