

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD

ORIGINAL APPLICATION NOS. 699/2015 & 718/2015

**DISTRICT: OSMANABAD &
LATUR**

1. ORIGINAL APPLICATION NO. 699/2015

DISTRICT : OSMANABAD

Shri Vilas S/o Nagorao Veer,
Age: 63 years, Occu: Retired as
Agriculture Assistant,
R/o At Post Alni, Ta & Dist. Osmanabad.

.. APPLICANT

V E R S U S

- 1) The State of Maharashtra,
Through the Secretary,
Agriculture Department,
Mantralaya, Mumbai -400 032.
- 2) The Agricultural Commissioner,
Agricultural Commissionrate Maharashtra State,
Pune-411 001.
- 3) The Divisional Agricultural Joint Director,
Latur Division, Latur-413 512.

.. RESPONDENTS

AND

2. ORIGINAL APPLICATION NO. 718/2015

1. Shri Arun S/o Sopanrao Mali,
Age: 53 years, Occu: Service as
Agriculture Assistant,
R/o Venkateshnagar, Ambajogai Road,
Latur, Dist. Latur.

2. Shri Kishor S/o Gunderao Kulkarni,
Age: 52 years, Occu: Service as
Agriculture Assistant,
R/o Radhakrishna Nagar, Latur,
Dist. : Latur.
3. Shri Subhash S/o Ramchandra Manjare,
Age: 63 years, Occu: Retired
Agriculture Assistant,
R/o At Hipparga, Post Gudsur,
Ta. Udgir, Dist. Latur.

.. **APPLICANTS**

V E R S U S

- 1) The State of Maharashtra,
Through the Secretary,
Agriculture Department,
Mantralaya, Mumbai -400 032.
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Agricultural Commissionrate Maharashtra State,
Pune-411 001.
- 3) The Divisional Agricultural Joint Director,
Latur Division, Latur-413 512.

.. **RESPONDENTS**

APPEARANCE : Dr. Kalpalata Patil-Bharaswadkar, learned
Advocate for the Applicants in both these
O.As..

: Shri V.R. Bhumkar and Smt. Deepali S.
Deshpande, learned Presenting Officers for
respective Respondents in respective O.As..

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

COMMON JUDGMENT**(Delivered on this 23rd day of January, 2017.)**

1. Both these Original Applications are being disposed of, by this common Judgment and Order, since the issues involved in both these O.As. are one and the same.

2. The applicants in O.A. No. 718/2015 and the applicant in O.A. No. 699/2015 have filed this separate O.As., claiming a direction to the respondents to grant second benefit of Revised In Service Career Progression Scheme (vide G.R. dated 1.4.2010) to the respective applicants from the date on which they completed 24 years of their service. It is stated that the applicants have been deprived of said benefit on the ground that they have received monetary benefits of non-functional pay structure vide G.R. dated 8.12.1994, thereby treating the said benefits to be the first benefit of Time Bound Promotion.

3. The applicant No. 1 in O.A. No. 718/2015 Shri Arun Sopanrao Mali, was appointed as Agricultural Assistant on 12.08.1983. The applicant No. 2, Shri Kishor Gunderao Kulkarni was appointed in the same post on 19.07.1984 whereas the applicant no. 3 i.e. Shri Subhash Ramchandra

Manjare was appointed on 8.6.1983 in the pay scale of Rs. 290-10-390-15-465.

4. The applicant in O.A. no. 699/2015 was appointed as Agricultural Assistant on 17.12.1982 and he has retired on superannuation on 31.03.2011. The applicant No. 3 in O.A. No. 718/2015 has retired on superannuation on 30.06.2012.

5. According to the applicants, vide Government Resolution dated 8.12.1994, the pay scale of Agricultural Assistant was revised to Rs. 1350-2200 with a view to remove anomalies pertaining to pay scales in the Agricultural allied services. By said G.R., pay scale of Agricultural Assistants, Agricultural Supervisors and Agricultural Officers (Junior) were revised w.e.f. 1.1.1986 and it was in order to removal of discrepancy or anomaly in view of the recommendations of 4th Pay Commission. As per said G.R., those are having qualifying service of 7 years, as Agricultural Assistants were to get benefit of revised pay scale. However, no such condition was applied for Agricultural Supervisors and Agricultural Officers. Agricultural Assistant were not granted pay scale of Rs. 1400-2200 of Agricultural Supervisor but they were granted pay

scale of Rs. 1350-2200. The applicants got benefit of G.R. Dated 8.12.1994.

