

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 89 OF 2020  
(Subject – Benefits of G.R. / Higher Pay Scale)**

**DISTRICT : AHMEDNAGAR**

**Shri Madhukar s/o Govind Bhalerao,** )  
Age : 52 years, Occu. : Wireless Machine Operator,) )  
R/o : At Post Digras Malnje, Tq. Sangamner, )  
Dist. Ahmednagar. )

.... **APPLICANT**

**V E R S U S**

1. **State of Maharashtra,** )  
Through the Secretary, )  
Water Resources Department, )  
Madam Kama Road, )  
Mantralaya, Mumbai-400 032. )
2. **The Superintending Engineer and Administrator,)**  
Command Area Development Authority,) )  
Near Sinchan Bhavan, Trimbak Road, )  
Tq. Dist. : Nashik -422002. )
3. **The Executive Engineer,** )  
Ahmednagar Irrigation Division, )  
Aurangabad Road, Near Sinchan Bhavan,) )  
Tq. Dist. : Ahmednagar-414001. )

... **RESPONDENTS**

**APPEARANCE** : Shri A.D. Sugdare, Counsel for the Applicant.

: Smt. Resha Deshmukh, Presenting Officer for  
respondent authorities.

**CORAM** : Hon'ble Justice Shri V.K. Jadhav, Member (J)

**RESERVED ON** : 19.06.2024

**PRONOUNCED ON** : 12.07.2024

**ORDER**

1. Heard Shri A.D. Sugdare, learned counsel appearing for the applicant and Smt. Resha Deshmukh, learned Presenting Officer appearing for respondent authorities.

2. The present Original Application is disposed of finally with the consent of both the sides at the admission stage itself.

3. By filing the present Original Application, the applicant is seeking declaration that he is entitled for the benefits of higher post i.e. Wireless Machine Operator in view of G.R. dated 29.09.2003 and the order dated 31.12.2019 issued by respondent No. 1 be declared as illegal and seeking quashing and setting aside the said order. The applicant is also seeking directions to the respondents to pay him all the consequential benefits with arrears from 29.09.2003.

4. Brief facts as stated by the applicant giving rise to the present Original Application are as follows :-

(i) The applicant had joined the Water Resources Department as on 26.11.1990 as Choukidar. He was confirmed as CRTE on 26.10.1994. The applicant was entrusted with the work of Wireless Machine Operator since

1994 till date. He has served on the higher responsibility post for more than 25 years continuously.

(ii) It is the case of the applicant that the Government has issued G.R. dated 29.09.2003 for "Designation as per work and pay scale as per Designation" "कामानुसार हुदा व हुद्यानुसार वेतन". In terms of the said G.R. the respondent No. 2 has sent proposal to respondent No. 1 on 12.12.2017 for sanction of higher post's pay scale, on which the applicant is working. By order dated / communication dated 31.12.2019, the respondent No. 1 has rejected the claim of the applicant on the ground that he has not completed the terms and conditions of G.R. dated 29.09.2003. Hence, the present Original Application.

5. Learned counsel for the applicant submits that the applicant has possessed educational qualification of S.S.C. and his service record is satisfactory. Though the applicant was appointed as Class-IV employee such as labour, but he was entrusted higher responsibility to work of Wireless Machine Operator. The applicant was entrusted the work of Wireless Machine Operator since 1994 till date. The G.R. dated 29.09.2003 is squarely applied to the case of the applicant. On

04.09.2017 (Annexure A-5 collectively), the applicant has filed representation to respondent No. 2 seeking higher pay scale in terms of G.R. dated 29.09.2003.

6. Learned counsel for the applicant further submits that on 05.09.2017 and 03.11.2017, the respondents have made recommendations to the higher authorities for granting higher pay scale to the applicant, because he was working on higher post before 01.01.1998 as a Wireless Machine Operator since 1994. Learned counsel submits that respondent i.e. Asst. Superintending Engineer, Nashik has sent proposal dated 12.12.2017 and respondent No. 2 has sent proposal dated 26.02.2019 to respondent No. 1 i.e. the Secretary, Water Resources Department, Maumbai regarding higher pay scale and designation as per G.R. dated 29.09.2003 (Annexure A-7 collectively).

