

DDR

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10227 OF 2013

State of Maharashtra & anr.	...Petitioners
Vs.	
Shri Suhas B. Shirolkar	...Respondent

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Mr. O.M. Kulkarni, AAGP for the State / Petitioner.

Mr. Sanjay Kshirsagar, Advocate for the respondent.

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**CORAM : SMT. V.K. TAHILRAMANI ACTING C.J.
AND M.S.KARNIK, J.**

DATE : 16th JANUARY, 2018.

ORDER (PER M.S.KARNIK, J.) :-

In this petition, filed under Article 226 of the Constitution of India, the petitioner - State of Maharashtra challenges the judgment and order dated 17/10/2008 passed by the Maharashtra Administrative Tribunal, Mumbai Bench, Mumbai in O.A.No. 510 of 2006. The petition was filed in March, 2012 almost 3 ½ years after impugned order was passed by the Tribunal.

2. The respondent by O.A. filed before the Tribunal challenged the order dated 29/7/2006 issued by the petitioners by which he was denied the pay scale of the post of Director, Central Food Laboratory, Pune. The respondent was appointed as Deputy Director of Health Service, State Public Health Laboratory, Pune, by order dated 3/11/1990. He was also given the concurrent charge of the post of the Director, Central Food Laboratory, Pune. As per the rules, the officer who is appointed to the post of Deputy Director, Health Service, has to hold the concurrent charge of the post of Director, Central Food Laboratory, Pune. The respondent was holding the concurrent charge of the post of Director, Central Food Laboratory, Pune from 8/11/1990 to 30/6/2004 i.e. till his date of retirement. The respondent prayed that he should be granted revised pay scale of the post of Director. This request was turned down by the petitioner by order dated 4/8/2006.

3. The Tribunal has recorded a finding that Shri A.G. Lakhani and Smt. S.M. Vachha, who were initially

appointed as Deputy Directors and later officiated as Directors were granted pensionary benefits of the post of Director but the same are denied to the respondent. The Tribunal upon perusal of the orders dated 5/1/1982 and 18/10/1993 passed in the case of Shri A.G. Lakhani and Smt. S.M. Vachha came to the conclusion that they were Deputy Directors and performed the duties of the post of Director while holding concurrent charge. The Tribunal observed that the petitioner also was a Deputy Director holding concurrent charge of the Director and has performed the duties as a Director.

4. Learned AGP made an attempt to contend that the case of Shri A.G. Lakhani and Smt. S.M. Vachha stands on a different footing. However, nothing has been brought on record to substantiate the contention canvassed by the learned AGP. In these circumstances we do not find the view of the Tribunal granting arrears of pay as well as revision of pay and other consequential benefits based on the service discharged by the respondent as a Director as irrational or unreasonable. It is not

in dispute that the respondent right from the time he was appointed as Deputy Director held the charge of Director. We therefore do not find any substance in the contention of the petitioners.

5. It is also material to set out the subsequent events in as much as the impugned order dated 17th October, 2008 passed by the Tribunal is already implemented and the respondent has received the arrears of pay as well as revision of pay and other consequential benefits. The present Writ Petition is filed almost 3 ½ years after the impugned order has been passed by the Tribunal. No explanation has been offered for the delay in filing the present petition. We are, therefore, also inclined to dismiss the present Writ Petition on the ground of delay and laches as well.

6. The Writ Petition is accordingly dismissed with no order as to costs.

(M.S.KARNIK, J.)

(ACTING CHIEF JUSTICE)