

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 935 of 2021 (S.B.)

- 1) Sau. Pradnya Prakashrao Shewalkar,
Aged about 62 years, Occ. Retired Typist,
R/o Plot No.40, Shesh Nagar, Nandanvan, Nagpur,
Tah. and District Nagpur.
- 2) Sau. Mangala Hemant Chimote,
Aged about 60 years, Occ. Retired Typist,
R/o Near Old Chitra Talkies, Chitnis Park, Mahal, Nagpur.
- 3) Sau. Shraddha Shrikant Aloni,
Aged about 59 years, Occ. Retired Typist,
R/o "Shradhha", 90, Jambudeep Nagar,
Ayodhya Nagar, Nagpur-24.
- 4) Krishna s/o Vithobaji Hirde,
Aged about 60 years, Occ. Retired Typist,
R/o Plot No.377, Ganesh Nagar,
Near Sangam Talkies, Nagpur.
- 5) Jayant s/o Gajanan Arewar,
Aged about 59 years, Occ. Retired Typist,
R/o F-5, Krushnagiri Apartment, Akashwani Road,
Chandrapur, Tah. and District Chandrapur.
- 6) Smt. Shubhangi Shrikant Bongirwar,
Aged about 59 years, Occ. Retired Typist,
R/o Hanuman Nagar, Tukum, Chandrapur,
Tah. and District Chandrapur.
- 7) Sau. Manda Sudhakar Kawale,
Aged about 62 years, Occ. Retired Typist,
R/o Jail Road, Chandrapur, Tah. and District Chandrapur.
- 8) Shri Sharad Purushottam Neralwar,
Aged about 63 years, Occ. Retired Typist,
R/o Dhanlaxmi Apartment, Ganj Ward, Chandrapur,
Tah. and District Chandrapur.
- 9) Smt. Meenakshi w/o Naresh Borkar,
Aged about 61 years, Occ. Retired Typist,
R/o Bharat Nagar, Nagpur, Tah. and District- Nagpur.

Applicants.

Versus

- 1) The State of Maharashtra, through its Secretary,
Public Works Department, Madam Cama Road,
Mantralaya, Mumbai-32.
- 2) Superintending Engineer-Cum- Co-Ordinator,
Public Works Circle Old Secretariat Building,
Civil Lines, Nagpur.
- 3) Superintending Engineer-Cum- Co-Ordinator,
Public Works Circle, Chandrapur,
Tah. & District- Chandrapur.
- 4) Chief Engineer,
Public Works Region, Bandhkam Sankul,
Civil Lines, Nagpur.

Respondents.

**G.N. Khanzode, Prachi Joshi, S.G. Aloni, Advs. for the applicants.
Shri S.A. Sainis, learned P.O. for respondents.**

WITH
ORIGINAL APPLICATION No. 936 of 2021 (S.B.)

- 1) Muneshwar s/o Shyamrao Ramteke,
Aged about 57 years, Occ. Typist,
R/o Nanibag, Ward No.1, Near Govardhan Building,
Chandrapur, Tah, and District Chandrapur.
- 2) Ku. Nisha Prabhakar Pattewale,
Aged about 56 years, Occ. Typist,
R/o Vitthal Mandir, Wrad No.2, Chandrapur,
Tah. and District Chandrapur.
- 3) Sau. Chandrakala Rajendra Anfat,
Aged about 57 years, Occ. Typist,
R/o 183, Ward No.3. Sudampuri, Shitalsingh Marg,
Wardha, Tah. & Distt. Wardha.

Applicants.**Versus**

- 1) The State of Maharashtra, through its Secretary,
Public Works Department, Madam Cama Road,
Mantralaya, Mumbai-32.

- 2) Superintending Engineer-Cum- Co-Ordinator,
Public Works Circle Old Secretariat Building,
Civil Lines, Nagpur.
- 3) Superintending Engineer-Cum- Co-Ordinator,
Public Works Circle, Chandrapur,
Tah. & District- Chandrapur.
- 4) Chief Engineer,
Public Works Region, Bandhkam Sankul,
Civil Lines, Nagpur.

Respondents.

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

Dated :- 12/04/2023.

COMMON JUDGMENT

Heard Shri G.N. Khanzode, learned counsel for the applicants and Shri S.A. Sainis, learned P.O. for the respondents.

2. All the applicants in both the O.As. are claiming same relief and therefore both the O.As. are decided by this common Judgment.

3. The contention of the applicants in short is as under –

All the applicants came to be appointed on the posts of Typist against the clear and permanent vacancies after due procedure for selection. On 26/11/1990, the State of Maharashtra issued Govt. G.R. by which unified posts / cadre of Clerk-cum-Typists came to be created and abolished the post / cadre of Typists. As per the terms of

G.R. all such Typists were directed to be absorbed and pay fixation accordingly in the cadre of Clerk-cum-Typist was to be done.

4. The respondents did not grant the said benefits to the Typists working under the respondent nos.2 and 3. One Mr.G.S. Lanjewar filed O.A.745/2014 before this Tribunal. After considering the submissions and the provisions of the G.R., this Tribunal has directed the respondent nos.2 and 3 to absorb them in the unified cadre of Clerk-cum-Typist along with all consequential benefits including seniority etc. This Tribunal also imposed the cost on the respondents for delay on their part.