7. Learned counsel for the applicant submits that respondent No. 1 has issued letter dated 20.05.2019 to respondent Nos. 2 and 3 and sought clarification as to what is the documentary evidence, which proves that the applicant has worked as Wireless Machine Operator since 1994 till today (Annexure A-8).

The respondent No. 3 has issued a letter to respondent No. 2 and mentioned the reason as to why the proposal was delayed. Further respondent No. 3 has submitted all the documentary evidence to prove that the applicant has performed duty on higher post i.e. Wireless Machine Operator and also requested respondent No. 2 to consider the claim of the applicant, as he fulfills all the terms and conditions of the said G.R. dated 29.09.2003.

Learned counsel for the applicant submits that respondent No. 2 has submitted proposal to respondent No. 1 along with documentary evidence as submitted. However, the respondent No. 1 issued impugned order dated 31.12.2019 and denied the legitimate claim of the applicant without considering the G.R. dated 29.09.2003. The respondent No. 1 has rejected the claim of the applicant with prejudice mind. Learned counsel submits that respondent No. 1 has failed to consider the said G.R. in its letter and spirit. Learned counsel submits that the said G.R. dated 29.09.2003 is in the nature of beneficial legislation and it should be interpreted in a positive manner. On the contrary, the respondent No. 1 has interpreted the said G.R. in negative to defeat its true meaning with sole intention to deprive the applicant from his legitimate claim. The said action

of respondent No. 1 denying the claim of the applicant on higher post is arbitrary and against the principle of Equal Pay for Equal Work.

8. Learned counsel for the applicant submits that similarly situated persons with similar grievance have filed O.A. No. 175/2015, 16/2006, M.A. No. 387/2012 in O.A. No. 813/2015, M.A. No. 08/2013 in O.A. No. 10/2013 and O.A. No. 615/2016 before this Tribunal. This Tribunal has directed the respondents to grant the benefits in terms of G.R. dated 29.09.2003 and the said order was confirmed by the Hon'ble High Court of Bombay, Bench at Aurangabad, so also, the Hon'ble Supreme Court. Learned counsel submits that the present applicant deserves similar identical benefits / reliefs in this Original Application.

9. Learned counsel for the applicant submits that similarly situated persons like Shri Bharat Namdeo Mengal, Suresh Shankar Dolas, Karbhari Sakharam Kakade and Dnyandev Bhau Ingle had filed O.A. No. 16/2006 before this Tribunal and the Tribunal has allowed the said Original Application directing the respondents to extend the benefits of G.R. dated 29.09.2003 by granting exemption to the applicant

Nos. 2 to 5 therein from passing S.S.C. examination. The respondents have complied with the said directions. Learned counsel submits that the present Original Application deserves to be allowed.

10. Learned Presenting Officer on the basis of affidavit in reply filed on behalf of respondent Nos. 1 to 3 submits that the applicant came to be appointed as Chowkidar on daily wages basis on 26.10.1989 and after completion of continuous service of five years, he was taken on Converted Regular Temporary Establishment (CRTE). Learned P.O. submits that after completion of 12 years' service, time bound promotion (Single Post) was granted to the applicant w.e.f. 26.10.2006. Learned P.O. further submits that the applicant's proposal for higher post as Wireless Operator was submitted to the Government on the basis of the recommendation and certificates submitted by the Sectional Officer and Dy. Engineer. But after careful scrutiny, the Government has rejected the proposal, because the applicant has not worked as Wireless Operator and the consequential proposal was submitted very late. Learned P.O. submits that the applicant had not worked as Wireless Operator.

