

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No.313 of 2023 (S.B.)**

1. Suresh Domaji Khandare,  
Aged about 62 years, Occ. Retired P.S.I.  
R/o Dhanoda Tah. Mahagaon, Distt. Yavatmal.
2. Rajendra Yalaiyya Gaddappa,  
Aged about 62 year, Occupation :Retired P.S.I.  
R/o Yerawar Layout Withoba Ward,  
Pusad Tah. Pusad Distt. Yavatmal.
3. Madhukar Sawairam Chavhan,  
Aged about 64 years, Occu: Retired P.S.I.  
R/o Banjara Colony, Pusad,  
Tah. Pusad Distt. Yavatmal.
4. Deorao S/o Reva Rathod,  
Aged about 63 years. Occ. Retired P.S.I.  
R/o Jai NagarWashim Road Pusad Tah Pusad Distt. Yavatmal.  
Tah. Mahagaon, Distt. Yavatmal.

**Applicants.**

**Versus**

1. The State Of Maharashtra,  
Through its Additional Chief Secretary,  
Home Department, Mantralaya, Mumbai -32.
2. The Director General of Police,  
M. S. Old Vidhan Bhavan, Kolaba, Mumbai
3. The Commissioner of Police,  
Amravati Division, Amravati.
4. The Superintendent of Police,  
Yavatmal Tq. & District Yavatmal.
5. The Accountant General Maharashtra,  
Civil Lines, Nagpur

**Respondents.**

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**S/Shri J.S. Wankhede, R.D. Narkhede, Advs. for the applicants.**

**Shri H.K. Pande, learned P.O. for respondents.**

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**WITH**  
**ORIGINAL APPLICATION No.320 of 2023 (S.B.)**

1. Ramesh Narayanrao Magar,  
Aged about 62 years. Occ. Retired P.S.I.  
R/o Mangalmurthi Nagar, Megdoot Apartment,  
Arni Road Wadgaon, Yavatmal, Tah. & Distt. Yavatmal.
2. Vinayak Bhaurao Pise,  
aged about 63 years, Occupation: Retired P.S.I.  
R/o Shiraj Nagar Plot No. 50 Mothe Wadgaon, Yavatmal,  
Tah. & District Yavatmal.
- 3 Chandrashekar Hiranmanji Thakre,  
Aged about 62 years, Occu: Retired P.S.I.  
R/o Kalamb Rasa Road. Division No. 16,  
Harne Lay-out, Near Gajanan Maharaj Temple,  
Tah. Kalamb Distt. Yavatmal.

**Applicants.**

**Versus**

1. The State Of Maharashtra,  
Through its Additional Chief Secretary,  
Home Department, Mantralaya, Mumbai -32.
2. The Director General of Police,  
M. S. Old Vidhan Bhavan, Kolaba, Mumbai
3. The Commissioner of Police,  
Amravati Division, Amravati.
4. The Superintendent of Police,  
Yavatmal Tq. & District Yavatmal.
5. The Accountant General Maharashtra,  
Civil Lines, Nagpur

**Respondents.**

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**S/Shri J.S. Wankhede, R.D. Narkhede, Adv. for the applicants.**  
**Shri H.K. Pande, learned P.O. for respondents.**

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**Coram :- Hon'ble Shri Justice M.G. Giratkar,  
Vice Chairman.**

**Dated :- 02/02/2024.**

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## **COMMON JUDGMENT**

Heard Shri J.S. Wankhede, learned counsel for the applicants and Shri H.K. Pande, learned P.O. for the respondents.

2. The case of the applicants in O.A.No.313/2023 in short is as under-

3. All the applicants were appointed as a Police Constable. Thereafter, they were promoted as a Police Hawaldar and thereafter they were promoted on the post of Assistant Sub Inspector and thereafter they were temporarily promoted on the post of Police Sub Inspector. All the applicants retired from the post of Police Sub Inspector, but the respondents have not granted pension of the post of Police Sub Inspector. Therefore, all the applicants approached to this Tribunal for the following reliefs –

*“(8) (1) direct the respondents to grant entire retirement benefits to the applicant on the basis of last drawn pay of post from which the applicant stands retired and shall release all other consequential benefits to the applicant within stipulated time period;*

*(2) allow the present original application in view of the order / Judgment dated 07.06.2019 in O.A. No. 1041/2017 with connected matters which is at (Annexure - A-7) passed by Hon'ble Maharashtra Administrative Tribunal, Bench at Mumbai and in view of the order / Judgment dated 21/12/2022 in O. A. No. 235/2021 passed by Maharashtra Administrative Tribunal Bench at Nagpur (Annexure A-8).*

*“(9) (1) release the pensionary benefits of the applicant forthwith from the date of retirement of the applicant No. 1 i.e. dated 30/6/2019, date of retirement of applicant No. 2 i.e. 30/4/2011, and date of retirement of applicant no. 3 i.e. 30/4/2017, date of retirement of applicant no. 4 i.e dated 30/6/2017 on the basis of*

*last drawn pay of the post from which the applicant stand retired i.e. P.S.I. (Assistant Sub Inspector)'*

*(2) direct the respondents to decide the representation made by the applicants to the respondent no. 3 dated 13/1/2023, 7/1/2020, 7/1/2020, 13/1/2023 respectively at Annexure (A -6 ) and accordingly released all the pensionary benefits in view of the Judgment and Order dated 07.06.2019 in O. A. No. 1041/2017 with connected matters at (Annexure A-7) passed by Hon'ble Maharashtra Administrative Tribunal, Bench at Mumbai and in view of the Judgment and Order dated 21/12/2022 in O. A. No.235/2021 passed by Hon'ble Maharashtra Administrative Tribunal Bench at Nagpur. (Annexure A-8).”*

