

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL,**

**NAGPUR BENCH, NAGPUR**

**ORIGINAL APPLICATION NO.587/2017.**

**(S.B.)**

- 1) Daulat Chintaman Shimpi,  
Aged about 38 years,  
Occ-Service, Govt. Ashram School,  
Halewada, Bhamragadh, Dist. Gadchiroli.
- 2) Dhanraj Premlal Sharnagat,  
Aged about 42 years,  
Occ-Service, Govt. Ashram School,  
Kakodi, Deori, Dist. Gondia.
- 3) Shankar Bapuji Yadawar,  
Aged about 47 years,  
Occ-Service, Govt. Ashram School,  
Halewada, Bhamragadh, Dist. Gadchiroli.
- 4) Manohar Laccha Medi,  
Aged about 50 years,  
Occ-Service, Govt. Ashram School,  
Todsra, Bhamragadh, Dist. Gadchiroli.
- 5) Ku. Lata Tulsiram Kerme,  
Aged about 35 years,  
Occ-Service, Govt. Ashram School,  
Ilda, Deori, Dist. Gondia.
- 6) Ku. Urmila Namdev Kirasan,  
Aged about 37 years,  
Occ-Service, Govt. Ashram School,  
Kadikasa, Deori, Dist. Gondia.
- 7) Chandrashekhar Ganpat Bhiwagade,  
Aged about 40 years,  
Occ-Service, Govt. Ashram School,  
Angara, Dist. Gadchiroli.

- 8) Prabhudas Punyya Sadamwar,  
Aged about 48 years,  
Occ-Service, Govt. Ashram School,  
Jarawandi, Bhamragadh, Dist. Gadchiroli.
- 9) Sudhir Lahuji Khobragade,  
Aged about 53 years,  
Occ-Service, Govt. Ashram School,  
Jarawandi, Bhamragadh, Dist. Gadchiroli.
- 10) Balaji Sainu Kulmethe,  
Aged about 48 years,  
Occ-Service, Govt. Ashram School,  
Jarawandi, Bhamragadh, Dist. Gadchiroli.
- 11) Maroti bapurao Darunde,  
Aged about 55 years,  
Occ-Service, Govt. Ashram School,  
Permilli, Aheri, Dist. Gadchiroli.
- 12) Pinakapani Mukunda Meshram,  
Aged about 54 years,  
Occ-Service, Govt. Ashram School,  
Permilli, Aheri, Dist. Gadchiroli.

**Applicants.**

**-Versus-**

- 1) The State of Maharashtra,  
Through its Secretary,  
Department of Tribal Development,  
Mantralaya, Mumbai-400 032.
- 2) The Commissioner,  
Tribal Development Department,  
Nashik.
- 3) The Additional Commissioner,  
Tribal Development Department,  
Adivasi Vikas Bhavan, 1<sup>st</sup> floor,  
Giripeth, Amravati Road, Nagpur.

- 4) The Project Officer,  
Tribal Development Department,  
Ekatic Adivasi Vikas Prkalp,  
Bhamragarh, Distt. Gadchiroli.
- 5) The Project Officer,  
Tribal Development Department,  
Ekatic Adivasi Vikas Prkalp,  
Aheri, Distt. Gadchiroli.
- 6) The Project Officer,  
Ekatic Adivasi Vikas Prkalp,  
Gadchiroli, Distt. Gadchiroli.
- 7) The Project Officer,  
Ekatic Adivasi Vikas Prkalp,  
Deori, Distt. Gondia.

**Respondents**

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**ORIGINAL APPLICATION NO.928/2017.**

Bhojraj Motiram Walde,  
Aged about 58 years,  
Occ-Service, Presently R/o Purala,  
Tehsil-Deori, Dist. Gondia.

**Applicant.**

-Versus-

- 1) The State of Maharashtra,  
Through its Secretary,  
Department of Tribal Development,  
Mantralaya, Mumbai-400 032.
- 2) The Commissioner,  
Tribal Development Department,  
Nashik.
- 3) The Additional Commissioner,  
Tribal Development Department,  
Adivasi Vikas Bhavan, 1<sup>st</sup> floor,  
Giripeth, Amravati Road, Nagpur.

- 4) The Project Officer,  
Tribal Development Department,  
Deori, Distt. Gondia.

**Respondents**

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Mrs. Diwita Pagey, the learned counsel for the applicants.  
Shri M.I. Khan, the learned P.O. for the respondents.

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**Coram:-Shri J.D. Kulkarni,**  
**Vice-Chairman (J)**

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**ORAL ORDER**

(Passed on this 22<sup>nd</sup> day of January 2019.)

Heard Mrs. Diwita Pagey, the learned counsel for the applicants and Shri M.I. Khan, the learned P.O. for the respondents.

