

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3606 OF 2021

Yogesh Uttam Hole

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

Mr. Akshay Jadhav i/by R.J. Nirmal for the Petitioner.

Mr. Rohit Sakhadeo for Respondent No. 2.

Ms. A.A. Purav, AGP for Respondent – State.

CORAM : PRASANNA B. VARALE &
N.R. BORKAR, JJ.

DATE : SEPTEMBER 08, 2021.

PER COURT :

1. This petition takes an exception to the order passed by the respondent No.2 dated 30.6.2021.

2. The petitioner was selected through Maharashtra Public Service Commission (MPSC) as a Class-I Officer in the Maharashtra Finance and Accounts services in the year 2007. On deputation, the petitioner was posted as Chief Accountants and Finance Officer by order dated 10.4.2019, while he was working as Assistant Director-cum-Manager with the Government Milk Scheme, Pune. The copy of the order is placed on record at Exhibit A.

Subsequently, the petitioner was absorbed in the services of respondent No. 2 by passing necessary resolution. The copy of the said resolution is placed on record at Exhibit B.

3. The learned Counsel for the petitioner submits that after absorption, the grade pay of the petitioner was rightly fixed at Rs.6600/- by order dated 11.2.2019. It is submitted that the respondent No.2 ought not to have recalled the said order dated 11.2.2019, in absence of any power to do so. The learned Counsel for the petitioner submits that no opportunity of hearing was granted to the petitioner before passing the said order dated 30.6.2021. The learned Counsel for the petitioner submits that the order dated 30.06.2021, be quashed.

4. Per contra, learned Counsel for the respondent No.2 submitted that the petitioner is not entitled to grade pay of Rs.6600/- and thus the order dated 11.2.2019, which was mistakenly issued came to be recalled by order impugned. It is submitted that as it was a case of correcting mistake / error no opportunity of hearing was given to the petitioner.

5. Admittedly, the respondent No.2 by the order impugned has brought down the grade pay of the petitioner from Rs.6600/- to Rs.5400/-. Though, learned Counsel for respondent No. 2 vehemently submitted that by

the order impugned only the mistake is corrected, however, in effect by the order impugned the respondent No.2 has recalled the order dated 11.2.2019, by which the petitioner was held entitled to grade pay of Rs.6600/, in our view, considering the facts and circumstances, the respondent No.2 ought to have granted opportunity of hearing to the petitioner before passing the order impugned.

6. Admittedly, while issuing order dated 30.06.2021 no opportunity of hearing was granted to the petitioner. We, therefore, quash the order dated 30.06.2021 passed by the respondent No. 2. The respondent No. 2 may pass order afresh after granting opportunity of hearing to the petitioner.

7. With these directions, the petition is disposed of.

(N.R. BORKAR, J.)

(PRASANNA B. VARALE, J.)