6. On 8.06.1995, another G.R. was issued to remove stagnation due to lack of adequate promotional avenues in respect of Group 'C' and 'D' employees. In this G.R., the financial benefits of the next promotional posts in the chain of promotion were extended to the Group 'C' and 'D' employees on completion of 12 years of regular service.

7. The applicants were granted benefit of Assured Career Progression Scheme in the year 2001 as per G.R. dated 3.08.2001. As per said scheme, the employees to whom the promotional post in the chain of promotion is not available and to the employees on isolated post, the pay scale of promotional post is sanctioned as per Annexure of the G.R. dated 8.6.1995; shall be entitled to the pay scales mentioned in the Annexure-1 of this G.R. w.e.f. 1.1.1996, but the employees were not entitled to higher pay scales as per time bound promotion scheme on 1.1.1996.

8. On 1.4.2010, the Government published G.R. and scheme "Revised Inservice Assured Progression Scheme". The

said scheme is applicable to maximum pay band 3 up to Rs. 15600-39100+5400 Grade Pay. The applicants are entitled to claim the benefits of this scheme but were not granted such benefit.

9. Some of the Agricultural Assistants and their Association filed O.A. Nos. 233/2013, 1000/2013, 1001/2013, 1002/2013 and 1003/2013. All these O.As. were decided by the Principal Seat of this Tribunal at Mumbai and this Tribunal observed that the Revision as per G.R. dated 8.12.1994 was in context of removal of discrepancy or anomaly and granted benefit to the employees.

10. The applicants have claimed that on the basis of said judgment the applicants are entitled to the benefits.

11. In the affidavit in reply, the respondents have admitted all the facts and in paragraph nos. 7 & 8 it is stated as under:-

“7. As to para no. IV (8) of the Original Application I say and submit that the Applicants are granted the higher pay scales as per G.R. dated 8.12.1994 from Rs. 1200-1800 to Rs. 1350-2200. This benefit is the first benefit for time bound promotion and time bound

promotion granted after 12 years is the second benefit, therefore the Applicants are not entitled further benefit as per the G.R. dated 1.4.2010. In this matter the Deputy Director, (Employees Welfare Desk) Officer of the Commissioner of Agriculture, Maharashtra State, Pune communicated vide letter dated 14.7.2011 that the employees to whom the benefit of a non functional pay structure or higher pay scale on completion of a specified period of service as per the provision of time bound promotion granted, are not entitled for further benefit of time bound promotion. A copy of this letter dated 14.07.2011 and Govt. letter dated 30.06.2011 is annexed herewith and marked as Exh. R-1 colly. In view of this the Applicants are not entitled to further benefit as per G.R. dated 1.4.2010.

8. *As to para no. IV(9 & 10) of the Original Application I say and submit that it is not disputed that the Hon'ble Maharashtra Administrative Tribunal, Mumbai decided the O.A. Nos. 233/2013, 1000/2013, 1001/2013, 1002/2013 and 1003/2013 in favour of the Employees vide Judgment and Order dated 21.04.2015 annexed at Exh. A-6 of this original application. The Govt. has decided to challenge this Judgment & Order dated 21.04.2015 vide letter dated 6.10.2015. A copy thereof is annexed herewith and marked as **Exh. R-2**. Accordingly writ petition against the Judgment & Order dated 21.04.2015 has been filed before the*

*Hon'ble High Court, Bombay on dated 15.12.2015. A copy of letter dated 2.1.2016 from the Divisional Joint Director of Agriculture, Pune Division, Pune is annexed herewith and marked as **Exh. R-3**. Therefore, the representation of the applicants & their Association is not considered by these respondents."*

12. The applicants have also filed rejoinder affidavit and denied the contentions raised in the affidavit in reply filed by the respondents and it is stated that though the matter was taken to the Hon'ble High Court, no stay was granted.

13. The only material point to be considered in both these O.As. is whether the cases of the applicants has been covered by the judgment delivered by this Tribunal at Principal seat at Mumbai in O.A. Nos. 233/2013, 1000/2013, 1001/2013, 1002/2013 and 1003/2013?