4. In O.A.No.320/2023, the applicants were initially appointed as a Police Constable. Thereafter, they were promoted as a Head Constable and thereafter Assistant Sub Inspector. The applicants were temporarily promoted on the post of Police Sub Inspector. All the applicants retired from the post of Police Sub Inspector. The respondents have not granted the pension by calculating the last pay drawn of the post of Police Sub Inspector and therefore all the applicants approached to this Tribunal for the following reliefs –

*“(8) (1) direct the respondents to grant entire retirement benefits to the applicant on the basis of last drawn pay of post from which the applicant stands retired and shall release all other consequential benefits to the applicant within stipulated time period;*

*(2) allow the present original application in view of the order / Judgment dated 07.06.2019 in O.A. No. 1041/2017 with connected matters which is at (Annexure - A-7) passed by Hon'ble Maharashtra Administrative Tribunal, Bench at Mumbai and in view of the order / Judgment dated 21/12/2022 in O. A. No. 235/2021 passed by Maharashtra Administrative Tribunal Bench at Nagpur (Annexure A-8)*  
Page No.98.

*“(9) (1) release the pensionary benefits of the applicant forthwith from the date of retirement of the applicant No. 1 i.e. dated 31/5/2018, date of retirement of applicant No. 2 i.e. 30/06/2018, and date of retirement of applicant no. 3 i.e. 31/12/2017 on the basis of last drawn pay of the post from which the applicant stand retired i.e. P.S.I. (Assistant Sub Inspector)’*

*(2) direct the respondents to decide the representation made by the applicants to the respondent no. 3 dated 30/01/2023, 25/01/2023 and 30/01/2023 respectively at Annexure (A -6 ) and accordingly released all the pensionary benefits in view of the Judgment and Order dated 07.06.2019 in O. A. No. 1041/2017 with connected matters at (Annexure A-7) passed by Hon'ble Maharashtra Administrative Tribunal, Bench at Mumbai and in view of the Judgment and Order dated 21/12/2022 in O. A. No.235/2021 passed by Hon'ble Maharashtra Administrative Tribunal Bench at Nagpur. (Annexure A-8) page no.98”*

5. Both the O.As. are strongly opposed by the respondents. It is submitted that the applicants were temporarily promoted on the post of Police Sub Inspector. They were not permanent and therefore pension of the post of Police Sub Inspector not granted to them and hence both O.As. are liable to be dismissed.

6. During the course of submission, the learned counsel for applicants has pointed out the Judgment of the M.A.T., Principal Bench, Mumbai in O.A.No.1041/2017 with connected O.As., decided on 07/06/2019 and another Judgment in O.A.No.235/2021, decided by this Tribunal on 21/12/2022.

7. This Tribunal in para-5 has recorded its findings as under-

*“(5) From the perusal of the Judgment, it appears that in the cited Judgment the applicant was temporarily promoted on the post of PSI, but*

*pension was granted of the post of ASI. In para nos.28,29 & 30 following observations were made –*

*“28. Now, turning to the facts of the present case, admittedly, the Respondents have extracted the work of PSI from the Applicants. On the cost of repetition, I would again like to mention that, there is no defence of non-eligibility or absence of substantive post. Therefore, harmonious construction of the Pension Rules in the light of aforesaid Judgment of Hon’ble Supreme Court clearly spells that, even if the promotion was under the garb of temporary promotion, the Respondents cannot deny retiral benefits to the Applicants on the basis of last drawn pay from which they stand retired. Needless to mention that the pension is not charity or bounty. It is the right of Government employee. The principle enunciated by Hon’ble Supreme Court in various decisions referred to above, are clearly attracted to the present set of facts. Therefore, it would be highly unjust and iniquitous to deny the pensionary benefits to the Applicants. Such pensionary benefits conferred upon them by statute cannot be taken away under the guise of temporary promotion for no fault on the part of Applicants, particularly after extracting the work of promotional post from them. This conclusion is again fortified in view of the corrigendum issued by State of Maharashtra on 09.06.2016, which specifically provides to consider basic pay fixed for the post from which an employee has been retired for the purposes of grant of pension.*

*29. Suffice to say, the denial of such right by the Respondents is contrary to the Rules and fundamental rights of the Applicants to receive the pension. Such statutory right cannot be taken away under the garb of executive order of temporary promotion.*

*30. In view of aforesaid discussion, I have absolutely no hesitation to sum up that the Applicants are entitled to the pension on the basis of last drawn pay, which was of the rank of PSI and the applications deserve to be allowed.*

8. This Tribunal has allowed the O.A.No.235/2021 directing the respondents to grant pension and retiral benefits on the basis of last drawn pay of the post from which the applicant retired and also grant consequential benefits.

9. In the above cited Judgement, the applicant was temporarily promoted on the post of Police Sub Inspector. All the applicants in the present O.As., were also temporarily promoted. They were not made permanent, but at the time of retirement they were working on the post of Police Sub Inspector. Therefore, they are entitled to get the pension of the post of Police Sub Inspector. Hence, the following order –

**ORDER**

- (i) The O.A. Nos.313/2023 and 320/2023 are allowed.
- (ii) The respondents are directed to grant retiral benefits to the applicants on the basis of last drawn pay on the post from which they stand retired and shall release all consequential benefits to them within a period of three months from the date of receipt of this order.
- (iii) No order as to costs.

**Dated** :- 02/02/2024.

dnk.

**(Justice M.G. Giratkar)**  
**Vice Chairman.**

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

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 02/02/2024.