

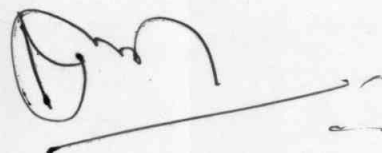
IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI

ORIGINAL APPLICATION NO.201-A OF 2013

DISTRICT : NANDURBAR,

NASHIK, DHULE, AHMEDNAGAR

1. Arjun Tulshiram Gunde)
Age: 45 yrs., Occ: Service as)
Additional C.E.O.,)
Zilla Parishad, Nandurbar.)
2. Bappasaheb Bhimrao Nemane,)
Age:45 yrs., Occ: Service as)
Additional C.E.O.,)
Zilla Parishad, Dhule.)
3. Arvind Shivram More,)
Age:45., Occ: Service as)
Project Director, D.R.D.A., Nasik.)
4. Ravindra Anandrao Patil,)
Age: 44 yrs., Occ: Service as)
Additional C.E.O.,)
Zilla Parishad, Ahmednagar.)
5. Chandrakant Jairam Gudewar,)
Age: 46 yrs., Occ: Service as)
Dy. Commissioner (Development),)
Divisional Commissionerate, Nasik.)...**Applicants**



Versus

1. The State of Maharashtra.)
Through P.O. M.A.T., Mumbai.)
2. The Secretary (R.D.),)
Rural Department &)
Water Conservation Department,)
Mantralaya, Mumbai – 400 032.)
3. The Principal Secretary,)
Finance Department,)
Mantralaya, Mumbai – 400 032.)
4. The Principal Secretary,)
General Administration Department,)
Mantralaya, Mumbai – 400 032.) **...Respondents**

Mr. A.S. Deshpande with Mr. V.P. Potbhare, Advocates for Applicants.

Mr. N.K. Rajpurohit, Chief Presenting Officer for Respondents.

**CORAM : RAJIV AGARWAL (VICE-CHAIRMAN)
R.B. MALIK (MEMBER-JUDICIAL)**

DATE : 16.01.2017

PER : R.B. MALIK (MEMBER-JUDICIAL)

JUDGMENT

1. This Original Application (OA) seeks actual benefit inter-alia in monetary terms, arrears, etc. after the

grant of Selection Grade and in that sense, the provisions of Clause 2 of the G.R. dated 14th July, 2010 issued by Rural Development and Water Conservation Department is being questioned. The said Clause reads as follows in Marathi.

“२. वर नमूद केल्याप्रमाणे अधिका-यांना निवडश्रेणी वेतनश्रेणीचे सुधारीत दिनांक मंजूर करण्यात येत असले तरी ते फक्त वेतननिश्चिती करण्यासाठी अनुज्ञेय राहतील. तथापि त्यामुळे येणा-या वेतनाच्या फरकाची रक्कम त्यांना अनुज्ञेय राहणार नाही.”

2. We have perused the record and proceedings and heard Mr. A.S. Deshpande, the learned Advocate for the Applicant with Mr. V.P. Potbhare, learned Advocate and Shri N.K. Rajpurohit, the learned Chief Presenting Officer for the Respondents.

3. The Applicants Nos.1, 2 & 4 are working as Additional Chief Executive Officers (CEO) in the Zilla Parishads at Nandurbar, Dhule and Ahmednagar respectively. The Applicant No.3 is working as Project Director, DRDA, Nashik while the Applicant No.5 is working as Deputy Commissioner (Development), Nashik. Their dates of appointment are 30th June, 1992. They belong to Maharashtra Development Service Group-A. The Respondent No.1 is the State of Maharashtra, the 2nd Respondent is the Rural Development and Water



