

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**  
**BENCH AT AURANGABAD.**

**ORIGINAL APPLICATION NO. 99 OF 2015**

DIST. : OSMANABAD

Krushna Sajgir Gosavi,  
Age. 59 years, Occu. Pensioner,  
R/o Hudco Colony, Near Ganpati Mandir,  
Tuljapur, Tq. Tuljapur,  
Dist. Osmanabad.

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**APPLICANT**

**VERSUS**

1. The State of Maharashtra,  
Through its Secretary,  
Revenue Department,  
Mantralaya, Mumbai . 32.
2. The State of Maharashtra,  
Through its Secretary,  
Finance Department,  
Mantralaya, Mumbai . 32.

(copy to be served with the  
C.P.O., MAT, Bench at Aurangabad)

3. The Collector,  
Collector Office, Osmanabad.
4. The Sub Divisional Officer,  
Bhoom, Tq. Bhoom,  
Dist. Osmanabad.
5. The Tahsildar,  
Tahsil Office, Paranda,  
Tq. Paranda, Dist. Osmanabad.

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**RESPONDENTS**

APPEARANCE : Shri R.K. Shingnapure, learned Advocate for  
the applicant.

: Shri N.U. Yadav, learned Presenting Officer for respondents.

**CORAM** : **HON'BLE SHRI J. D. KULKARNI,  
MEMBER (J)**

**DATE** :- **20<sup>th</sup> December, 2016**

### **J U D G M E N T**

1. The applicant has been appointed as a Talathi vide order dated 31.3.1994 and he has completed 12 years of regular service on 30.3.2006. Vide the impugned order dated 31.10.2013, the Collector, Osmanabad granted benefit of first time bound promotion scheme to the applicant, since he has completed 12 years of regular service in the cadre of Talathis. The applicant was getting the pay scale of Rs. 5200 . 20200 with grade pay of Rs. 2400/-. By virtue of first time bound promotion benefits granted to the applicant, his pay scale was raised to Rs. 5200 . 20200 with grade pay of Rs. 3500/-. The said first time bound promotion benefit has been granted from 16.11.2009. According to the learned Advocate for the applicant, the applicant has completed 12 years of regular service on 30.3.2006 and not on 16.11.2009.

2. The applicant filed representation on 30.11.2013 and requested that he shall be granted time bound promotion or deemed date for the same from 31.3.2006. By the communication of the Tahsildar, Paranda dated 3.12.2013 and further communication of Sub Divisional Officer,

Boom dated 7.4.2014 the concerned record of the applicant was forwarded to the Collector for considering his request, however, the applicant's request has not been considered and, therefore, the applicant has filed the present O.A.

3. The res. no. 3 by filing affidavit in reply resisted the claim of the applicant and submitted that the applicant has been communicated by the res. no. 3 the Collector, Osmanabad vide letter dated 18.11.2014 that his claim was rejected by the Dist. Promotion Committee in the year 2007. It is further stated that the applicant was under suspension vide order dated 14.3.2008 on the charges leveled by the A.C.B. He was found unfit for the time bound promotion on 10.6.2009. The Special Court acquitted the applicant from the charges of accepting bribe vide order 16.10.2009 and, therefore, the applicant was reinstated vide order dated 16.11.2009. The Dist. Promotion Committee in its meeting dated 26.8.2013 considered the applicant's claim and granted benefit of time bound promotion to the applicant from 16.11.2009 i. e. from the date of his joining the service on reinstatement. The respondents contended that the claim of the applicant has been considered properly. .

4. No rejoinder affidavit is filed by the applicant to the affidavit in reply filed by the res. no.3.

5. Heard Shri R.K. Shingnapure, learned Advocate for the applicant and Shri U.U. Yadav, learned Presenting Officer for respondents. I have perused the application, affidavit, affidavit in reply filed by the res. no. 3 and various documents filed on record.

6. The only material point to be considered in this O.A. is whether the applicant is entitled for deemed date of first time bound promotion from 31.3.2006 as claimed by him ?

7. From the facts of the case, it is clear that the applicant has suppressed the fact that his earlier claim was rejected or that he was under suspension etc. The respondents have placed on record the copies of the minutes of the D.P.C. meetings held on 10.6.2009 and 26.8.2013. The said minutes of the meetings are Exh. R.1 & R.2 respectively. From the said minutes of the meetings it is clear that in the meeting dated 10.6.2009 the case of the Talathis, who have completed 12 years regular service from 20.5.2007 to 10.6.2009 were considered. In the said meeting, the case of the applicant was considered and was rejected, since he was undergoing the prosecution under A.C.B. and also because the applicant was under suspension.

