

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 470/2022 (S.B.)**

- 1) Applicant deleted after death.

**(Legal heirs added as per Tribunal's order dated 03.07.2023)**

- 1) Smt. Alka Wd/o Surendra Gajbhiye,  
Age:- 62 years, Occu:- Household.
- 2) Jayant S/o Surendra Gajbhiye,  
Age:- 38 years, Occu:- Private Work.
- 3) Devendra S/o Surendra Gajbhiye,  
Age:- 36 years, Occu:- Private Work.
- 4) Yuvraj S/o Surendra Gajbhiye,  
Age:- 33 years, Occu:- Private Work.

All R/o Kapil Nagar, Takiya Ward, Bhandara, Tah. & Dist. Bhandara.

**Applicants.**

**Versus**

- 1) The Secretary,  
Ministry of Soil & Water Conservation Department,  
Mantralaya, Mumbai- 400 032.
- 2) The Accountant General,  
Maharashtra State – II,  
Nagpur – 440 001.
- 3) The Chief Engineer,  
Soil & Water Conservation Department,  
Wainganga Nagar, Ajni,  
Nagpur, Tah. & Distt. Nagpur.
- 4) The Superintending Engineer,

Soil & Water Conservation Department,  
Wainganga Nagar, Ajni,  
Nagpur, Tah. & Dist. Nagpur.

- 5) The District Water Conservation Officer,  
Soil & Water Conservation Department,  
Govindpur, Gondia,  
Tah. & Distt. Gondia.
- 6) The Sub-Divisional Soil & Water Conservation Officer,  
Soil & Water Conservation Department,  
Sub-Division, Tumsar,  
Tah. Tumsar, Distt.-Bhandara.

**Respondents**

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**Shri P.M.Tembhurnikar, Id. Advocate for the applicants.**

**Shri A.M.Khadatkar, Id. P.O. for the respondents.**

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**Coram :- Hon'ble Shri M.A.Lovekar, Member (J).**

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**JUDGMENT**

**Judgment is reserved on 13<sup>th</sup> June, 2024.**

**Judgment is pronounced on 21<sup>st</sup> June, 2024.**

Heard Shri P.M.Tembhurnikar, Id. counsel for the applicants  
and Shri A.M.Khadatkar, Id. P.O. for the Respondents.

2. The original applicant (since deceased and who is being represented by his L.Rs.) was appointed as Technical Assistant on Work Charged Establishment on 02.04.1982. By order dated 25.09.1989 he was absorbed as Civil Engineering Assistant w.e.f. 01.01.1989. Benefits of

the first and the second time bound promotion were extended to him on the basis of date of his initial appointment i.e. 02.04.1982. He retired on superannuation on 30.06.2018. At the time of fixation of pension respondent no. 2 raised the objection and directed as follows:-

*आक्षेप:-*

*1) According to Government of Maharashtra KBP-1213/PRA-KRA-283/2013, Dated 19<sup>th</sup> May, 2014 Twelve year continuous service for time bound promotion will count from date of CRT (Converted Regular Temporary Establishment) not from the work charged establishment. Department may clarify and review the date of time bound promotion given to the official as noted on service book page nos. 23 and 67.*

*2) Revised pay may be got verified by the pay verification unit and submit case along with Form-6 with Correct Last pay.*

Pursuant to this direction contained in the impugned order (A-2) recovery was effected as under by order at A-13 :-

अतिप्रदान झालेल्या रक्कमेचे वसुलीबाबतचे प्रमाणपत्र.

प्रमाणित करण्यात येते की, महालेखाकार (लेखा व हकदारी)- द्वितीय, महाराष्ट्र, नागपूर यांचे प्राधिकार पत्र संख्या:- 12/1521309383/4/P/21/15/60320959, Date- 16<sup>th</sup> June-2021 नुसार प्राधिकारपत्रामध्ये नमुद केल्याप्रमाणे श्री. सुरेन्द्र देवमन गजभिये, जलसंधारण अधिकारी (सेवानिवृत्त) यांच्या मृत्यू - नि- सेवानिवृत्ती उपदान रु.१०,१३,१००/- (अक्षरी रुपये दहा लक्ष तेरा हजार शंभर फक्त) या मंजुर राशी मधुन राशी मधुन महालेखाकार (लेखा व हकदारी)- द्वितीय यांनी रु.३,९०,५५५/- (अक्षरी रुपये तिन लक्ष नव्वद हजार पाचशे पंचावन्न फक्त) वसुली करून उर्वरित रक्कम

