

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.846 OF 2021**

**DISTRICT : MUMBAI**

Late Mrs. Kalavati Dhanaraj Likhari, )  
since deceased through her Heir & Legal Representative) )  
Mr. Dhanaraj Damodar Likhari, )  
Age about 74 years, Indian Inhabitant, )  
Occ. Retired Govt. Servant, R/at Flat No.1006, )  
Versova Heights CHS, Society No.5/A, )  
New MHADA Colony, Andheri West, Mumbai 400053 )..Applicant

Versus

1. The State of Maharashtra, )  
Through the Secretary, )  
Higher & Technical Education Department, )  
Mantralaya, Mumbai 400032 )
2. The Director, Directorate of Technical Education,) )  
3, Mahapalika Marg, Mumbai 400001 )
3. The Principal, Institute of Printing Technology, )  
J.J. School of Arts Campus, Mumbai 400001 )..Respondents

Smt. S.S. Suryawanshi – Advocate for the Applicant

Smt. K.S. Gaikwad – Presenting Officer for the Respondents

CORAM : Smt. Medha Gadgil, Member (A)

RESERVED ON : 11<sup>th</sup> September, 2023

PRONOUNCED ON: 4<sup>th</sup> October, 2023

**J U D G M E N T**

1. Heard Smt. S.S. Suryawanshi, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

2. The applicant Late Mrs. Kalavati Dhanaraj Likhari was a State Government employee and retired on superannuation on 30.6.2010 as Office Superintendent/Adhoc Registrar of the Institute of Printing Technology. She expired on 19.11.2012. The applicant is represented her husband viz. Mr. Dhanaraj Damodar Likhari as her Heir and Legal Representative, as the cause of action survives even after the death of Late Mrs. Kalavati Dhanaraj Likhari.

3. The applicant challenges order dated 16.12.2019 issued by respondent no.2 denying the applicant her yearly increments from 2006 to 2010 of the post of Office Superintendent. The applicant states that Late Mrs. Kalavati Dhanaraj Likhari's yearly increments from 1.7.2006 till 30.6.2010 were not released in violation of Rule 36 of MCS (Pay) Rules, 1982. Since her yearly increments were not released her pension and consequential family pension after the death of Late Mrs. Kalavati Dhanaraj Likhari has been drastically reduced to his prejudice. This case has a long history. The applicant was promoted on ad hoc basis as Registrar by order dated 21.11.2003 in the Scheduled Tribe (ST) category with a condition to produce the caste validity certificate. The applicant accepted the promotion and joined the Govt. Polytechnic, Pune as Registrar on 2.12.2003. The provision to refuse promotion and its consequences are mentioned in the order dated 21.11.2003 but the applicant inspite of repeated reminders did not submit her caste validity certificate till the date of her retirement. Therefore a revised pay fixation order was issued on 25.6.2010 as per the objections raised by Accountant General, Audit Team which observed that promotion was not regular and she was liable to return all the pay and allowances paid to her as Group-B employee in excess of her entitlement in her post before promotion. As the applicant retired on superannuation on 30.6.2010 the recovery of excess

payment in salary due to revision of pay was made from her pensionary benefits.

4. Thereafter Late Mrs. Kalavati Dhanaraj Likhari filed OA No.543 of 2011 in this Tribunal challenging the order of revised pay fixation dated 25.6.2010. The OA was dismissed and the action taken by the respondents was upheld by this Tribunal vide its order dated 20.1.2014.

5. Thereafter the Legal Representative of Late Mrs. Kalavati Dhanaraj Likhari viz. Shri Dhanaraj Damodar Likhari filed W.P. No.7630 of 2014 in the Hon'ble High Court in which he prayed for setting aside the order dated 20.1.2014 passed by this Tribunal in OA No.543 of 2011. The Hon'ble High Court dismissed the writ petition and upheld the order passed by this Tribunal. Thereafter the applicant vide his representation dated 3.8.2018 requested respondent no.2 to release the increments on the post of Office Superintendent. Respondent no.2 vide its letter dated 30.11.2018 rejected the same.

6. Thereafter the LRs of the applicant filed OA No.301 of 2019 in which he prayed to release the increment of the post of Office Superintendent and challenged the letter of respondent no.2 dated 30.11.2018. This Tribunal vide its order dated 11.10.2019 disposed off the OA No.301/2019 and directions were given to respondent no.2 to look into the matter of increments of lower post and take suitable steps regarding the communication from respondent no.3 within two months. Respondent no.2 vide letter dated 16.12.2019 rejected the representation of the applicant. Subsequently the applicant filed CA No.14/2020 in OA No.301/2019 and this Tribunal by its order dated 12.3.2021 disposed off the said CA with the following observations:

“6. We are of the view that though we have asked the respondents to reconsider the issue in view of certain points, the final reconsiderations was left to the Government and understanding of the Government and therefore it cannot be strictly said to be contempt. In view of this, it is a different cause of action.

7. In view of the above, CA stands disposed of.”

7. The applicant once again filed W.P. No.3839 of 2021 in the Hon’ble High Court in July 2021 and the Hon’ble High Court passed the following order on 22.9.2021:

“1. On the prayer of Ms. Suryavanshi, learned advocate for the petitioner, this writ petition stands dismissed as withdrawn. There shall be no order as to costs.

2. This order, however, shall not preclude the petitioner from pursuing his remedy before the Maharashtra Administrative Tribunal in accordance with law.”

8. Ld. PO refutes the contentions raised by the Ld. Advocate for the applicant. Ld. PO relies on the affidavit dated 6.5.2022 filed by Mahendra Keshaw Dawane, Deputy Director, Technical Education, Mumbai. Ld. PO pointed out that the applicant had stated that she belongs to Halba Caste which is recognized as a ST and availed all the benefits of selection and promotions on the basis of the ST category. She also pointed out that this matter has already been decided by this Tribunal and this is matter of res integra.

9. The facts of this case are crystal clear and the same have been dealt with in detail in judgment and order dated 20.1.2014 passed by this

Tribunal in OA No.543/2011. Late Mrs. Kalavati Dhanaraj Likhar, was holding the post of Registrar and she was Head of Administration. She has not refused her promotion to the post of Registrar. She could not produce her caste validity certificate till her retirement. Therefore during her tenure as Registrar she has never asked for reversion to the lower post i.e. Superintendent. She has been promoted to the post of Superintendent vide order dated 16.4.1999 for which one of the condition was to produce caste validity certificate. It is clear that applicant was holding the post of Registrar on ad hoc basis but her pension and all pension related related benefits were made applicable to her on the post she was holding and the last pay drawn i.e. the post of Registrar. Once the higher scale was made applicable to the applicant and also the pensionary benefits are made applicable the Legal Representative cannot demand increments of the lower post for which she never made any representation. Again she was promoted on ad hoc basis to the post of Registrar from ST category with a condition to produce the caste validity certificate. The applicant did not submit her caste validity certificate till her retirement on 30.6.2010. It is seen that the applicant is misusing the process of law by filing various litigations in this Tribunal and the Hon'ble High Court. However, all the issues have already been addressed.

10. I find no merit in the Original Application and the same is dismissed. No order as to costs.

**Sd/-**  
**(Medha Gadgil)**  
**Member (A)**  
**4.10.2023**

Dictation taken by: S.G. Jawalkar.