Conservation Department, the 3rd Respondent is the Finance Department through the Principal Secretary and the 4th Respondent is GAD through the Principal Secretary. The case of the Applicants is that the Government provided higher pay scales to its subjects taking note of the fact that there was non-availability of promotional avenues and in so far as the group which the Applicants belong to viz. MDS, Group-A, Selection Grade was provided vide the Notification issued under the proviso to Article 309 of the Constitution of India, a copy of which is at Exh. 'B' (Page 11 of the Paper Book (PB)). According to the Applicants, though there was no specific mention about the earmarking, 20% of the posts in the cadre for grant of Selection Grade, the same was being granted in accordance with the seniority. It is further claimed by them that the benefits thereunder are to follow as a matter of course, subject to the prescribed norms, if any. After eight years of joining the service, it was in July, 2000 that the Applicants became entitled to the benefits of the Selection Grade. Vide Exh. 'C', dated 14th July, 2010 (Page 14 of the PB), Selection Grade was given to the Applicants and in the list of employees, the present Applicants are at Serial Nos. 51, 48, 45, 44 and 43 respectively (Page 17 of the PB). The stipulation which is under challenge is its 2nd Clause which has been reproduced hereinabove. It is, therefore, quite

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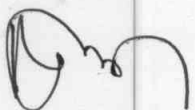
clear that although the Selection Grade was given w.e.f.9.8.2006 that was unsustainable because the entitlement was from the year 2000 itself after they completed eight years of service post 1992. Such a deferment of benefit is being disputed herein.

4. According to the Applicants, in fact, vide what is Exh. 'D' at Page 19 of the PB, a G.R. came to be issued on 10.2.2012 whereby Selection Grade was conferred on 34 members of MDS Group-A cadre and in their case, in Clause 6, the following was mentioned in Marathi.

“६) संबंधित मुख्य लेखा व वित्त अधिका-यांनी वर नमूद अधिका-यांची निवडश्रेणी वेतनश्रेणी मंजूरीच्या अनुषंगाने वेतननिश्चिती महाराष्ट्र नागरी सेवा (वेतन) नियम, १९८१ मधील नियम ११ (४) नुसार करावी. तसेच, सदर अधिका-यांना वरील तक्त्यातील स्तंभ - ४ मध्ये त्यांच्या नावासमोर नमूद केलेल्या दिनांकापासून निवडश्रेणी वेतनश्रेणीचे वेतन व भत्ते देण्यात यावेत.”


5. According to the Applicants, it is, therefore, a case of unsustainable hostile discrimination which requires immediate rectification.

6. The Affidavits-in-reply have been filed including the one by Shri S.D. Londhe, Under Secretary, Finance Department which was as recently as on 10.11.2016. There is another Affidavit-in-reply filed by Shri Vijay D.



Shinde, a Deputy Secretary in the Rural Development and Water Conservation Department. Apart therefrom, there is a communication from Rural Development and Water Conservation Department to the Finance Department of 24th November, 2016. It is not really necessary for us to read the recitals in the Affidavits or the communication just referred to in extenso. It would be suffice to mention that the Respondents just have no answer to the question, as to why, the actual benefit in tangible terms should have been denied to the Applicants. This is a classic instance of tossing the ball from one Department to the other and then reverse. It is very clear to us that the Government, after-all is a single unit, and therefore, if a particular move is found to be unsustainable, then it matters not as to which particular Department of the Government is responsible for the same. The crux of the matter is that granting all latitude to the Respondents, there is absolutely no justification for denying to the Applicants whatever is due to them and finally, they quite simply have got no answer to the question, as to why, similarly placed persons (Exh. 'D', Clause 6 above noted) should have been placed in a better position than the Applicants hereof.

7. In view of the foregoing, we hold that a case for relief is made out by the Applicants. A particular time limit



shall be set out for compliance with a provision of liability of interest in the event the time limit was not kept.

8. The Respondents are hereby directed to grant to the Applicants actual financial benefits as similarly placed Officers as hereinabove discussed. Clause 2 of the GR of 14th July, 2010 (Exh. 'C', Page 14) is quashed and set aside. Compliance within two months from today, failing which the accrued amount shall carry the interest at the rate of Rs.12% p.a. from the dates of accrual of rights for the Applicants and liability for the Respondents till actual payment. The Original Application is allowed in these terms with no order as to costs.

Sd/-

(R.B. Malik)
Member-J
16.01.2017

Sd/-

(Rajiv Agarwal)
Vice-Chairman
16.01.2017

Mumbai

Date : 16.01.2017

Dictation taken by :

S.K. Wamanse.

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