रु.६,२२,५४५/- (अक्षरी रुपये सहा लक्ष बाविसहजार पाचशे पंचेचाळीस फक्त) एवढ्या राशीचे मंजूर प्राधिकार पत्रामधुन उर्वरित अतिप्रदान झालेली रक्कम रु.१,७३,३२९/- हे त्यांना मिळणाऱ्या मृत्यू-नि-सेवानिवृत्ती उपदानातून कपात करण्याचे नमुद केलेले असल्याने संबंधिताचे मृत्यू-नि-सेवानिवृत्त उपदान देयकातून रु.१,७३,३२९/- एवढी रक्कम कपात करण्यात आलेली आहे.

सबब प्रमाणपत्र देण्यात येत आहे.

Hence, this Original Application seeking directions to refix the pension and refund the recovered amount.

3. According to the respondents 2 & 5 the objection was based on G.R. dated 19.05.2014 which lays down that period for grant of time bound promotion commences from the date of absorption on Converted Regular Temporary Establishment and not from the date of appointment on Work Charged Establishment, and hence the O.A. is liable to be dismissed.

4. The applicants have placed on record judgment of Principal Bench of this Tribunal dated 08.02.2021 in a batch of 10 Review Applications (A-17) wherein it is observed:-

*All these Review Applications are arising from the decisions rendered in Original Applications in which common issue was whether the service of the Applicants on Work Charged Establishment can be considered for grant of TBP in terms of G.R. dated 08.06.1995. In all these O.As, the Applicants were initially appointed on Work Charged Establishment and thereafter, they were absorbed on the post of Civil Engineering Assistant. Initially, the Respondents have granted TBP to them considering their*

*service on Work Charged Establishment. Accordingly, they availed the benefits till the retirement. It is after retirement only, in view of objections raised by Accountant General, the Respondents down-graded their pay withdrawing the benefit of TBP and passed orders of recovery of excess payment paid them on account of grant of TBP. All these O.As were heard and decided by this Tribunal and impugned orders were quashed with the finding that Applicants are entitled to consider their service done on Work Charged Establishment for computing the period of 12 years for the benefit of TBP.*

**It is further observed:-**

*While delivering the decisions in O.As referred to above, the Tribunal amongst other aspects has also observed that the Finance Department had issued letters dated 18.03.1998 and 18.06.1998 thereby giving direction to concerned Departments to consider and count earlier service period spent on Work Charged Establishment as Technical Assistant for grant of benefits of first TBP. In all these matters, the Applicants were initially appointed as Technical Assistant on Work Charged Establishment and later, they were absorbed on the post of Civil Engineering Assistant.*

*Now turning to the present RAs, at the very outset, it needs to be stated that OAs were not allowed solely on relying letters dated 18.03.1998 and 18.06.1998 and indeed, O.As. were allowed considering various Judgments holding the field. In this behalf, the Tribunal placed reliance on the decision of Hon'ble High Court in Writ Petition No.3815/2012 (Subhash Cheke Vs. Maharashtra Jeevan Pradhikaran) decided on 29.08.2013 which was arising from similar situation. Apart, the Tribunal also placed reliance on the decision rendered by Hon'ble High Court Bench at Nagpur in Writ Petition No.5185/2015 (Namdeo B. Paikrao & Ors. Vs. Maharashtra Jeewan Pradhikaran, Mumbai) wherein Hon'ble High Court held that the Petitioners therein were entitled to the benefit of pay scale of Junior Engineer on completion of 12 years of service from the date of their entry in the cadre of Technical Assistant/Mistry/Karkoon, etc. Suffice to say, the decision was not rendered solely on the basis of letters dated 18.03.1998 and 18.06.1998, the authenticity of which is sought to be doubted in the present RAs.*

5. In view of aforesaid legal position, **the O.A. is allowed.** The impugned communication dated 13.12.2018 (A-2) is quashed and set aside. The impugned recovery is held to be bad in law. The recovered amount shall be refunded, and pension shall be fixed by taking into account the date of appointment on Work Charged Establishment i.e. 02.04.1982 as the starting point to compute the period for grant of time bound promotion, **within two months from today.** No order as to costs.

**Member (J)**

**Dated :- 21/06/2024**  
aps

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 21/06/2024  
and pronounced on

Uploaded on : 24/06/2024