2. All the applicants in these O.As are Secondary School Teachers in the Ashram Schools at various places in Gadchiroli District. As Assistant Teachers, they were drawing the pay scale in the pay band of Rs. 9300-34800 plus grade pay of Rs. 4300/-.

3. As per G.R. dated 6.8.2002, sub-clause (7) of Clause 2 of the said G.R., the applicants are entitled to next promotional pay scale as an incentive, since they are working in naxalite affected area. The said clauses read as under:-

**“7.सर्व पदासाठी एकस्त 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 वेतन निश्चितीचा लाभ देण्यात यावा. ज्या कर्मचारी / अधिकाऱ्यांना सेवांतर्गत अभ्यासित प्रगती योजनेत्तर केलेला आहे त्यांना आणखी वरिष्ठ पदांच्या वेतनश्रेणीचा लाभ अनुज्ञेय नसेल. ही एकस्तर पदोन्नतीची योजना दि. १ जुलै २००२ पासून अमलात येईल ती संबंधित कर्मचारी / अधिकारी आदिवासी / नक्षलग्रस्त बिगर आदिवासी क्षेत्रात परत आल्यावर तो त्यांच्या मुळच्या संवर्गातील वेतनश्रेणीत पूर्वीच्या वेतनाच्या अनुषंगाने वेतन होईल.”

4. The learned counsel for the applicants submits that as per Sixth Pay Commission pay band, the next promotional post of Assistant Teacher is Head Master and the Head Master is requiring Maharashtra Civil Services (Revised Pay) Rules, 2009. The Head Master stands at Sr. No.16 in the schedule and draws the pay scale of Rs.9300-34800 plus grade pay of Rs. 4800/-. According to the applicants, they should have been given grade pay of Rs. 4800/-. However, the respondents have granted them grade pay of Rs. 4400/- which is applicable to Senior Scale Secondary Trained School Teacher / Assistant Teacher as per the schedule. The applicants are in fact entitled to claim grade pay of Rs. 4800/- and not Rs. 4400/-.

5. The applicants were, in fact, being paid the said grade pay of Rs. 4800/- for number of years. But vide impugned orders, the said pay scale has been revised and now they are held entitled to grade pay of Rs. 4400/- and in view thereof, earlier order granting grade pay of Rs. 4800/- has been cancelled and the applicants are directed to pay the excess amount paid to them. Recovery of excess amount has been stayed.

6. The respondents have tried to justify the order of recovery as well as re-fixation of pay scale. According to the applicants, the G.Rs state that the next higher pay scale would be applicable to them. But that does not mean that the pay scale shall be of the next higher promotional post. It is sufficient, if higher pay scale is granted and accordingly, the applicants have paid higher pay scale, i.e., grade pay of Rs. 4400/-, since the applicants were already getting the grade pay of Rs. 4300/-.

6. The learned P.O. invited my attention to the judgment passed by this Tribunal in O.A. No.84/2015 in case of Shamrao Rajeshwar Mandaiwar and others V/s State of Maharashtra and others delivered on 16.7.2018 at Nagpur Bench. In the said case, similar impugned orders in respect of other employees have been quashed and set aside, since no opportunity was given to the

applicant before passing the order of modification of pay scale and recovery. Admittedly, in these O.As also, no opportunity has been given to the respective applicants to state as to why their pay scale shall not be revised and why the so-called excess amount shall not be recovered from them. In my opinion, sub-clause (7) of Clause 2 of the G.R. dated 6.8.2002 needs to be interpreted with proper perspective and in any case the respondents ought to have given an opportunity to the applicants before modifying their pay scale and recovering so-called excess amount. In view thereof, the O.A. can be disposed of with the said directions. Hence, I proceed to pass the following order:-

### **ORDER**

- (i) Both the O.A. Nos. 587/2017 and 928/2017 are partly allowed.
- (ii) The respondents are directed not to recover the amount from the applicants which alleged to have been paid to them in excess, unless and until opportunity is given to the respective applicants.
- (iii) The respondents are directed to issue show cause notices to the applicants calling upon them to explain as to why their grade pay shall not be fixed at Rs.4400/- in view of G.R. dt.

6.8.2002 and why the so-called excess amount, if any, shall not be recovered from them.

- (iv) The respondents will be at liberty to go through the G.R. dated 6.8.2002 with proper perspective and after giving full opportunity to the respondents, necessary order may be passed in the matter.
- (v) Since number of matters are pending in this regard before the respondent authorities, they are directed to take proper decision as early as possible and in any case within a period of three months from the date of this order.
- (vi) It is needless to mention that the applicants will be at liberty to approach this Tribunal, in case they are aggrieved by any of the decision that may be taken by the respondents.
- (vii) The applicants are directed to co-operate the respondent authorities.
- (viii) No order as to costs.

(J.D.Kulkarni)  
Vice-Chairman (J)