14. In paragraph no. 9 of the both the O.As., the applicants have averred as under:-

"9. That, the Applicant and similarly situated employees made representations in respect of this issue. The State lead Association of Agricultural Assistants also took up the issue. Some Agricultural

Assistants of other districts approached the Hon'ble Maharashtra Administrative Tribunal at Mumbai vide O.A. Nos. 233/2013, 1000/2013, 1001/2013, 1002/2013 and 1003/2013. All the O.As. were heard at length and the Hon'ble Tribunal decided in favour of the Employees. The Hon'ble Tribunal clearly observed the Revision as per G.R. dated 8.12.1994 was in context of removal of discrepancy or anomaly in view of the recommendations of 4th Pay Commission. It cannot be said that it is higher pay scales granted as per the description in Para 2(b)(3) of G.R. dated 1.04.2010. The Hon'ble Tribunal further observed that a policy decision/scheme regarding time bound promotion first issued on 8.06.1995, of giving scale of promotional post cannot be equated with grant of pay scale prior to 1995, that too w.e.f. 1.1.1986, which in any case not a promotional scale. The said revision therefore, cannot attract the conditions in Para 2 (b)(3) of GR dated 1.04.2010. Therefore, the Hon'ble Tribunal quashed the orders of respondent authorities rejecting the benefits and held that the conditions in the Para 2 (b)(3) of GR dated 1.04.2010 is not applicable in case of those persons who were granted benefits by way of GR dated 8.12.1984. The said benefits granted cannot be said to be the first benefit, because it is neither a grant of scale in promotional post nor grant of benefit by way of non-functional pay structure. The benefits of ACP Scheme was accordingly granted. Copy of Judgment

and Order of Hon'ble Tribunal in O.A. No. 233/2013, 1000/2013, 1001/2013, 1002/2013, 1003/2013 of Respondents are annexed hereto and marked as Annexure 'A-6'."

15. In the reply to the said para, as already been reproduced earlier, it is clear that the respondents have not specifically denied that the issued involved in this case have been decided by this Tribunal at Principal Seat of this Tribunal at Mumbai in O.A. Nos. 233/2013, 1000/2013, 1001/2013, 1002/2013 and 1003/2013. The respondents have merely stated that they have challenged judgment and order in these O.As. before the Hon'ble High Court. Admittedly, there is no stay to the order passed by this Tribunal. Not only that the respondents have granted benefit of said G.R. subject to the decision of the W.P.

16. Said letters are placed on record and are filed along with the copy of the rejoinder affidavit. The said letter is dated 16.06.2016 in O.A. No. 718/2015 and the order in view of such letter is also placed on record.

17. The learned Presenting Officers has also placed on record a copy of one communication 27.7.2016. It is marked

Exhibit 'X' for the purposes of identification, from which it seems that the Writ Petition before the Hon'ble High Court have been dismissed vide order dated 28.04.2016 and opinion was obtained for filing Special Leave Petition before the Hon'ble Supreme Court and the Law and Judiciary opined that it will be futile to file such petition and therefore, the Government has decided to grant benefit of G.R. as per order passed by the Tribunal.

18. Perusal of the order passed in O.A. Nos. 233/2013, 1000/2013, 1001/2013, 1002/2013 and 1003/2013 shows that the Tribunal has observed in paragraph no. 21 as under:-

“21. The issue involved in these OAs are also the same, i.e. grant of revised pay scales by way of GR dated 8.12.1994 and denial of the benefits of ACP Scheme by invoking the conditions in Para 2(b)(3) of the GR dated 1.4.2011. The facts of the case are different but issues to be adjudicated are essentially the same. In view of the reasons given in the order in OA No. 233 of 2013 (supra), it is hereby held that the said conditions in the G.R. dated 01.04.2011 cannot result in denial of benefits of the ACP Scheme to the applicants on completion of 12 years for initial appointment, on the ground that their pay scales had been revised by way of G.R. dated 8.12.1994. The

ACP Scheme benefits should be granted to the applicant, as if the first benefit did not accrue to them, by way of grant of the said benefits byway of GR dated 8.12.1994. They are covered by the order in para 19 supra.”

19. In view of the aforesaid observations it will be clear that the cases of the applicants in both these O.As. are covered by the judgment delivered in the O.A. Nos. 233/2013, 1000/2013, 1001/2013, 1002/2013 and 1003/2013 and therefore, I pass following order:-

ORDER

1. Both O.A. Nos. 699/2015 & 718/2015 are allowed.
2. The respondents are directed to grant the second benefit of Revised In Service Career Progression Scheme vide G.R. dated 1.4.2010 to the applicants w.e.f. the date on which they completed 24 years of their service, as prayed for.

There shall be no order as to costs.

(J.D. KULKARNI)
MEMBER (J)