

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 825 OF 2012

DISTRICT: JALNA

Yelba Dagdoba Sutar,
Age: 53 years, Occu: Library Attendant,
Government Polytechnic, Jalna.
R/o Anand Nagar, Revgaon Road,
Jalna.

.. APPLICANT

V E R S U S

- 1) The State of Maharashtra,
Through Secretary,
Technical Education, Mantralaya,
Mumbai-400 032.
To be served on Presenting Officer,
MAT Aurangabad.
- 2) The Director of Technical Education,
Technical Education Sanchnalaya,
3, Mahapalika Marg,
Post Box No. 1967, Mumbai- 400 001.
- 3) The Joint Director,
Technical Education Division,
Osmanpura, Aurangabad.
- 4) The Principal,
Government Polytechnic,
Aurangabad- Jalna Road,
Nagewadi, Jalna.

.. RESPONDENTS

APPEARANCE : Shri Asif Ali, learned Advocate holding for
Smt. A.N. Ansari, learned Advocate for
the applicant.

: Shri V.R. Bhumkar, learned Presenting
Officer for the Respondents.

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

J U D G M E N T

(DELIVERED ON 30TH AUGUST, 2016.)

The applicant has challenged the order dated 7.9.2011 issued by the respondent no. 3 i.e. the Joint Director, Technical Education Division, Osmnapura, Aurangabad. Vide said order, the applicant has been granted benefit of second time bound promotion scheme but instead of granting pay scale of the promotional post, only Grade Pay worth Rs. 2550/- has been granted to the applicant. It is the claim of the applicant that he should be granted benefit of Government Resolution dated 1.4.2010 r/w Government Resolution dated 20.08.2010 by granting pay scale of a Librarian i.e. Rs. 15600-39100 with Grade Pay of Rs. 6000/- w.e.f. 13.03.2010.

2. The applicant was initially appointed as Library Attendant w.e.f. 13.03.1986. On completion of 12 years of

service, he was given benefit of first time bound promotion scheme w.e.f. 13.03.1998 in the pay scale of Assistant Librarian. He has completed further 12 years of service i.e. total service of 24 years on 13.03.2010. The next promotion avenue open for the applicant was that of the Librarian and therefore, the pay scale of Librarian should have been granted to him while granting benefit of second time bound promotion scheme. However, the applicant was granted only Grade Pay of Rs. 2550/- vide impugned order 7.9.2011 and hence, this Original Application.

3. The respondents have filed affidavit in reply and in paragraph no. 5 of the said affidavit in reply the respondents have mentioned as under:-

“5. In reply to para no. 11 of the application deponent say and submit that, the applicant has completed 24 years of his service as on 12.3.2010 & drawing pay in the pay-scale of PB 5200-20200 Grade Pay of Rs. 1900/-

As the post of applicant as on today is “Library Attendant” which is categoried in Cadre Class-IV with retirement age of 60 years, and all

subsequent norms of Class-IV are applicable to him, and only the pay-scale of his initial appointment was that of class-III i.e. 950-20-1150-EB-25-1400 which is subsequently revised as 3050-75-3950-80-4590 as per Fifth Pay-Scale from 1.1.1996. And as per Sixth Pay-Scale Commission on 1.1.2006 he is working in Pay Band PB1 Rs. 5200-20200 Grade Pay Rs. 1900. Even though he got revised pay-scale under the scheme of Ashwasit Pragati Yojana his original post remains same.

It is kindly submitted that the scheme of Assured Career Advancement Scheme is of State Government for State Level Pay-Scale. The post of Librarian is in purview of A.I.C.T.E. and getting A.I.C.T.E. pay scale vide G.R. dt. 31.10.1998. Hence in Assured Pay Scale cannot be granted. The G.R. dt. Annexed herewith dated 20th August 2010 is a pay structure of posts which are under purview of A.I.C.T.E. pay-scales.

Since Library Attendant post is getting State Level pay Structure A.I.C.T.E. pay scale cannot be granted to his post in Career Advancement Scheme of State. The pay scale shown in G.R. dated 5th July 2010 is applicable to him in Career Advancement Scheme.

Hence, the applicant has granted additional fixed grade pay of Rs. 450/- considering non promotional post as per Clause 2 (c) of G.R. dated 5th July, 2010. Since Librarian post is covered under A.I.C.T.E. pay scale and pay-scale of Class-I post is applicable to the post, recruitment on the post of Librarian is to be done by M.P.S.C. by 100% nomination as per draft Recruitment Rule for the post of Librarian. (The Copy of draft Recruitment Rules for the post of Librarian forwarded by Directorate of Technical Education to the Government is annexed herewith and marked as Exh.R-1). Hence the say of the applicant to grant him A.I.C.T.E. pay scale while working on the post of Library Attendant is not accepted, hence denied in to.”

4. The respondents justified the order. It is stated that the applicant is working in the post of Library Attendant and by no stretch of imagination he can be granted pay scale of Librarian, which is Class-I post.

5. The applicant has filed rejoinder affidavit to the affidavit in reply filed by the respondents and have placed on record Recruitment Rules for the post of Library

Attendant, Assistant Librarian and Librarian. It is stated that the applicant is eligible for the post of Librarian and therefore, the pay scale of Librarian should have been granted.

6. Heard Shri Asif Ali, learned Advocate holding for Smt. A.N. Ansari, learned Advocate for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondents. I have also perused the affidavit, affidavit in reply, rejoinder affidavit and various documents placed on record by the respective parties.

