

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR.

ORIGINAL APPLICATION NO.378/2016.

1. Narendra Babarao Nimbalkar,
Aged about 52 years,
R/o Hanuman Nagar, Tukum
Ward No.9, Chandrapur.
2. Sunil Balaji Bingewar,
Aged about 53 years,
R/o Plot No.55, Saraswati Nagar,
Near Hanuman Mandir, Nagpur.
3. Dattratraya Krishnaji Kale,
Aged about 55 years,
R/o Balaji Ward No.2,
Near Krishna Mandir, Chandrapur.
4. Madhukar Ukandrao Ingale,
Aged about 53 years,
R/o Plot No.110, Awasthi Nagar,
Behind Police Line, Takali, Nagpur.
5. Duryodhan Tulshiram Pawankar,
Aged about 57 years,
R/o Anand Nagar,
Takiya Ward, Bhandara.

Applicants.

-Versus-

1. The State of Maharashtra,
Through its Principal Secretary,
Department of Agriculture, Animal Husbandry,
Dairy Development and Fisheries,
Mantralaya, Mumbai-32.
2. The Commissioner,
Dairy Development Department,

Administrative Building, Warli Sea face,
Abdul Gaffar Khan Marg, Mumbai-18.

3. The Regional Dairy Development Officer,
Nagpur Region, Nagpur.

Respondents.

ORIGINAL APPLICATION NO.379/2016.

1. Keshav Baliramji Hole,
Aged about 62 years,
R/o Plot No.12, Mhalgi Nagar,
Manewada Road, Nagpur.
2. Gangaram G. Chidhalore,
Aged about 63 years,
R/o Nehru Ward, At & Tehsil-Mohadi,
Distt. Bhandara.
3. Jayant Punjabrao Ugale,
Aged about 62 years,
R/o Nandanwan Colony,
Karla Road, Pimpri Meghe, Wardha.
4. Prakash Namdeorao Bhagat,
Aged about 61 years,
R/o Sawarkar Layout, Ward No.39,
Wardha.
5. Ashok Dadaji Nakhale,
Aged about 62 years,
R/o Ram Nagar, Wardha.
6. Shrihari Sitaram Radake,
Aged about 65 years,
R/o Dobi Layout, Plot No.52,
Wadi, Nagpur.
7. Smt. Shobha Lakshaman Dahat,
Aged about 55 years,
L/R R/o Plot No.3, Kapil Nagar, Nagpur.

8. Smt. Vanita Rajendra Satpute,
L/R of late Rajendra Satpute,
Aged about 46 years,
R/o Dobi Layout, Plot No.123,
New Nandanwan, Nagpur.
9. Smt. Ushabai w/o Sukhdeo Sakure,
L/R of late Sukhdeo Sakure,
Aged about 57 years,
R/o Nehru Ward, At & Tq. Tiroda,
Distt. Gondia.

Applicants.

-Versus-

1. The State of Maharashtra,
Through its Principal Secretary,
Department of Agriculture, Animal Husbandry,
Dairy Development and Fisheries,
Mantralaya, Mumbai-32.
2. The Commissioner,
Dairy Development Department,
Administrative Building, Warli Sea face,
Abdul Gaffar Khan Marg, Mumbai-18.
3. The Regional Dairy Development Officer,
Nagpur Region, Nagpur.

Respondents.

ORIGINAL APPLICATION NO.380/2016.

- 1) Ambadas Shriramji Manke,
Aged about 57 years,
R/o Mangaldham Colony, Amravati.
- 2) Nandkishor Manik Ajankar,
Aged about 57 years,
R/o Near Kiran No.2, Balwadi Bypass Road,
Amravati.
- 3) Ramesh Damodhar Karanjkar,
Aged about 58 years,

Lahane Layout, Plot Nso.101,
Samarth Nagar, Buldhana.

- 4) Sharad Bhaurao Chodhari,
Aged 52 years,
R/o Sushant Colony, Near Mohan Nagar,
VMV Road, Amravati.
- 5) Narendra Nagorao Kharbade,
Aged 56 years,
R/o Priya Township, Amravati.
- 6) Pramod Shawaji Thakre,
Aged 55 years,
R/o Gandhi Nagar, Pusad,
Dist. Yavatmal.
- 7) Baban Anandrao Badkal,
Aged 58 years,
R/o Deep Nagar, Sindhaniyanagar,
Yavatmal.
- 8) Mohansingh Sampat Ingle,
Aged 57 years,
R/o Chandanpur, Tq. Chikhli,
Distt. Buldhana.
- 9) Dnyaneshwar Govind Wagh,
Aged 52 years,
R/o Rajeshwar Nagar,
Borkar Layout, Buldhana.

Applicants.

All are working Milk Procurement Supervisor under Resp.3.

-Versus-

1. The State of Maharashtra,
Through its Principal Secretary,
Department of Agriculture, Animal Husbandry,
Dairy Development and Fisheries,
Mantralaya, Mumbai-32.

2. The Commissioner,
Dairy Development Department,
Administrative Building, Warli Sea face,
Abdul Gaffar Khan Marg, Mumbai-18.
3. The Regional Dairy Development Officer,
Nagpur Region, Amravati.

Respondents.

ORIGINAL APPLICATION NO.381/2016.

