

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMABI
BENCH AT AURANGABAD.

DIST.BEED.

ORIGINAL APPLICATION NO.583/2011.

Pandurang Dagdulal Lahoti,
Age 51 years, Occu. Pensioner,
R/o Kaveri Plaza Road,
Parli Vaijinath, Tal. Parli Vaijnath,
Dist. Beed.

-- **APPLICANT**

VERSUS

1. The State of Maharashtra
Through its Secretary,
Medical Education & Drugs
Department, Mantralaya,
Mumbai.
2. Director,
Medical Education and Research,
Maharashtra State, Government
Dental College and Hospital Building,
Mumbai.
3. The Dean,
Swami Ramanand Teerth Rural
Medical College and Hospital,
Ambajogai, Tal. Ambajogai,
Dist. Beed.

-- **RESPONDENTS.**

APPEARANCE : Shri D. T. Devane, learned Advocate holding for
Shri V. D. Gunale, learned Advocate for the
Applicant.

: Shri N. U. Yadav, learned Presenting Officer for the Respondents.

CORAM : **Hon'ble Shri JD Kulkarni, Member (J).**

DATE : 30.01.2016.

JUDGMENT.

(Delivered on this 30th day of January, 2017)

1. Heard Shri D. T. Devane learned Advocate holding for Shri V. D. Gunale, learned Advocate for the Applicant and Shri N. U. Yadav, learned Presenting Officer for the Respondents.

2. In this application the applicant is claiming appropriate directions to the respondents to pay the applicant the prescribed pay scale Rs.1640-2900 to the post of Chargeman since his initial date of appointment and also to extend the benefit of 5th & 6th Pay Commission to him and further to pay difference of the pay scale.

3. Since the applicant got retired he is also claiming direction to the Respondents to pay him pension by fixing his pay scale as per prevailing pay scales prescribed by the 5th & 6th Pay Commission.

4. The applicant was appointed as a Charge man vide order dated 15.10.1986 by the Dean, Swami Ramanand Tirth Rural (S.R.T.R.)

Medical College and Hospital, Ambajogai i.e. Respondent no.3. He has rendered continuous unblemished service for more than 23 years. Not even a single show cause notice was issued to him during his entire service tenure and ultimately got retired on superannuation.

5. The Govt. of Maharashtra has issued a Govt. Resolution dated 18.9.1964 whereby rules for recruitment for the post of Charge man, first Charge man for Workshop and Laboratory have been framed. The applicant has been appointed as per said rules.

6. It is stated that the nature of the work of Charge man and service conditions, eligibility etc. in Medical Colleges and Hospitals and other department of the Govt. are same. In the Medical Department of Government pay scale of Rs.950-1400 has been sanctioned for the post of Charge man. In the Dairy Department of the Govt. to pay scale for the post of Charge man is Rs.1640-2900, whereas in Technical Education Department the pay scale for the post of Charge man is sanctioned at Rs.1400-2600. In fact, the nature of the work, qualification required etc. for all the post is same and in fact the Charge man working in medical hospital is having emergency duty and has to perform risky job.

7. The applicant submitted the representation on 25.5.1992 and requested that he be granted pay scale of Rs.1640-2900 with deemed date from the initial date of appointment i.e. January 1986. According to the applicant his representation was forwarded to the appropriate authorities. The respondent no.3 vide communication dated 16.11.1992 informed the Respondent no.2 that the applicant was working as Charge man, which was created during the period of then Nizam Govt. and that he is the only Chargeman and discharging duties honestly and looking after all maintenance of operations of Generator and incinator in the Operation Theater. The Respondent no.3 also recommended the case of the applicant for grant of pay scale of Rs.1400 -2300, and vide communication dated 27.12.1995 the Respondent no.3 requested respondent no.2 to sanction pay scale of Rs.1640-2900 to the applicant. In spite of the various communications in this regard no decision has been taken on the representation filed by the applicant and therefore, he was constrained to file this O.A.

