



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.5306 OF 2019

Prabhakar s/o Bhadruji Dhande, Ambar Colony, Dabha, Nagpur

-vs-

State of Maharashtra, Thr. Secretary, Ministry of Animal Husbandry Dept. Mantralaya, Mumbai
and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri I. G. Meshram, Advocate for petitioner.

Shri A. A. Madiwale, Assistant Government Pleader for respondent Nos.1 to 3.

CORAM : NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.

DATE : December 13, 2023

P. C.

1. Heard.

The challenge in the petition is to the order dated 19/03/2019 passed in Original Application No.463/2019 passed by the Presiding Officer, Maharashtra Administrative Tribunal, Nagpur as well as communication dated 05/09/2017 whereby the respondent No.3- Assistant Commissioner, Animal Husbandry, Nagpur has informed the petitioner that he was not entitled to the next higher pay-scale having completed 24 years of service under the Career Advancement Scheme.

2. Shri I. G. Meshram, learned counsel for the petitioner invited our attention to the fact that the petitioner was appointed on 25/01/1983 on the post of Farm Labour. After completing 12 years continuous service the petitioner was granted benefit of next higher pay-scale even

though there was no promotional post from the category of Farm Labour. The learned counsel submitted that the petitioner is entitled for the benefit of such next higher pay-scale for second time after completing service of 24 years. To substantiate the contention, the learned counsel would draw support from the order dated 24/04/1997 passed by Joint Director of Animal Husbandry, Nagpur, Circular dated 15/02/2010 issued by the Commissioner, Animal Husbandry, Pune and Government Resolutions dated 01/04/2010 and 28/09/2018. As such, it is urged that the petitioner, as of right, is entitled for the benefit of second time bound promotional pay-scale having completed qualifying service of 24 years in view of the Circular dated 15/02/2010. The learned counsel relied upon the judgment of High Court of Jharkhand at Ranchi in W.P.(S) No.6081/2014 (*Krishna Kumar Uraon and ors. vs. The State of Jharkhand with connected petitions*) dated 06/10/2017 and the judgment of High Court of Himachal Pradesh, Shimla in CWP No.5683/2010 (*Krishan Chand Verma vs. Union of India and ors.*) dated 04/03/2010 and submitted that since the issue is already dealt with, the impugned order dated 19/03/2019 is liable to be quashed and set aside and prayed that the respondents be directed to grant next higher pay-scale to the petitioner having completed 24 years of service.

3. While countering the aforesaid submission, the learned Assistant Government Pleader submits that the Circular dated 15/02/2010 was already withdrawn vide letter dated 26/04/2010 issued by the

Commissioner, Animal Husbandry for the reason that Finance Department did not approve the proposal for relaxing the condition of minimum educational qualification of Class-IV employees for getting the benefit of time bound promotional pay-scale. According to the learned Assistant Government Pleader the issue is covered by the order of this Court in Writ Petition No.5958/2017 dated 26/11/2019 (*Kashinath Ramaji Raut vs. State of Maharashtra, Thr. Secretary, Animal Husbandry Dept. and anr.*) and the judgment of this Court dated 07/12/2016 in Writ Petition No.11452/2016 (*The Commissioner, Animal Husbandry Maharashtra and ors. vs. Ranganath Pahadu Solanke*) delivered at Aurangabad Bench. He would claim that the petitioner did not possess the minimum educational qualification for the next time bound promotional pay-scale and that being so he is not entitled to the benefit as prayed for.

4. We have considered the submissions of the learned counsel for the parties.

The petitioner's educational qualification is that of Standard IV is not in dispute. As per Government Resolution dated 20/07/2001, for the next time bound promotional pay-scale of the post 'Dresser' which the petitioner is praying for, the petitioner needs to have qualification of Standard VIII which admittedly he does not possess. Apart from this, no circular is brought to our notice issued by the Commissioner thereby extending the benefit of time bound promotional pay-scale to

any Class-IV employee having completed 24 years of service as the Circular dated 15/02/2010 was already withdrawn for want of approval from the Finance Department.

5. In the aforesaid backdrop, even before us the petitioner is unable to demonstrate his statutory right of entitlement to such benefit of higher pay-scale having completed 24 years of service. Though reliance is placed on the judgment in *Krishna Kumar Uraon* (supra) and *Krishan Chand Verma* (supra), the service conditions prescribed in those cases are not similar and identical to the case in hand. That being so, the petitioner cannot claim that his case is governed by the law laid down in aforesaid two judgments.

6. Hence, there is no foundation to claim the benefit of next higher pay-scale of the post over and above the post held by the petitioner. We do not see any reason to cause interference in the impugned order and accept the findings recorded by the Maharashtra Administrative Tribunal. That being so, the petition fails. Same stands dismissed. No order as to costs.

(Abhay J. Mantri, J.)

(Nitin W. Sambre, J.)