- 1) Ashok Mahadeo Wakode,
Aged about 61 years,
R/o Abhinav Colony, Rathi Nagar, Amravati.
- 2) Sudam Motiram Kale,
Aged about 60 years,
R/o Gurukunj Colony, Amravati.
- 3) Ramesh Narayan Khade,
Aged about 61 years,
R/o Shikshak Colony, Near Ram Nagar, Amravati.
- 4) Kiran Mukteshwar Pande,
Aged about 59 years,
C/o Shri K.G. Deshmukh,
R/o Bypass Road, Amravati.
- 5) Ashok Tukaram Wankhede,
Aged about 60 years,
R/o Ram Nagar, Near Chafale House,
Yavatmal.
- 6) Omkar Shankarrao Patil,
Aged about 62 years,
R/o Jalaram Nagar,
Near Vidarbha Premier, Amravati.
- 7) Dhanraj Ukandaji Taksande,
Aged about 62 years,
R/o Konark Colony, Behind Rangoli Lawn, Amravati..
All are retired Milk Procurement Supervisor. Now pensioner.

-Versus-

1. The State of Maharashtra,
Through its Principal Secretary,
Department of Agriculture, Animal Husbandry,
Dairy Development and Fisheries,
Mantralaya, Mumbai-32.
2. The Commissioner,
Dairy Development Department,
Administrative Building, Warli Sea face,
Abdul Gaffar Khan Marg, Mumbai-18.
3. The Regional Dairy Development Officer,
Nagpur Region, Amravati.

Respondents.

Shri Bharat Kulkarni, Ld. Advocate for the applicants.

Shri P.N. Warjekar, Ld. P.O. for the respondents.

Coram:-Hon'ble Shri R.B. Malik,
Member (Judicial)

Date : 20th February 2017.

Oral order

These four O.As are brought by the applicants herein having been fully covered by the decision of this Tribunal in O.A. Nos. 636/2014, 733/2014 and 599/2013 (Subhash Eknath Kawalkar V/s State of Maharashtra and two others), these O.As are being disposed of by this common judgment.

2. I have perused the record and proceedings and heard Shri Bharat Kulkarni, the learned counsel for the applicants and Shri P.N. Warjekar, the learned P.O. for the respondents.

3. These applicants like the applicants in above referred three O.As are Milk Collection and Extension Supervisors in the Dairy Development Department. The sum and substance of case of the applicants therein was that the respondents considered the last ACP granted to the applicants as third one cancelled it effectively and made the orders of recovery. This Tribunal by its order dated 26.2.2015, after discussing in-extenso the facts, instruments and other circumstances held inter alia that the first benefit was really not a benefit but it was higher pay scale and so holding the very fundament of the case of the respondents was knocked down and the O.As were allowed.

4. The State carried the above referred order of this Tribunal to the Hon'ble High Court by way of **W.P. No. 6329/2015** **(State of Maharashtra V/s Subhash Eknath Kawalkar)**. The Division Bench of the Hon'ble Bombay High Court at Nagpur Bench by an order dated 23.11.2015 upheld the order of this Tribunal referred to above and dismissed the said writ petition. The Hon'ble High Court observed that the case of the State that they granted the first time bound promotion to the applicants in 1988 by the resolution of 1.1.1986, was

incorrect because thereby only the pay scale had been revised. The Tribunal's finding was held to be correct that the scheme was really introduced in the year 1995 for the first time and, therefore, the State could not have granted first time bound promotion in the year 1988.

5. The mainstay of the case of the present applicants in these O.As is that they are squarely covered by the above referred judgment of this Tribunal affirmed by the Hon'ble High Court. The State in the impugned communication of 27.4.2016 has expressed the view that the benefit would go only to the applicants in those O.As and subject to their right to challenge the order of the Hon'ble High Court before the Hon'ble Supreme Court, the Government had approved giving effect to the orders of the Hon'ble High Court which the order of this Tribunal had merged into.

6. The above discussion must have made it quite clear that the present applicants are exactly similarly placed as the applicants of three O.As above referred to. The orders thereon were confirmed in the writ petition and, therefore, on parity of reasoning and principle of similarly placed persons, these O.As also will have to be allowed in the line of those three O.As. Having said that, however, I am at complete loss to understand as to why the State should insist on each similarly placed employee to move the Judicial Forum for redressal in the matters which are concluded. There are inevitably

certain principles that emanate from the judicial determination and more particularly this would be so in case of the Constitutional Courts like the Hon^{ble} High Court. When those principles have been settled and are capable of being implemented, in my opinion, without driving each and every similarly placed employee to litigation, it would always be desirable, proper and appropriate to apply those principles to the others who are so similarly placed as they are even if they were not parties thereto. This to my mind after all has to be the norm of State behaviour in a law and rule governed system of public administration. I would commend to the State to shun the insistence on every employee being made to move the Tribunal or Judicial Forum for redressal with regard to those aspects of the matter which are concluded by orders of this Tribunal and more particularly by the orders of the Hon^{ble} High Court and the Hon^{ble} Supreme Court.

7. It is made clear that although, right now I am not awarding interest, but I make it clear that the respondents will have to pay interest in case within the time limit stipulated herein, the compliance was not made. Then on the payable quantum of money to the applicant, interest will have to be paid at the rate of Rs.12% p.a. from the date of entitlement till actual payment.

8. With the above observations, the impugned communications stand hereby quashed and set aside. Respondents

are directed to treat the present applicants in these four O.As exactly like the applicants in O.A. Nos. 636/2013, 743/2013 and 599/2013 above referred as confirmed by the Hon'ble High Court in W.P. No.6329/2015 dated 23.11.2015. The recovery, if any, made from any of the applicants, be refunded within a period of six weeks from today. The entire compliance to be made by revising all the pensionery benefits also in accordance herewith within the said period of six weeks. Failure to pay the amounts would bring in its wake the liability to pay interest as held in the preceding paragraph. O.As are allowed in these terms with no order as to costs.

(R.B. Malik)
Member (J)

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