

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 663 OF 2015

DIST. : JALGAON

Prabhakar s/o Baburao Chaudhari,
Aged 59 years, Occ. Jr. Engineer (Retired),
R/o Plot no. 18, Gat no. 35,
Mauktai Nagar Colony, Jalgaon,
Dist. Jalgaon.

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APPLICANT

VERSUS

1. The State of Maharashtra,
Through the Principal Secretary,
Water Resources Department,
Mantralaya, Mumbai.
2. The Superintending Engineer,
Jalgaon Irrigation Project Circle,
Jalgaon.
3. The Executive Engineer,
Mechanical Division Unit,
Jalgaon, Dist. Jalgaon.
4. The Accountant General,
Indian Audit & Accounts Department,
Old Pratiksha Bhavan (Old CGO Bldg.,)
101, Maharshi Karve Marg,
Mumbai . 400 020.

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RESPONDENTS

APPEARANCE : Shri A.D. Sugdare, learned Advocate for the
applicant.
: Shri N.U. Yadav, learned Presenting Officer for
respondent no. 1.
: Shri S.D. Dhongde, learned Advocate for
respondent nos. 2 & 3.

CORAM : HON'BLE SHRI J. D. KULKARNI, MEMBER (J)

ORAL ORDER

(Passed on 1.12.2016)

1. Heard Shri A.D. Sugdare, learned Advocate for the applicant, Shri N.U. Yadav, learned Presenting Officer for respondent no. 1 and Shri S.D. Dhongde, learned Advocate for respondent nos. 2 & 3.

2. The applicant is appointed as a Technical Assistant on 25.3.1982 and was brought on Regular Temporary Establishment on 8.1.1986. The applicant's services were absorbed in the category of Civil Engineering Assistant (for short C.E.A.) on 1.11.1989 and consequently he was promoted to the post of Jr. Engineer on 21.11.2008. The applicant got retired on superannuation on the post of Jr. Engineer on 30.11.2014.

3. The pension papers were sent to the Sr. Accountants Officer, Office of the Accountant General . I, Mumbai on 30.8.2014 and the Accounts Officer vide order dated 16.10.2014 was pleased to return the said pension papers with following observations :-

“1) This office is unable to process the pension case for want of following –

IT IS SEEN FROM SERVICE BOOK GOVT. SERVANT APPOINTED ON WORK CHARGE ESTABLISHMENT ON 25.03.82 AN AS TECHNICAL ASTT & THEN TAKEN ON NIYAT ASTAYIASTAPANA ON 08.01.86 (IN THE SCALE OF 975-1540) AND THEN ABSORB IN

CIVIL ENGINEERING ASSTT. AS ON 01.11.89 (IN THE SCALE OF RS. 1200-1800). HENCE TIME BOUND PROMOTION SHOULD BE GIVEN ON 01.11.2001 & MACP SHOULD BE GIVEN ON 01.11.2013. THE SAME MAY BE REVERIFIED.

2) Pension papers/Sr. Book of SHRI PRABHAKAR BABURAO CHAUDHARI is returned herewith for want of above compliance, with a request to resubmit the same, duly complied, so as to enable this office to finalize the pension case. Please note that the case is treated as closed for the present and will be re-opened on receipt of the information / document from your department.

3) In case, any, delay is anticipated in complying the remarks raised above, provisional Pension / DCRG as applicable under rules may be sanctioned to the govt. servant.

4) Kindly quote the pensioner file id No. 2121471740 while resubmitting Pension papers and for all future correspondence.”

4. It seems that in view of the directions given by the Sr. Accounts Officer vide letter dated 16.10.2014, the pay of the applicant has been revised by the res. no. 3 the Executive Engineer, Mechanical Division Unit, Jalgaon, Dist. Jalgaon as per the order dated 15.9.2015. It was also observed that the excess payment paid to the applicant be recovered.

The said recovery, however, has been stayed by this Tribunal vide order dated 3.5.2016 and the respondents were directed to repay the applicant an amount of D.C.R.G. of Rs. 3,22,555/-. Admittedly the said amount has been repaid to the applicant.

5. The learned Advocate for the applicant submits that the the Sr. Accountants Officer, Office of the Accountant General . I, Mumbai vide order dated 16.10.2014 has taken a objection in para no. 1 of the letter that the applicant was appointed on work charge establishment on 25.3.1982 as Technical Assistant and was then taken on C.R.T.E. on 8.1.1986 in the scale of Rs. 975-1540 and then absorbed as a C.E.A. on 1.11.1989 in the pay scale of Rs. 1200-1800 and, therefore, time bound promotion should have been given on 1.11.2001 and M.A.C.P. should be given on 1.11.2013 and, therefore, the competent authority i. e. the res. no. 3 was directed to re-fix the pay of the applicant.