11. Learned Presenting Officer submits that the applicant has kept mum for a long period of 14 years. The proposal of the

applicant for higher post was submitted to the Government on 23.09.2019 and the same was rejected by passing the impugned order, as the applicant has not fulfilled all the conditions mentioned in the G.R. dated 29.09.2003 and on the ground of delayed submission of proposal.

12. Learned Presenting Officer submits that there is no proof that the applicant has allotted work as Wireless Operator. Learned P.O. submits that the proposal of higher post i.e. Wireless Operator was submitted to the Executive Engineer, Minor Irrigation Division No. 2, Sangamner by Assistant Engineer (I), Minor Irrigation Sub-Division, Sangamner (Ghulewadi) on 21.08.2017. It is the contention of the applicant that he was working on higher post of Wireless Operator since 1994, but he has applied for the higher post on 04.09.2017 i.e. after 14 years. This delay is inordinate one and that is the reason that the proposal is rejected by the Government.

13. Learned Presenting Officer submits that the case of the applicant is not like the case of similarly situated persons, who had approached this Tribunal. The applicant had not worked since 1994 as Wireless Operator and he has mainly working as Chowkidar. There is no record of work done on



higher post by the applicant. His proposal was turned down by the Government, as there was no merit in the proposal. Learned Presenting Officer submits that there is no substance in the present Original Application and the same is liable to be dismissed.

14. The presenting Original Application deserves to be allowed.

15. The case of the applicant is squarely covered by the G.R. dated 29.09.2003. I have carefully gone through the recommendation dated 21.08.2017 submitted by Assistant Engineer (I), Minor Irrigation Sub-Division, Sangamner (Ghulewadi). It appears that the said authority i.e. Sub-Division Sangamner (Ghulewadi), under whom the applicant had worked has submitted information that as per the record available the applicant, who has worked as Chowkidar in Minor Irrigation Sub-Division Sangamner from 26.11.1994 to 30.11.2004 and at that time Wireless Machine functioning was under the control of Command Area Development Authority, Ahmednagar and thus the applicant had worked as Wireless Machine Operator during the said period as per the oral orders given by him by the Sectional Engineer. Even the Assistant Engineer (I), Minor

Irrigation Sub-Division, Sangamner (Ghulewadi) has issued certificate to that effect in favour of the applicant. The said recommendation and certificate is marked as Annexure A-4 collectively. In addition to that there are further copies of official note recommending the proposal of the applicant on the basis of record available certifying specifically that the applicant had worked from 26.11.1994 till date as Wireless Machine Operator.

16. It is true that the applicant has filed application / representation on 04.09.2017 (Annexure A-5) for claiming benefits of higher pay scale as per “कामानुसार हुद्दा व हुद्दानुसार वेतन” and even the Assistant Executive Engineer, Sangamner Irrigation Sub-Division, Sangamner along with Sectional Officer (शाखाधिकारी), Aashwi Irrigation Branch, Aashwi have issued chart (Annexure A-6) giving all the details prominent amongst it is in column No. 6, wherein it is specifically mentioned that the applicant had worked as Wireless Machine Operator since 26.11.1994 till date. The Sectional Officer, Aashwi Irrigation Branch, Aashwi has sent communication dated 05.09.2017 to the Assistant Executive Engineer, Sangamner Irrigation Sub-Division, Sangamner (Ghulewadi) certifying and recommending therein that since the applicant had worked as Wireless Machine Operator, he is

entitled for higher pay scale as per the principle “कामानुसार हुद्दा व हुद्यानुसार वेतन”.

17. It further appears that by letter dated 03.11.2017, the Deputy Executive Engineer, Ahmednagar Irrigation Division, Ahmednagar has forwarded favourable proposal of the applicant to respondent No. 2 i.e. the Superintending Engineer and Administration, Command Area Development Authority, Nashik mentioning therein that the applicant is working as Wireless Machine Operator since 26.11.1994 and as such, he is entitled for higher pay scale as per “कामानुसार हुद्दा व हुद्यानुसार वेतन”. It further appears that by communication dated 12.12.2017, the Assistant Superintending Engineer and Administration, Command Area Development Authority, Nashik has further forwarded the proposal of the applicant to the Secretary, Water Resources Department, Mumbai (Annexure A-7 collectively) and also forwarded another proposal on 26.02.2019.

