

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 216 OF 2021

(Subject:- Difference of Wages/Arrears/Special Allowances)

DISTRICT:-AURANGABAD

Keshav Bhimrao Bhalerao, (died) L.Rs.,)
Rekha W/o. Keshav Bhalerao)
Age, 41 Years, Occ, Service,)
R/o. Galli No.2, Hanuman Nagar,)
Near Jawahar Nagar Police Station,)
Garkheda, Aurangabad.) **APPLICANT**

V E R S U S

1. The State of Maharashtra,)
Home Department,)
Mantralaya, Mumbai.)

2. The Director General of Police,)
Director General of Police Office,)
Shahid Bhagatsing Marg,)
Kolaba Mumbai-39.)

3. The Commissioner of Police,)
Police Commissioner Office,)
Aurangabad.) **RESPONDENTS**

APPEARANCE : Shri D.K. Dagadkhair, learned Counsel
for the applicant.
: Shri D.M. Hange, learned Presenting
Officer for the respondent authorities.

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

DATE : **24.04.2024.**

ORAL - ORDER

Heard Shri D.K. Dagadkhair, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for the respondent authorities.

2. By filing the present Original Application, the applicant is seeking direction to the respondent authorities to pay the arrears of wages from the date of Notification dated 15.02.2003 till the Notification dated 28.09.2010 issued by the Government and also seeking special allowance to the applicant with appropriate rate of interest till the enhance rate of wages within a specified time.

3. Facts in brief as stated by the applicant giving rise to the Original Application are as follows :-

The husband of the applicant was working as full time Sweeper since last so many years with the respondent No. 3. The husband of the applicant was not paid the wages as per the Notifications issued by the respondent No. 1 and as per the minimum wages act, which is fixed by the Government from time to time. Therefore, the husband of the applicant has made representation with the respondent authorities on 30.12.2013. Even though, the respondent No. 3 did not pay

the difference of wages as per the Government Notifications. Meanwhile, the husband of the applicant died on 06.02.2019 while in service. After the death of husband, the present applicant has made representation dated 31.12.2020 to the respondents requesting therein to pay the arrears of wages as per the Government Notifications dated 15.02.2003, 28.09.2010 and G.R. dated 07.03.2018. However, till this date no reply or communication is received. Therefore, the present applicant has filed this Original Application as legal heirs of deceased employee.

4. Learned counsel for the applicant submits that that the husband of the applicant was working as full time Sweeper for so many years with the respondents and it was incumbent upon the respondent authorities to pay him the wages as per the Notifications issued by the respondent No. 1 from time to time. But the respondent No. 3 never paid him the wages as per the Notification issued by respondent No. 1 and as per the minimum wage act. The respondent No. 3, however, started to pay the wages and arrears as per the Notification dated 28.09.2010 after the various orders passed by this Tribunal in this regard. But the respondent No. 3 did not pay the difference amount (arrears) to the husband of the

applicant from the Notification dated 15.02.2003 till the Notification dated 28.09.2010. Even the Hon'ble High Court of Bombay, Bench at Aurangabad has given liberty to the applicants in Contempt Petition No. 361/2019 to claim remaining arrears of wages from the date of Notification dated 15.02.2003.

5. Learned counsel for the applicant has pointed out that in the identical case bearing Original Application No. 146/2023, this Tribunal by order dated 09.02.2024 has directed to pay the arrears to the applicants therein who are similarly situated employees. Thus the Original Application deserves to be allowed.

6. On the basis of affidavit in reply filed on behalf of respondent Nos 1 to 3, learned Presenting Officer (for short P.O.) submits that the applicant is wife of deceased part time/daily wages sweeper in the office of said respondent since 1994. Initially he had received wages of Rs.900/- per month and there was regular increase in wages of Sweepers as per Government Notification. He died on 06.02.2019 while in service. At that time he was receiving wages of Rs. 2760/- per month. It is further submitted that after the death of

husband, the present applicant has been appointed as part time sweeper at the place of his husband in the office of this respondent since 26.06.2019 and receiving monthly wages of Rs. 4025/- and now as on today the applicant is receiving Rs. 4882/- monthly wages. Learned P.O. submits that the husband of the applicant was part time Sweeper in respondent's office. The G.R. issued by Home Department on 07.03.2018 was applicable to all the Sweepers who are working under the office of the Maharashtra Police. The respondent had paid and paying wages to the Sweepers working under his office.