8. In the minutes of the meeting dated 26.8.2013 (Exh. R.2), again the case of the applicant was considered and the applicant was found eligible for time bound promotion from 16.11.2009. Vide letter dated 18.11.2014 (Exh. R.3) the Collector, Osmanabad informed the Sub Divisional Officer,

Osmanabad that the applicant shall be made eligible for time bound promotion from the date of his reinstatement i. e. from 16.11.2009. I do not find any illegality in considering the applicant for time bound promotion once he was reinstated in the service due to his acquittal by the competent Court of Law.

9. The learned Advocate for the applicant submits that the suspension period of the applicant has been regularized and he has been acquitted in the criminal case. He has also placed one document in this regard, which is marked as document Xq for the purpose of identification. From the said document, it seems that the Sub Divisional Officer, Bhoom has taken into consideration the fact that the applicant was acquitted in the criminal case and the criminal appeal filed against his acquittal has been dismissed and, therefore, it was decided to regularize his suspension period. The relevant order is as under :-

% उक्त दिनांक १४.२.२०११ रोजी गोसावी यांनी विनंती अर्ज देवुन समवेत अपील क्रं. १०५/२०१०, ४ फेब्रुवारी २०११ चे निकालाची सत्य प्रत सादर करुन त्यांचा निलंबन कालावधी व प्रस्तावीत केलेली विभागीय चौकशी अंतिम निकाली काढण्याबाबत विनंती केली आहे. प्रकरणात न्यायनिर्णय दोषमुक्त आहे. न्यायालयाच्या निष्कर्षाशी मी सहमत असल्याने तसेच तहसीलदार कळंब यांनी दोषारोप १ ते ४ विभागीय चौकशी करीता सादर केले नाहीत. सध्या विभागीय चौकशी सुरु करण्याची आवश्यकता नाही म्हणून ती चौकशी बंद करत आहे.

५. प्रस्तुत प्रकरणात श्री. के. एस. गोसावी तलाठी यांना उक्त केसमध्ये मा. विशेष न्यायाधीश उस्मानाबाद यांनी त्यांना निर्दोष मुक्त केले आहे आणि त्या निर्णयाविरुद्ध शासनाने मा. उच्च न्यायालय खंडपीठ औरंगाबाद येथे दाखल केलेले किमिनल अपील क्रं. १०५/२०१० हे रद्द केले आहे. प्रकरणात महाराष्ट्र नागरी सेवा (पदग्रहण अवधी परकीय सेवा व निलंबन बडतर्फी व सेवेतुन काढुन टाकणे काळातील प्रदाने) नियम १९८१ चे गोसावी तत्कालीन तलाठी गौर ता. कळंब तदनंतर तलाठी सज्जा भांडगाव ता. परंडा यांचा निलंबन कालावधी खालील आदेशा प्रमाणे नियमित करण्याचा आदेश निम्नस्वाक्षरीत पारीत करीत आहे.

#### आदेश

अ) श्री. के. एस. गोसावी तत्कालीन तलाठी सज्जा गौर ता. कळंब सदया तलाठी सज्जा भांडगाव ता. परंडा यांचा दिनांक १४.३.२००८ पासून सेवेत पुनःस्थापित केल्याच्या दिनांका पर्यंतचा निलंबन कालावधी प्रथम श्री. के. एस. गोसावी यांच्या निलंबन दिनांकालगत पुर्वीच्या दिनांकास त्यांना देय व अनुज्ञेय असलेल्या शिल्लक रजेच्या खाती खर्ची घालण्यात यावी. तेवढी पुरेशी रजा शिल्लक नसल्यास उर्वरित निलंबन कालावधी हा कार्यकाल म्हणून गणण्यात यावा.+

10. Perusal of the aforesaid order shows that the entire period of the suspension has not been considered as duty period exclusively. It was decided that till permissible leave is available, such period shall be treated as leave and for rest of the period, it shall be decided as duty period, if the leave is not available. In any case, the fact remains that whenever the case of the applicant was considered, either he was under suspension or undergoing trial and, therefore, the res. no. 2 has

considered the applicant's case for time bound promotion on the date on which he was reinstated in the service. No illegality has been pointed out in the action taken by the res. no. 2. I, therefore, do not find any merit in the O.A. Hence, I pass following order :-

**ORDER**

The O.A. stands dismissed. There shall be no order as to costs.

**MEMBER (J)**

ARJ-OA NO.99-2015 JDK (DEEMED DATE)