18. It further appears that by communication dated 20.05.2019, the Under Secretary, Government of Maharashtra, Irrigation Department addressed to the Superintending Engineer and Administration, Command Area Development Authority, Nashik calling upon them to send certain information in respect

of proposal of the applicant particularly on two points (i) as to which officer / employee is responsible for forwarding the belated proposal of the applicant and fixed the responsibility of such erring official and (ii) as to on what basis the Sectional Officer (शाखाधिकारी), Aashwi Irrigation Branch, Aashwi and Assistant Executive Engineer, Sangamner Irrigation Sub-Division, Sangamner have certified that the applicant has worked as Wireless Machine Operator. It is further stated in the said letter that in case if the said proposal is submitted without scrutiny of record, then fixed the responsibility of such officers and submit detailed report to the Government.

By communication dated 06.09.2019 (Annexure A-9), the Deputy Executive Engineer, Ahmednagar Irrigation Division, Ahmednagar has informed to respondent No. 2 i.e. the Superintending Engineer and Administration, Command Area Development Authority, Nashik that there is strong evidence available with Aashwi Irrigation Branch that the applicant has worked as Wireless Machine Operator and the same has been submitted accordingly. It is also stated in the said communication that the applicant himself has belatedly submitted the application / representation and as such, no

official / employee of the Irrigation Department is responsible for the same.

19. On careful perusal of the impugned order dated 31.12.2019 passed by respondent No. 1 i.e. the State of Maharashtra, it appears that the Desk Officer, Maharashtra State, Irrigation Department has informed that as per the register of Aashwi Irrigation Branch about the working of the applicant as Wireless Machine Operator, it appears that the entries in this regard are certified only for the period of 2005 to 2019 and not earlier to that and further come to the conclusion that the said G.R. dated 29.09.2003 is not applicable to the case of the applicant, as the condition No. (३) prescribes that the employee, who has worked after 01.01.1998 on higher post apart from his original post, will not be entitled for the benefits of G.R. dated 29.09.2003.

Further the Desk Officer has also given reference in the impugned order about the communication received from the Sectional Engineer, Aashwi Irrigation Branch, Aashwi that the applicant has worked as Wireless Machine Operator prior to 1998. However, discarded the same on a flimsy ground.

20. It is surprising that even after relevant record has been forwarded to substantiate the positive proposal submitted

in favour of the applicant by the Engineers, under whom the applicant had worked as Wireless Machine Operator, the Government of Maharashtra has turned down the said proposal with its own observations. There is no basis for the said observations. I find much substance in the submissions made on behalf of the applicant that the Government has rejected the proposal of the applicant with prejudice mind. It reflected from the impugned order itself in para No. (vi), wherein it is observed that such type of employees used to approach the Government by filing application before Lok Ayukta, before the Court and further taking help of the people representative.

21. I have carefully gone through the original chart (अहवाल तक्ता), wherein it is specifically mentioned in column No. 6 that the applicant has worked as Wireless Machine Operator since 26.11.1994 till today. In the remark column it has been specifically mentioned that the Assistant Engineer (I), Minor Irrigation Sub-Division, Sangamner (Ghulewadi) by letter/communication No. जा.क./आ/३३९/सन२०१७, dated 21.08.2017 certified that the applicant has worked as Wireless Machine Operator and the Sectional Officer (शाखाधिकारी), Aashwi Irrigation Branch, Aashwi by letter No. 53 dated 09.02.2017 has submitted favourable proposal of the applicant in the prescribed format.