7. Learned Presenting Officer submits that the Government Resolution dated 23.07.2019 issued by the Home Department was only applicable to the petitioners who had filed the Contempt Petition No. 361/2019 in Writ Petition No. 2800/2018 and not applicable to the other Sweepers other than petitioners. Learned P.O. submits that the husband of the applicant made the only one application dated 30.12.2013 and later on he had not filed any application or demanded any arrears because after that he was receiving increased wages as per Government Resolution. Learned

P.O. further submits that due to the death of applicant's husband and considering the immediate need of his family in good faith, respondent had appointed the said applicant to resolve their financial problem. Learned P.O. further submits that the part time Sweepers had been paid wages as per the Home Departments G.R. dated 07.03.2018 which is applicable to them and also in future as per Governments directions. Learned P.O. submits that the applicant is not entitled for any relief as prayed.

8. On the basis of affidavit in rejoinder filed by the applicant learned counsel submits that the deceased husband of the applicant was served with the respondents since 1994 to 06.02.2029 i.e. near about 25 years. The husband of the applicant was in service since 1994 and initially he had received the wages of Rs. 900/-. The husband of the applicant died on 06.02.2019. At that time he had received wages of Rs. 2760/-. Learned counsel for the applicant submits that in terms of the Notifications dated 15.02.2003 and 28.09.2010 issued by the Government in respect of Sweepers and Scavengers, which are working on temporary basis, are entitled for basic rates of wages as per

their zones to that class of employees. Learned counsel submits that in terms of Notification dated 15.02.2003, the full time Sweepers are entitled to get the wages of Rs. 3200/- for Circle -1 and part time Sweepers are entitled to get the wages (60%) as per their zones i.e. (i) Zone-I-Rs. 1920+ Special Allowance, (ii) Zone-II-Rs. 1860+ Special Allowance & (iii) Zone-III-Rs. 1800 + Special Allowance. Further as per the Notification dated 28.09.2010, the full time Sweepers are entitled to get the wages of Rs. 4600/- for Circle -1 and the part time Sweepers are entitled to get the wages (60%) as per their zones i.e. (i) Zone-I-Rs. 2760+ Special Allowance, (ii) Zone-II-Rs. 2670 + Special Allowance & (iii) Zone-III-Rs. 2580 + Special Allowance. The Government has issued G.R. dated 07.03.2018 and clarified that the Notification dated 28.09.2010 issued by the Industry, Energy and Labour Department is applicable to all the employees (Sweepers) of Police Department and they are entitled for the wages as per the Notification. Learned counsel submits that the Hon'ble High Court of Bombay, Bench at Aurangabad has also passed the order in W.P. No. 2800/2018 to pay the wages as per the Notification dated 28.09.2010, as well as, pay the difference of wages, if the same has not been paid, as expeditiously as

possible and preferably within four months from the date of order. Learned counsel submits that the present Original Application deserves to be allowed.

9. Learned counsel for the applicant in order to substantiate his contention place his reliance on judgment and order passed by this Tribunal in group of O.As. bearing O.A. No. 754/2021 and several others, wherein in para Nos. 7 & 8, this Tribunal has made the following observations :-

“7. Upon perusal of the pleadings in all the matters, it is evident that all these Original Applications are filed basically seeking direction against the respondents to pay the arrears (differential amount of wages, which was not paid) as per the Notifications dated 15.02.2003 and 28.09.2010 till date. Admittedly, the respondent authorities have acted upon the subsequent Notification dated 28.09.2010 issued by the Industry, Energy and Labour Department, State of Maharashtra granting the applicants benefit of enhancement of wages. However, none of such applicants are paid the enhanced wages as per the Notification dated 15.02.2003 issued by the State Government in this regard. The said Notification was also issued by the Industry, Energy and Labour Department of State of Maharashtra. Though in the affidavit in reply filed on behalf of respondent Nos. 1 to 4 initially the claims of the applicants were denied in all these matters.

