

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 707 of 2020 (S.B.)**

Vijay S/o Panditrao Chaudhary,  
Aged about 56 years,  
Occ. Employee of Govt. Milk Scheme,  
R/o Qtr. No.3/4, Government Milk Scheme Quarters,  
Congress Nagar, Amravati-444 606.

**Applicant.**

**Versus**

- 1) The Secretary, Department of Agricultural  
Animal Husbandry, Dairy Development and Fisheries,  
5<sup>th</sup> floor, Mantralaya, Mumbai-32.
- 2) Dairy Development Commissioner,  
Administrative Building,  
Khan Abdul Gaffar Khan Marge, Worli Sea Face,  
Mumbai-18.
- 3) Regional Dairy Development Officer,  
Amravati Region, Congress Nagar,  
Amravati-444 601.

**Respondents.**

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**Shri S.M. Khan, Advocate for the applicant.**  
**Shri A.M.Ghogre, learned P.O. for respondents.**

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**WITH**

**ORIGINAL APPLICATION No. 737 of 2020 (S.B.)**

Gokul Singh S/o Amar Singh Jadhav,  
Aged about 58 years,  
Occ. Ex-Employee of Govt. Milk Scheme,  
R/o Lahane Layout, Samarth Nagar, Buldhana-433 001.

**Applicant.**

**Versus**

- 1) The Secretary, Department of Agricultural  
Animal Husbandry, Dairy Development and Fisheries,  
5<sup>th</sup> floor, Mantralaya, Mumbai-32.

- 2) Dairy Development Commissioner,  
Administrative Building,  
Khan Abdul Gaffar Khan Marg, Worli Sea Face,  
Mumbai-18.
- 3) Regional Dairy Development Officer,  
Amravati Region, Congress Nagar,  
Amravati-444 601.

**Respondents.**

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**Shri S.M. Khan, Advocate for the applicant.  
Shri A.M.Ghogre, learned P.O. for respondents.**

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

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**Date of Reserving for Judgment : 13<sup>th</sup> July,2022.**

**Date of Pronouncement of Judgment : 28<sup>th</sup> July,2022**

**COMMON JUDGMENT**

**(Delivered on this 28<sup>th</sup> day of July,2022)**

Heard Shri S.M. Khan, learned counsel for the applicant and Shri A.M. Ghogre, learned P.O. for the respondents.

2. Both the applicants have challenged the impugned orders dated 2/7/2020 and 23/7/2020 by which the benefits given to the applicants of time bound promotion after 12 years w.e.f. 1/8/2000 was withdrawn and directed to recover the said amount.

3. Both the applicants were appointed as Electrician in the respondents / department. In the 5<sup>th</sup> Pay Commission, the categories of Electrician and Senior Electrician were shown in the same pay

scale of Rs.4000-6000 w.e.f. 1/1/1996. Next promotional post of the applicants was Charge-man (Electrical). The applicants were given benefit of the next promotional post of Charge-man (Electrical) after completion of 12 years' service as per the G.R. of 1995.

4. Initially, the respondents had not given benefit of the G.R. of 1995, therefore, both the applicants filed O.A.No.79/2004. In the said O.A., both the applicants prayed for direction to the respondents to consider the applicants for higher pay scale of Rs.5500-9000 in view of the G.R. dated 8/6/1995 after completion of 12 years of their services. During the pendency of that O.A., the respondents have considered the claim of the applicants and granted them benefits of G.R. of 1995. Therefore, on 25/3/2014 pursis was filed and it is stated by the applicants' counsel that the respondents had given the benefit of G.R. of 1995. The pay fixation of the applicants was done. Thereafter the respondent nos.1 and 2 issued the impugned communications dated 2/7/2020 and 23/7/2020 directing the respondent no.3 to recover the excess amount paid to the applicants. As per these communications, the respondent nos.1 and 2 directed the respondent no.3 that the next promotional posts of the applicants were Senior Electrician, but both the applicants were given promotional pay of the post of Charge-man (Electrical). It was not proper and therefore directed to recover the amount.

