

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, BOMBAY
BENCH AT AURANGABAD.

ORIGINAL APPLICATION NO.489/2016.

District :-AHMEDNAGAR.

1. Prakash Dada Chavan,
Age 47, Occu. Govt. Service,
R/o Shenbi, Tq. Akole,
District Ahmednagar.
2. Dharma Laxman Mangal,
Age 57, Occu. Govt. Service,
R/o Deothan, Tq. Akole,
District Ahmednagar.
3. Babasaheb Daulat Puri,
Age 57, Occu. Govt. Service,
R/o Ganore, Tq. Akole,
District Ahmednagar.
4. Suryabhan Sahebrao Bhalerao,
Age 50, Occu. Govt. Service,
R/o Ganore, Tq. Akole,
District Ahmednagar.
5. Nanasaheb Keshav Thorat,
Age 55, Occu. Govt. Service,
R/o Virgaon, Tq. Akole,
District Ahmednagar.
6. Ashok Yadav Kadlag,
Age 54, Occu. Govt. Service,
R/o Jawale Kadlag, Tq. Sangamner,
District Ahmednagar.
7. Bhanudas Tukaram Kawade,
Age 49, Occu. Govt. Service,
R/o Dhandarphal (Bk),
Tq. Sangamner, District Ahmednagar.
8. Murlidhar Karbhari Shelke,
Age 51, Occu. Govt. Service,

R/o Deothan, Tq. Akole,
District Ahmednagar.

-----APPLICANTS.

V E R S U S

1. The State of Maharashtra,
Through Dy. Secretary,
Water Conservation Department,
Government of Maharashtra,
Mantralaya, Mumbai-32.
2. The Secretary,
(Water Conservation Management
and CADA),
Water Conservation Department,
Government of Maharashtra,
Mantralaya, Mumbai-32.
3. The Superintending Engineer
and Administrator,
Command Area Development Authority,
Nashik.
4. Executive Engineer,
Ahmednagar Irrigation Department,
Ahmednagar.
5. Assistant Engineer, Grade-1,
Irrigation Sub Division,
Akola, Tq. Akole,
Dist. Ahmednagar.

---RESPONDENTS.

APPEARANCE :Shri VB Wagh, learned Advocate holding for Shri
ST Shelke, learned Advocate for the applicants.

:Shri SK Shirse, learned Presenting
Officer for the respondents no.1 to 3.

:None present for the Respondent no.4.

CORAM: : Shri J. D. Kulkarni, Member (J)

DATE: : **01.09.2016.**

JUDGMENT.
(Delivered on 01/ 09/2016.)

1. Heard Shri VB Wagh, learned Advocate holding for Shri ST Shelke, learned Advocate for the applicant and Shri SK Shirse, learned Presenting Officer for the Respondents no.1 to 3. None present for the respondent no.4.
2. Admittedly the applicants were initially daily wages labourers and were taken on converted regular temporary establishment, as per Hon'ble Justice Kalelkar's statement, they are presently working as Wireless Operators. On 29.9.2003 the Govt. issued resolution, which is regarding designation as per work and salary as per designation.
3. The applicants have been given benefits of the Govt. Resolution w.e.f. 15.9.2011. They are however, claiming the benefit of the said G.R. w.e.f. 29.9.2003 i.e. the date on which the said G.R. was issued.
4. This issue has been decided by this Commission as well as by Hon'ble High Court and the various decisions are kept on record. On last date i.e. on 31.8.2016 the learned P.O. seek time to go through the Govt. Resolutions and various judgments on which the applicant has

relied. The learned P.O. admitted that the matter is covered by the said Govt. Resolutions and decision.

5. I have gone through the judgment in OA No.135/2013 passed by this Tribunal in the case of **Ravindra Purushottam Kulkarni & Others Vr. State of Maharashtra and others** on 2.12.2014. In the said judgment it has been held that, the benefit of G.R. is to be made applicable from the date of G.R. i.e. 29.9.2003 and not from the date of actual issue of orders of the grant of higher pay scale benefits of the G.R.

6. The learned Advocate for the applicants also brought to my notice the order passed in OA No.818/2009 by this Tribunal on 16.2.2010 in the case of **Pandhari Shripatrao Warangane & oths. Vs. State of Maharashtra & Oths.** In the said case it was observed by this Tribunal as under :-

“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 646 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 GR. 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 GR 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 may be processed in the year 2003 and 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, employee whose cases are finalized in the year 2003 shall get the increased pay as fixed in the light of GR dtd. 29.9.2003, 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. 29.9.2003. We are, therefore, inclined

to follow the same view as recorded by us in earlier decision in OA Nos. 342 & 464 of 2008 dated 14.12.2009.”

7. The decision in O.A.No.818/2009 has been challenged in Writ Petition No.10069/2010 before the Hon'ble High Court Bombay, Bench at Aurangabad and the Hon'ble High Court vide judgment dated 25.10.2010 was pleased to uphold the order passed by this Tribunal. Thereafter, the respondents have filed Special Leave Appeal (Civil) No.CC 5970/2012 against the order passed by Hon'ble High Court and Hon'ble Apex Court vide order dated 20.4.2012 was pleased to dismiss the said special leave petition. It is therefore, prayed that, the view taken by the Tribunal has been upheld even by the Hon'ble Apex Court and it has been made clear that, the G.R. dated 22.9.2003 is applicable from the date of G.R. and not from the date of actual orders of grant of higher pay scale benefits of the Govt. Resolution and thus the said issue is no more res integra.

8. In view of the aforesaid circumstances, the O.A. is allowed in terms of prayer clause “B”, with no order as to costs.

MEMBER (J)