8. Respondents no.1 to 3 have filed reply affidavit and submitted that the posts of the Charge man in different department of Govt. of Maharashtra are different posts having different nature of duties and having different pay scales. The pay scale of Chargeman in

technical education department is Rs.5200-20,200 with Grade Pay of Rs.2800/- and that in Dairy Development Department is Rs.9300 to 34,800 with Grade Pay of Rs.4300/-. The pay scale given to the post is to be decided by the concerned Department under which the post is sanctioned and the applicant is working. Institutes working under Department of Medical Education are meant for providing Medical Education and Health services. The Respondents further stated that, at the time of appointment as Chargeman the applicant was fully aware about the pay scale which he was supposed to receive and in spite of such condition he has accepted the department and worked there for six years and after six years he has made a representation. The applicant has worked in the department till 31.12.2009 and then obtained temporary retirement. It is the responsibility of concerned Department to grant pay scale to the applicant.

9. Perusal of the record shows that, there is no dispute that the applicant has been appointed as a Chargeman. The copy of the appointment order has been placed on record at the time of argument, which is dated 15.10.1986 and is marked as Exh.X for the purposes of identification. From the said appointment order it seems that, the applicant was appointed as Chargeman permanently

in the pay scale of Rs.25-7-285-10-385 Extn.-10-435. In para 6 of the said order it has been stated that the services of the applicant will be governed by the Maharashtra Civil Services Rules 1981 or the Rules that will be laid down by the Govt. of Maharashtra from time to time. In such circumstances, the say of the Respondents that the applicant himself accepted the pay scale and can not demand any enhancement in the said pay scale cannot be accepted. The respondents have not denied the recruitment rules for the post of Chargeman dated 18.9.1964.

10. I have perused the representation submitted by the applicant to the competent authority through which the applicant has claimed pay scale of Rs.1640-2900 from initial date of appointment. In his representation the applicant has stated about duties of the Charge-man in different Departments and also the pay scale which was being paid to the different Charge man in different departments. Admittedly, there is a vast difference in the pay scales in different department. It seems that, in the Agriculture and Co-operative Department even the Assistant Chargeman was initially given pay scale of Rs.290-540, which was then revised to Rs.1200-1800. In Medical Education Department the Chargeman was getting pay scale of Rs.950 -1400 which was revised the Rs.3050-4590. In

Agriculture and A.D.F. Department the Charge man was getting initial salary of Rs.5500-9000, which was then revised to Rs.9300-34,800/-. In the Higher Technical Education Department the salary of the Charge man was initially Rs.4500 – 7000, which was revised to Rs.5200 -20,200 with Grade Pay of Rs.2800/-. In Medical Education & Drugs Department the initial salary of the Chargeman is shown to be Rs.3050-4590 and it was revised to Rs.5200 -20,200 with Grade Pay of Rs.1900/-.

11. The learned Advocate for the applicant invited my attention to one letter dated 25.1.1994, which is at paper book page no.34 (Exh.E). Vide said letter the Dean, S.R.T.R. Medical College and Hospital, Ambejogai has recommended the case of the applicant to Director Medical Education and Research, Mumbai in the pay scale of Rs.1400 – 2300/-. However, the respondents have not taken any decision on the said proposal.

12. Considering the facts and circumstances as discussed in the foregoing paragraphs, it will be necessary to consider that, the applicant has been appointed as a Chargeman, and it is not a case that, he was not duly appointed. It is also clear that, the Maharashtra Civil Services Rules are applicable to the applicant and therefore, the applicant may be entitled to various pay scales as per

various pay revisions, which have been sanctioned in favour of Govt. employees. It was necessary for the respondents to consider the nature of duties that were being performed by the applicant and to find out the proper pay scale which can be given to the applicant. Instead of doing so the respondents seems to have kept mum. Government seems to be shirking the responsibility saying that, it is for the concerned Department to consider the applicant's case. However, such decisions are policy decisions which can be taken by the Govt. and not by the concerned department. In such circumstances, I am of the opinion that, it is necessary for the respondents no.1 and 2 to consider the claim of the applicant on merits by taking just and proper decision in the given circumstances. In view thereof, I pass the following order.

ORDER.

- i) The original application is partly allowed.
- ii) The respondents no.1 to 3 are directed to take decision on the representation filed by the applicant for fixation of his salary in the pay scale of Rs.1640 – 2900 on the post of Chargeman from the initial date of appointment.
- iii) Respondents shall also take decision as to whether the applicant is entitled to 5th & 6th Pay Commission benefits and if so, the same shall be granted to the applicant.
- iv) The comprehensive decision be taken on the request of the applicant considering all the legal and factual aspects

of the applicant's case, as per rules and regulations within four months from the date of this order and the same shall be communicated to the applicant in writing by Speed post.

- v) No order as to costs.

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MEMBER (J)