5. The respondents have denied the claim of the applicants. It is the contention of respondent nos.1 and 2 that the applicants were eligible for next promotional pay as per G.R. of 1995. Next promotional posts of both the applicants were Senior Electrician. They were wrongly granted the next promotional pay of the post of Charge-man (Electrical). Both the applicants were not entitled for the pay granted to them as per the G.R. of 1995. Hence, the recovery needs to be done from both the applicants. At last submitted that there is no merit in the O.A., therefore, it is liable to be dismissed.

6. Heard Shri S.M. Khan, learned counsel for the applicants. He has pointed out material documents and submitted that as per the recommendation of respondent no.3, the respondents rightly given the pay of the next promotional post of the Charge-man (Electrical). As per the recommendation and pay fixation by respondent no.3, it is clear that the applicants were given promotional pay of the post of Charge-man (Electrical) because in the 5<sup>th</sup> Pay Commission the posts of Electrician and Senior Electrician were shown in the same pay scale, therefore, both the applicants were entitled for higher pay scale of the next higher post of Charge-man (Electrical). This was also noted by respondent no.3 in the note sheet dated 29/3/2011. The material portion is as under –

“ दुग्धव्यवसाय विकास विभागाच्या अमरावती विभागामध्ये आता विजतंत्री पदासाठी पुढचे पदोन्नतीचे पद प्रभारक असे असुन त्याची वेतनश्रेणी पाचव्या वेतन आयोगानुसार रुपये ५५००-९००० अशी आहे. जूलै २००० नंतर वरीष्ठ विजतंत्री या पदासाठी विशेष वेतन बंद झालेले असल्याने तसेच विजतंत्री व वरिष्ठ विजतंत्री या दोन्ही पदांसाठी एकच वेतनश्रेणी असल्याने दिनांक १ ऑगस्ट २००० पासुन विजतंत्री या पदाला पदोन्नतीचे पद हे प्रभारक (विद्युत) असे दुग्धव्यवसाय विकास विभागाच्या अमरावती विभागामध्ये आहे. त्यामुळे दिनांक १ ऑगस्ट २००० पासुन विजतंत्री या पदावरील कालबध्द पदोन्नती मिळालेल्या कर्मचा-यांना दिनांक १ ऑगस्ट २००० पासुन प्रभारक (विद्युत)या पदाची वेतनश्रेणी कालबध्द पदोन्नतीमध्ये तात्काळ लागू करणे आवश्यक झालेले आहे.”

7. The learned P.O. has strongly objected the O.A. He has submitted that both the applicants were given wrong promotional pay in fact they were eligible for the next promotional pay of the post of Senior Electrician, but they were given the next promotional pay of the post of Charge-man (Electrical), therefore, recovery was directed. There is no illegality, hence, the O.A. is liable to be dismissed.

8. From perusal of the note sheet dated 29/3/2011, it is clear that earlier G.Rs. were referred and it was mentioned that the post of Electrician and Senior Electrician were brought in the same pay scale. The next promotional posts of both the applicants were Charge-man (Electrical) and therefore they were granted the next pay scale of Rs.5500-9000. The G.R. of 1995 is very material. As per the G.R. of 1995 the employees who have completed 12 years of service, but could not get the benefit of promotion, they should be given the benefit of higher pay scale of the promotional post. As per the recommendation and pay fixation by respondent no.3, the posts of Electrician and Senior Electrician were merged in the same category

in the 5<sup>th</sup> Pay Commission and therefore both the applicants who were working on the post of Electrician, were given benefit of G.R. of 1995 and granted them promotional pay of the post of Charge-man (Electrical). There is nothing illegal on the part of respondent no.3. The pay scales of both the applicants were approved by the respondents in O.A. No.79/2004. The said O.A. was filed for the same relief and during the pendency of that O.A., the respondents have given benefit to both the applicants. Hence, the impugned communications / orders dated 2/7/2020 and 23/7/2020 are liable to be quashed and set aside. Hence, I pass the following order –

**ORDER**

- (i) Both the O.As. are allowed.
- (ii) The communications / orders dated 2/7/2020 and 23/7/2020 issued by the respondents are hereby quashed and set aside.
- (iii) No order as to costs.

**Dated** :- 28/07/2022.

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

\*dnk.

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

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 28/07/2022.

Uploaded on : 29/07/2022.