22. Further the applicant along with his rejoinder affidavit has submitted copies of the wireless messages sent on various dates i.e. on 05.10.1998, 24.10.1996, 18.02.1997 and 05.10.1998 to substantiate his contentions and on perusal of the same, I find endorsement made by the applicant with his name that he has received the messages as Wireless Machine Operator. Thus, I am satisfied that the applicant has worked as Wireless Machine Operator since 26.11.1994. So far as the plea about the belated proposal is concerned, I find no reason to hold that the applicant is not entitled for the benefits due to belated approach.

23. In group of Original Applications bearing Nos. 615/2016, 775/2016 and 257/2017, this Tribunal has passed the common order. Para Nos. 12 and 13 of the said judgment and order dated 18.04.2018 are reproduced herein below :-

*“12. The decision given by the Division Bench of this Tribunal has been upheld in W.P. No. 10069 of 2010 by the Hon’ble High Court of Judicature at Bombay, Bench at Aurangabad on 25.10.2010. The said decision was challenged in the Special Leave Petition (Civil) No. 13623 of 2012 before the Hon’ble Supreme Court, but it has been dismissed by the Hon’ble Apex Court on 20.04.2012. Therefore, the said decision of this Tribunal has been attained finality and therefore, the said decision is binding on the respondents. In view of the said fact, there is no need to make interpretation of the wording of the G.R. regarding actual date of enforcement of the G.R. Therefore, in my view, in view of the decision rendered by this Tribunal which has been upheld by Hon’ble High Court and the Hon’ble Supreme Court, earlier applicants are entitled to get benefits of the G.R. dated 29.09.2003 w.e.f. 29.09.2003. The respondents had not*

*considered the earlier decisions rendered by this Tribunal, Hon'ble High Court and Hon'ble Supreme Court. They issued impugned orders wrongly interpreting the G.R. dated 29.09.2003 without considering the decisions of this Tribunal in earlier cases. Therefore, the impugned orders issued by the respondents extending the benefits to the applicants w.e.f. the year 2008-2009 are contrary to the provisions of the G.R. dated 29.09.2003 and the said orders require to be quashed and set aside.*

*13. It is also material to note that the Division Bench of this Tribunal while deciding the O.A. Nos. 64, 65, 66 & 194 of 2011 on 20.06.2011 directed that the respondents should grant the benefit of the scheme any of the employees, whose cases are not processed earlier and directed to extend the benefits to those employees w.e.f. 29.09.2003, so that the employees need not to approach this Tribunal. In spite of the directions given by this Tribunal, the respondents have passed the impugned orders, which is in contraventions of the directions given by this Tribunal and the G.R. dated 29.09.2003. Therefore, the same requires to be quashed and set aside by allowing the present Original Applications.”*

It further appears from the said order that the Division Bench of this Tribunal while deciding O.A. Nos. 64, 65, 66 & 194 of 2011 by judgment and order dated 20.06.2011 directed that the respondents should grant the benefit of the scheme to any of the employees, whose cases are not processed earlier and further directed to extend the benefits to those employees w.e.f. 29.09.2003, so that the employees need not approach this Tribunal. It is also observed in the aforesaid judgment in last para No. 13 that in spite of the directions given by this Tribunal, the respondents have passed the impugned orders, which is in contraventions of the directions given by this Tribunal and the G.R. dated 29.09.2003.



24. Further I have carefully gone through the judgment and order passed by the Principal Seat of this Tribunal at Mumbai on 20.01.2014 in group of O.As. bearing M.A. No. 387/2012 in O.A. No. 813/2012 with O.A. No. 813/2012 and M.A. No. 8/2013 in O.A. No. 10/2013 with O.A. No. 10/2013 (Annexure A-12 collectively). The applicants therein are the similarly situated persons, who were appointed as Mukadam, Watchman, Messenger, Labourer etc. prior to 31.12.1997 and they were working as Canal Inspector / Karkoon / Wireless Operator, though their actual appointment on different posts. The Principal Seat of this Tribunal at Mumbai has given reference the judgment and order dated 20.06.2011 passed by this Tribunal in O.A. Nos. 64, 65, 66 & 194 of 2011 and quoted various paragraphs from the said judgment. The Principal Seat of this Tribunal at Mumbai by giving reference to earlier judgment and order passed in O.A. No. 818/2019 and reproduced para No. 7, 8 & 9. The said para Nos. 7, 8 & 9 are relevant for the present discussion and the same are reproduced herein below :-

