

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.12796 OF 2016

1. The State of Maharashtra through
Secretary, Animal Husbandry,
Dairy Development and Fisheries
Department, Mantralaya, Mumbai
2. The Commissioner,
Dairy Development Department,
Mumbai
3. The Regional Dairy Development Officer,
Aurangabad

PETITIONERS
(Orig. Respondents)

VERSUS

Shri Sanjeev Rangnath Kadam,
Age : 59 years, Occu. Asstt. Dairy
Development Officer in the office
of District Dairy Development Officer,
Nanded

RESPONDENT
(Orig. Applicant)

.....

Mr. S.B. Yawalkar, A.G.P. for the petitioners/State
Mr. S.V. Kshirsagar, Advocate holding for Mr. Ajay S. Deshpande,
Advocate for the respondent

.....

**CORAM: PRADEEP NANDRAJOG, CJ &
R.G. AVACHAT, J.**

DATE: 25.09.2019

PER COURT :

1] Having heard the learned counsel for the parties and having perused the impugned order dated 30th April, 2016, we are constrained to set aside the impugned order dated 30th April, 2016 and simultaneously restore Original Application No.950/2012 filed by the respondent for adjudication afresh.

2] Case pleaded by the respondent before the Tribunal was that he was appointed as a Senior Dairy Operator Class-III on 9th July, 1975 and was thereafter promoted as a Dairy Supervisor and that he was further promoted as a Shift Manager. Meaning thereby, the respondent admitted that he had earned two promotions and that the second promotion was on 26th July, 1978.

3] There is a little confusion in the pleadings for the reason the second promotion referred in paragraph No.2 of the Original Application is to the post of Shift Manager but in Paragraph No.3, it is pleaded that the second promotion was to the post of Assistant Dairy Development Officer. In paragraph No.7, the respondent has pleaded that he earned a third promotion in the year 2008. The claim was made for further promotion in

terms of a Govt. Resolution dated 1st April, 2010 which was applicable retrospectively from 1st October, 2006. As per the said Govt. Resolution, the second time-bound promotion had to be given to employees who had not earned a second promotion in the twelve preceding years.

4] But, as pleaded by the respondent, he had already earned two promotions prior to 1st October, 2006.

5] The real grievance emerges from the pleadings in paragraph No.10 of the Original Application which show that persons junior to the respondent were receiving more pay. The pleadings of the parties do not bring out as to under what circumstances said persons were receiving more pay. It could be on account of a mismatch in the applicable pay scales for the posts to which the respondent earned promotion and the next above pay scales in which persons junior to the respondent started receiving the salary.

6] Meaningfully read, claim of the respondent seems to be for stepping up of the pay on the reasoning that if a person junior receives higher salary, the salary of the senior officer has to be stepped up. This would require the Tribunal to look into the reasons.

7] Thus, the the Writ Petition is disposed of setting aside the impugned order dated 30th April, 2016. Original Application No.950/2012 is restored for adjudication afresh.

8] No costs.

(R.G. AVACHAT, J.)

CHIEF JUSTICE