5. In spite of such Judgment of this Tribunal, the respondent no.2 not complied the G.R. dated 26/11/1990. All the applicants are not granted the benefits of said G.R. and therefore they approached to this Tribunal.

6. Shri S.A. Sainis, learned P.O. for the respondents. Both O.As. are strongly opposed by the respondents. It is submitted that as per the G.R., the applicants should have given option within a period of 60 days, but they have not given any option. Therefore, they were not considered for the benefits of G.R. dated 26/11/1990, hence both the O.As. are liable to be dismissed.

7. The applicants have pointed out the communication issued by the respondents. The main ground for not considering the

applicants for the benefit of G.R. dated 26/11/1990 is that applicants had not given option for the benefits of the said G.R. for absorption in the post / cadre of Clerk-cum-Typist.

8. During the course of arguments, the learned counsel for applicants has pointed out the recommendation made by the Superintending Engineer, Public Works Division, Nagpur dated 14/10/2016 by which it is mentioned about options given by some of the applicants. The learned counsel for applicants has pointed out the Judgment of this Tribunal in O.A.No.745/2014, decided on 27/08/2015.

9. It is the main contention of the applicants that they were appointed as Typist. They are entitled for absorption in the unified cadre of Clerk-cum-Typist as per the G.R. dated 26/11/1990. The pay scale of Clerk-cum-Typist is different from the post of Typist. As per Clause-2 of the G.R., employees who were working as a Typist have to give options for absorption in the unified cadre of Clerk-cum-Typist within a period of 60 days. The Clause-4 of the G.R. says that if such option was not given and the Typists who were getting the pay scale of Rs.290-540 are deemed to be granted such option. This clause was interpreted by this Tribunal in O.A.No.745/2014 in para-11 as under –
“11. We also find that in respect of the Typists who did not exercise their options within the stipulated time, there is a provision as per para 3 (4) for

treating such employees as having given their deemed options and they are to be absorbed in the unified cadre from the date of their placement in the pay scale of Rs.290-540 (975-1660). As the applicant was appointed on 29/05/1990 in the pay scale of Rs.975-1660, his deemed date of entry in the cadre of Clerk-Typist should be that date.”

10. This Tribunal has passed the following order –

“(a) The O.A. is allowed.

(b) The communication dtd. 16/9/2014 is quashed and set aside.

c) It is held that the applicant is entitled to be absorbed in the unified cadre of Clerk-cum- Typists in terms of the G.R. dtd. 24/11/1990 from the date of his appointment as a Typist.

d) The respondents will issue necessary orders in this behalf and grant the applicant all the consequential benefits including seniority in the cadre of Clerk-Typist within 4 months from the date of receipt of this order.

e) The Respondent no. 4 is directed to pay Rs.10,000/- from personal sources towards cost to the applicant.”

11. The learned counsel for applicants has submitted that the respondents have not preferred any appeal against the Judgment of this Tribunal in O.A.No. 745/2014. He has pointed out the G.R. dated 28/02/2017. This G.R. was issued as per the Judgment of Hon’ble Supreme Court in the case of **State of Uttar Pradesh & Ors Vs. Arvind Kumar Srivastava reported in 2015 (1) SCC 347**. The Hon’ble Supreme Court has laid down the principle as under –

“Normal rule is that when a particular set of employee 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"

12. The learned counsel for applicants has pointed out the benefits given to the similarly situated employees by the Irrigation Department, Nagpur Division. The order dated 07/03/1991 (A-4,P-42) shows that similarly situated employees were given the benefits of G.R. dated 26/11/1990.

13. The Govt. itself has issued the G.R. dated 26/11/1990 and as per the Circular dated 28/02/2017 all the similarly situated employees shall be treated the same. After passing the Judgment of this Tribunal in O.A.745/2014 it was the duty of the respondents to consider the claim of the applicants though various proposals were made for absorption in the unified cadre of Clerk-cum-Typists. The respondents have not followed the G.R. issued by the Government from time to time. Therefore, this Tribunal has imposed cost on respondent no.4 of Rs.10,000/- and it was to be paid from personal source.

14. It appears that intentionally the respondents are not implementing the G.R. dated 26/11/1990. As per this G.R. the

employees who were working on the posts of Typist are to be absorbed in the unified cadre of Clerk-cum-Typists. Some of the applicants had given options within time and some of the applicants not given any option, but as per the G.R., though option was not given they are deemed to be given. The Clause 4 of the G.R. is very clear. It is interpreted by this Tribunal in para-11 of the Judgment in O.A.745/2014. The main reason for denying the benefit to the applicants is that they had not given any option. But as per the Judgment of this Tribunal and G.R. itself, though options were not given, they are deemed to be given. Hence, the applicants are entitled for the benefit of G.R. dated 26/11/1990. Therefore, the following order is passed –

ORDER

- (i) Both the O.As. are allowed.
- (ii) The communications dated 19/11/2020 and 21/12/2020 in both the O.As., are hereby quashed and set aside.
- (iii) It is held that the applicants are entitled to be absorbed in the unified cadre of Clerk-cum-Typists in terms of G.R. dated 26/11/1990 from the date of their appointments as Typist.
- (iv) The respondents are directed to issue necessary orders in this behalf and grant the applicants all the consequential benefits including

seniority in the cadre of Clerk-cum-Typist within a period of four months from the date of receipt of this order.

(v) No order as to costs.

Dated :- 12/04/2023.

(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 : 12/04/2023.

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