7. It is admitted fact that the applicant is working right from beginning on the post of Library Attendant, which is lowest in the cadre. Till today, he has not been granted promotion even to the post of Library Attendant. However, the applicant has received benefit of first time bound promotion by way of Assured Career Advancement Scheme on completion of 12 years of 13.03.1986. The learned respective counsels admitted the fact that at the time of first time bound benefit, he was given the pay scale

of Assistant Librarian. It is also not disputed fact that the applicant was entitled for benefit of second time bound promotion scheme on 13.03.2010 i.e. on completion of 24 years service and the benefit of said scheme has already been granted to him. The only question therefore, is whether the pay scale of Librarian should have been granted to the applicant or whether grant of Grade Pay only, is legal?

8. The learned Advocate for the applicant submits that the pay scale of the Librarian is 15600-39100 with Grade Pay of Rs. 6000/- as per the Appendix-A dated 20.08.2010, as per the revised pay scale notification issued by the Government of Maharashtra on 20.08.2010, there seems to be no dispute of this fact.

9. The learned Advocate for the applicant has also placed reliance on the G.R. dated 5.7.2010. It is at paper book page no. 87. Admittedly, as per said G.R., the benefit of second time bound scheme has been given to the applicant. The learned Presenting Officer invited my

attention to the Clause-C of the said G.R., which reads as under:-

“ (क) योजनेचा दुसरा लाभ :

(१) पहिल्या लाभानंतर १२ वर्षांची नियमित सेवा पूर्ण केलेल्या कर्मचा-यास खालील तक्त्यात नमूद केल्याप्रमाणे दुसरा लाभ मंजूर करण्यात येईल.

(२) हे लाभ मंजूर करताना कर्मचा-याच्या वेतनबँड मध्ये बदल होणार नाही.

(३) हा लाभ मंजूर केल्यानंतर महाराष्ट्र नागरी सेवा (वेतन) नियम, १९८१ च्या नियम ११(१) नुसार वेतननिश्चिती करण्यात येईल. वेतननिश्चितीसाठी विकल्प अनुज्ञेय राहिल.

तक्ता

पहिल्या लाभानंतरचे ग्रेड वेतन (रुपये)	दुस-या लाभांतर्गत अनुज्ञेय अतिरिक्त ग्रेड वेतन (रुपये)
२००० पर्यंत	३००
२००१ ते ४०००	४५०
४००१ ते ५०००	६००
५००१ ते ५९०० पर्यंत (मूळ पदाचे ग्रेड वेतन रु. ५४०० + पहिल्या लाभांतर्गत अनुज्ञेय करण्यात आलेले ग्रेड वेतन रु. ५००=५९००)	७००

उदा :- वेतनबँड रु. ५२००-२०२०० अधिक ग्रेड वेतन रु. १९००/- या वेतनसंरचनेतील कर्मचा-यास पहिला लाभ मिळाल्यास त्याचे ग्रेड वेतन रु. १९००+२००=२१०० इतके तर दुस-या लाभांतर्गत त्या कर्मचा-यांचे (वरील तक्त्यातील अ.क्र. २ नुसार) ग्रेड वेतन रु. २१००+४५०=२५५० इतके होईल.”

Clause-C (2) of the said G.R. is the most material and it says that while granting pay scale benefit

of the G.R. for the second time bound scheme, the pay band of the employee shall not be changed. Admittedly, in this case, the applicant is Library Attendant and his initial pay scale is on the date of first time bound promotion scheme was 5200-20200 + Grade Pay of (1900+200)Rs. 2100/-. The pay scale for the post of Librarian is admittedly 15600-39100 with Grade Pay of Rs. 6000/- and it is Class-I post.

10. The plain reading of the G.R. dated 5.7.2010 and particularly Clause 1 to 3 makes it crystal clear that while granting second time bound promotion or benefit of second time bound assured scheme, the pay band of the employee shall not be changed. In the example given in the said Clause, it has been clearly mentioned that if the pay Grade changes, then the employee will be entitled to grade pay as per the said example.

11. In the present case also the respondents have granted grade pay to the pay band of Rs. 5200-20200 and the said Grade Pay is Rs. 2100+450=2550/-. I do not find

any illegality in grant of such pay scale to the applicant while granting benefit of second time bound promotion scheme.

12. The learned Advocate for the applicant has placed reliance on recruitment Rules for the post of Librarian and submitted that the applicant is well qualified to be appointed as Librarian as per those Rules. However, that is a totally in different issue and applicant cannot claim appointment to the post of Librarian, merely because he has completed 24 years on the post of Library Attendant or merely because he is qualified for being appointed for the said post. If he is aggrieved by non-appointment to the post of Librarian, he should have filed litigation to that effect claiming appointment by promotion or by direct appointment on the post of Librarian, as the case may be. The learned Presenting Officer has rightly stated that the Recruitment Rules for the post of Librarian and the G.R. dated 20.08.2010 so far as the applicant's claim for grant of pay scale of Rs. 15600-39100 is not applicable to the present case.

13. On a conspectus of discussion in foregoing paragraphs I am therefore, satisfied that the impugned order of granting benefit of second time bound assured scheme to the applicant as per Exhibit-D is perfectly legal and proper and the applicant has failed to prove that he is entitled to pay scale of Librarian which is admittedly Class-I post. I do not find any merits in the present case and hence, I pass following order:-

ORDER

The Original Application stands dismissed with no order as to costs.

(J.D. KULKARNI)
MEMBER (J)