

W.P.No.12269/15 with connected W.Ps.

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.12269 OF 2015

Dilip S/o Dhudaku Mahale Vs. The State of Maharashtra and others.

WITH

WRIT PETITION NO.12272 OF 2015

WRIT PETITION NO.12274 OF 2015

WRIT PETITION NO.11358 OF 2015

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.A.R.Devakate, advocate for the petitioners.
Mr.B.V.Virdhe, A.G.P. for the State.

**CORAM : S.V.GANGAPURWALA AND
K.L.WADANE, JJ.**

Date : 19.08.2016.

PER COURT :

1. Heard.
2. Mr.Devkate, learned counsel for the petitioners submits that the petitioners had filed Original Application before the Maharashtra Administrative Tribunal, with the following reliefs :

“A) The Original Application may kindly be allowed;

B) The order passed by the respondent No.3 vide Outward No.AMS/Adm/A-1/revised pay fixation order/Shri Mahale/1012/2013 dated 30.4.2013 whereby the pay scale of

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Rs.4500-7000 is reduced and recovery of payment made is ordered, may kindly be quashed and set aside.

C) The respondent may kindly be directed to grant and pay the salaries as per order of respondent No.2 vide Outward No.RDDO/Nashik/A-5/Time Bound Promotion/3554/2012 dated 29.10.2012 as per pay scale of Rs.5500-9000;

D) Pass such order or further orders as this Hon'ble Tribunal may deem fit and proper in the interest of justice.”

3. The learned counsel submits that the Tribunal allowed the Original Application partly in terms of prayer clause (B), however, did not consider the case of the petitioners put forth vide prayer clause C . The pay-scale as per the time bound promotion has not been considered though the arguments advanced in that regard are recorded. According to the learned counsel as per order dated 29.10.2012 of the Respondent No.2, the petitioners are entitled for pay-scale of Rs.5,500-9000.

4. Mr.Virdhe, learned A.G.P. states that the petitioners would not be entitled for the said pay-scale as is clarified in the affidavit-in-reply.

5. We have perused the judgment delivered by the Tribunal in the Original Application. The Tribunal in the Original Application had observed as under :

“9. As already stated, we are satisfied that the facts of

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the present case are analogous to the case on which O.A.No.744/2013 has been disposed of and, therefore, we are satisfied that the order dated 30.4.2013 is arbitrary and has caused grave injustice to the applicants, in effect, denied benefit of Time Bound promotion for which he was found eligible. We, therefore, hold that the applicants who were in the pay-scale of Rs.4,500-7000 on 1.1.1996 is eligible to get Time Bound Promotion after that date in the pay scale of Rs.4500-7000.

10. Having regard to the aforesaid facts and circumstances, the Original applications are partly allowed and made absolute in terms of prayer clause (B). There shall be no order as to costs.”

6. It appears that the contentions raised by the petitioners seeking the benefit of the order dated 29.10.2012, issued by the Respondent No.2 was not at all considered while disposing of the original applications. It appears that the Tribunal lost sight of prayer clause C in the original Application and did not comment upon the same.

7. Considering the above, we relegate the parties before the Tribunal for consideration of the claim of the petitioners claiming the pay-scale as per the order dated 29.10.2012, issued by the Respondent No.2.

8. In the result, the impugned orders are quashed and set aside.

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The parties are relegated before the Tribunal for considering the case of the petitioners afresh. The parties shall appear before the Tribunal on 13.9.2016. The Tribunal shall decide the Original Applications filed by the petitioners afresh with regard to the prayers made in the Original Applications.

9. The Writ Petitions are disposed of. No costs.

(K . L . WADANE , J .)

(S . V . GANGAPURWALA , J .)

Dt.19.08.2016.

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