6. The learned P.O. submits that this Tribunal in O.A. no. 617/2014 on 2.12.2015 (paper book page 56) has observed that the services on daily wages or before regularization could not be counted for time bound promotion. Similarly for the persons appointed as C.E.A. were given upgradation in pay scale (श्रेणीवाद) they were not eligible to be given time bound promotion, unless they had completed 12 years as C.E.A.

7. The learned Advocate for the applicant, however, invited my attention to one recent G.R. dated 7.10.2016 issued by the Finance

Department of the Govt. of Maharashtra in which following decision has been taken by the Government :-

“शासन निर्णय -

महाराष्ट्र लोकसेवा आयोगाच्या कक्षेतील मंत्रालयातील तसेच बृहन्मुंबईतील राज्य शासकीय कार्यालयात लिपिकवर्गीय संवर्ग तसेच अन्य संवर्गात महाराष्ट्र लोकसेवा आयोग अपुरस्कृत उमेदवार म्हणून नियुक्त झालेल्या व सामान्य प्रशासन विभागाच्या विविध शासन आदेशान्वये दिनांक ३१.३.१९९९ पर्यंत सेवा नियमित केलेल्या कर्मचा-यांची, सेवा नियमित झाल्याच्या दिनांकापूर्वीची, तात्पुरती अखंडीत सेवा, तसेच महाराष्ट्र लोकसेवा आयोग पुरस्कृत उमेदवार म्हणून मंत्रालय तसेच बृहन्मुंबईतील राज्य शासकीय कार्यालयात लिपिक संवर्गात अथवा अन्य तत्सम संवर्गात नियुक्त झालेल्या कर्मचा-याची पदोन्नतीच्या कोट्यातील तात्पुरत्या पदोन्नतीची अखंडीत सेवा देखील कालबद्ध पदोन्नती/सेवांतर्गत आश्वासित प्रगती योजना/सुधारित सेवांतर्गत आश्वासित प्रगती योजनेच्या प्रयोजनासाठी १२ वर्षांच्या नियमित सेवेची गणना करताना विचारात घेण्यात यावी. तसेच संबंधित कर्मचा-यांकडून संबंधित योजनेबाबतच्या अन्य अटीची पूर्तता झाल्यानंतर त्यांना अनुज्ञेय योजनेंतर्गत यथास्थिती कालबद्ध पदोन्नती/सेवांतर्गत आश्वासित प्रगती योजना/सुधारित सेवांतर्गत आश्वासित प्रगती योजनेचा पहिला/ दुसरा लाभ मंजूर करण्यात यावा.

संबंधित कर्मचा-यांना अनुज्ञेय ठरणारा पहिला लाभ हा त्यांनी यापूर्वी घेतलेल्या पहिल्या लाभाच्या रकमेशी समायोजित करून **(Readjust)** संबंधितास फरकाची रक्कम अनुज्ञेय ठरेल, तसेच पहिला लाभ मंजूरीच्या तारखेपासून १२ वर्षांची सलग सेवा पूर्ण झाल्यानंतर आवश्यक अटीची पूर्तता केल्यानंतर संबंधितास सुधारित सेवांतर्गत आश्वासित प्रगती योजनेचा दुसरा लाभ मंजूर करता येईल. तथापि या ही ठिकाणी ज्यांना दुसरा लाभ यापूर्वीच मिळालेला आहे, त्यांचा सदर लाभाची रक्कम सुधारित दुस-या लाभाशी समायोजित करून **(Readjust)** संबंधितास फरकाची रक्कम अनुज्ञेय ठरेल तसेच अशा प्रकारे सुधारित दराने लाभ मंजूर झाल्यानंतर, निवृत्तीवेतन धारकाच्या/नजीकच्या काळात निवृत्त होणा-या कर्मचा-यांच्या निवृत्तीवेतन, उपदान,

रजा रोखीकरण यांच्या रकमांची पुन्हा परिगणना करून त्यांना सुधारित दराने निवृत्तीवेतन विषयक लाभ मंजूर करण्यात यावेत.

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8. In view of the aforesaid G.R. it is necessary for the respondents to reconsider the case of the applicant and, therefore, I pass following order :-

ORDER

- (i) The O.A. is partly allowed.
- (ii) The respondents are directly to refix the pay of the applicant in view of G.R. dated 7.10.2016 and shall pass necessary order accordingly.
- (iii) The respondents are further directed to take appropriate action in this regard within a period of 6 months from the date of this order and shall communicate the decision to the applicant in writing, since the applicant has been retired from the service.

There shall be no order as to costs.

MEMBER (J)