*“7. We direct the respondents that all applicants, who are held to be entitled to benefit of GR dated 29.9.2003, their salaries in the higher cadre in which they were working since prior to 31.12.1997 shall be fixed as on 29.9.2003 and they shall be entitled for difference of pay from 29.9.2003 onwards. All orders running contrary to this interpretation of GR as passed by the respondents shall stand cancelled including the orders of recovery, if any.*

8. For the guidance of respondents we may say that even in future, if the respondents grant benefit of scheme to any of the employees, whose cases are not processed earlier, their salaries should be fixed as on 29.9.2003 and they should be allowed arrears from 29.9.2003 onwards and such employees need not be compelled to approach this Tribunal even if as on today they are not applicants before us. This is because it is informed by learned counsel for the applicants that order of this Tribunal in original application No 818/2009 was challenged by the respondents before Hon'ble Bombay High Court, Bench at Aurangabad by writ petition no 10069/2010 and the said writ petition was dismissed on 25.10.2010 by upholding our order.

9. So far as terminal clause is concerned our attention is drawn by learned Counsel for the applicants to a judgment delivered by us in O.A. Nos. 342 and 462 of 2008 wherein we have granted arrears to all the applicants therein in spite of reference to this very condition i.e. no arrears shall be payable. We interpreted that arrears means the difference of pay for the period prior to the date of G.R. This is because all the applicants are working on the higher posts since number of years prior to date of decision and they could have been in a position to claim that once they are granted designation and pay scale that should be granted from the date since when they were working on the higher posts. In the light of view already taken by us, we will have to be consistent and will have to grant the financial benefits also to the applicants from the date of G.R. i.e. 29.03.2003.

Such a course of action would also be justifiable, if we take into consideration realities of practical life. All 5000 employees may not be processed in the year 2003. Some cases are processed in the year 2008 as in the case of applicants. If the clause "NO arrears shall be payable" is to be interpreted in a way tried to be interpreted by learned PO, employees whose cases are finalized in the year 2003 shall get the increased pay as fixed in the light of GR dtd. 29.09.2003, from the year 2003. Another set of employees whose cases are processed belatedly would start getting benefit belatedly. This would create discrimination in implementation of the Government policy as proclaimed by GR dtd. 29.09.2003. We are, therefore, inclined to follow the same view as recorded by us in earlier decision in O.A. Nos. 342 & 464 of 2008 dated 14.12.2009."

25. In view of above, in my considered opinion, the case of the applicant is squarely covered by the G.R. dated 29.09.2003

and he is entitled for all the benefits in terms of G.R. dated 29.09.2003. Hence, the following order :-

**ORDER**

- (i) The Original Application is hereby allowed.
- (ii) The impugned order dated 31.12.2019 issued by respondent No. 1 is hereby quashed and set aside.
- (iii) The applicant is entitled for the benefits of G.R. dated 29.09.2003 and his salary in the higher cadre in which he was working prior to 31.12.1997 shall be fixed as on 29.09.2003 and he shall be entitled for the difference of pay from 29.09.2003 onwards.
- (iv) The respondents shall comply the directions as above, as expeditiously as possible, preferably within a period of six months from the date of this order.
- (v) In the circumstances, there shall be no order as to costs.
- (vi) The Original Application is accordingly disposed of.
- (vii) The original chart be returned to the learned Presenting Officer forthwith.

**PLACE : Aurangabad.**  
**DATE : 12.07.2024**

**(Justice V.K. Jadhav)**  
**Member (J)**