8. That apart when the subsequent Notification dated 28.09.2010 issued by the Industry, Energy and Labour Department, State of Maharashtra is implemented by giving benefits thereof to the applicants, there cannot be any plausible reason denying the enhanced wages as contemplated in earlier Notification dated 15.02.2003 issued by the same department. Both these Notifications would be applicable to the part time Sweepers as per their place of working in respective zones. They will be entitled for proportionate daily wages and special allowances as

contemplated in both these Notifications. As stated earlier, the respondent No. 2 has admittedly submitted the requisite proposal to the respondent No. 1 i.e. the State of Maharashtra, which has to consider and grant such benefits under the said Notifications to the applicants in accordance with law at the earliest. Denial of such claim by the impugned order in O.A. Nos. 754/2021 is not sustainable in the eyes of law. In these circumstances, all these Original Applications can be disposed of by giving suitable directions to the respondent authorities. I therefore, proceed to pass following order :-

ORDER

The Original Application Nos. 754/2021, 46/2020, 290/2021, 443/2021, 755/2021 and 756/2021 are allowed and stand disposed of in following terms :-

- (A) The impugned order dated 18.12.2017 (part of Annexure A-2 collectively in O.A. No. 754/2021 at page No. 27 of the paper book) issued by the respondent No. 4 i.e. the Superintendent of Police (Rural), Aurangabad, is hereby quashed and set aside.
- (B) The respondent No. 1 is directed to expeditiously consider the proposal made by the office of respondent No. 2 i.e. the Director General of Police, Maharashtra State, Mumbai to the Home Department of State of Maharashtra of respondent No. 1 in order to enable the concerned respondent authorities to pay the arrears of wages in accordance with the said two Notifications dated 15.02.2003 and 28.09.2010 within a specified period of three months from the date of this order.
- (C) The respondents are directed to consider and to decide the claim of the applicants as per the Notifications dated 15.02.2003 and 28.09.2010 and to pay the arrears of wages due to them expeditiously within a period of three months from the date of this order.
- (D) There shall be no order as to costs. ”

10. It is an admitted position that by G.R. dated 07.03.2018, the Government has extended the benefits of Notification dated 28.09.2010 to the employees of Police Department. So far as the said Notification dated 28.09.2010 is concerned, it is in continuation with the earlier Notification dated 15.02.2003 issued by the same department. There is no reason to deny the difference of arrears in between Notification dated 15.02.2003 and Notification dated 28.09.2010. Further there cannot be any reason for the department to deny the enhanced wages as contemplated in the earlier Notification dated 15.02.2003. Both these Notifications are applicable to the part time Sweepers as per their place of work on their zone. Thus, I find no substance in the submissions made on behalf of the respondent authorities.

11. So far as the prayer of the applicant i.e. special allowances to be granted to them with appropriate rate of interest is concerned, the applicant is at liberty to file the representation to respondent No.3 in this regard and on filing the said representation, the respondent No.3 shall forward the proposal to respondent Nos. 1 and 2 as per earlier

proposal forwarded to them for their consideration. It is for the respondent Nos. 1 and 2 to pass an appropriate order on the said proposal in accordance with law on its own merits as expeditiously as possible.

12. In view of above discussions, the present Original Application deserves to be allowed. Hence, the following order :-

ORDER

- (i) The Original Application is hereby allowed.
- (ii) The respondents are hereby directed to pay the arrears (differential amount of wages, which was not paid) to the applicant as per the Notification dated 15.02.2003 till the Notification dated 28.09.2010 as expeditiously as possible and preferably within a period of four months from the date of this order.
- (iii) The applicant is at liberty to file the representation to respondent No.3 for special allowances to be granted to them with appropriate rate of interest and on filing the said representation, the respondent No.3 shall forward the proposal to

respondent Nos. 1 and 2. The respondent Nos. 1 and 2 shall pass an appropriate order on the said proposal in accordance with law on its own merits as expeditiously as possible.

- (iv) In the circumstances, there shall be no order as to costs.
- (v) The Original Application accordingly disposed of.

MEMBER (J)

Place:-Aurangabad

Date : 24.04.2024

SAS O.A. 216/2021 (S.B.) VKJ Arrears of Wages.