

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 19 OF 2013

DIST. : AURANGABAD

- (1) Shivanna Narsanna Ghante,
Age. 67, Occu. Retired,
Sai Sadr Manjrpura Corner,
House No. 1/27/33, Aurangabad.
- (2) Yashwant Prabhakar Pujari,
Age. 65 Occ. Retired,
31, Amrut Gurukunj Housing Society,
Tilak Nagar Shanurwadi,
Aurangabad.
- (3) Gangaram Hiralal Pardeshi,
Age. 66, Occ. Retired,
Behind Anticorruption,
Aurangabad.
- (4) Prakash Baburao Jadhav,
Age. 60, Occ. Retired,
Pratikasha, Gandhi Nagar,
Bansilal Nagar, Aurangabad.
- (5) Sartaj Md. Khan Sardar Khan,
Age. 60, Occ. Retired,
Town Hall, Near Over Bridge,
Aurangabad.
- (6) Madanlal Bansilal Khare,
Age. 66, Occ. Retired,
N-6, Sai Nagar, Plot no. 1165,
CIDCO, Aurangabad.
- (7) Shaikh Mohamad Nasruddin,
Age. 60, Occ. Retired,
Jaisingpura, Aurangabad.
- (8) Abdul Aziz Deshmukh,
Age. 68, Occ. Retired,
Old S.T. Colony, Sartaj Nagar,
Fajal Pura, Aurangabad.

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APPLICANT

VERSUS

(1) The State of Maharashtra,
Through it's Secretary,
Transport Home Department,
Mantralaya, Mumbai – 32.
(copy to be served on P.O.,
MAT Mumbai, Bench at Aurangabad).

(2) The Transport Commissioner,
Administrative Building, 3rd and 4th floor,
Near Dr. Ambedkar Garden Bombay,
Government Quarters, Mumbai Bandra,
Bombay.

-- RESPONDENTS

APPEARANCE : Shri R.P. Bhumkar, learned Advocate for the
applicant.

: Shri M.P. Gude, learned Presenting Officer for
respondents.

**CORAM : HON'BLE SHRI RAJIV AGARWAL, VICE CHAIRMAN
AND
HON'BLE SHRI J. D. KULKARNI, MEMBER (J)**

PER : HON'BLE SHRI RAJIV AGARWAL, VICE CHAIRMAN

JUDGMENT

(Delivered on this 15th day of December, 2016)

1. Heard Learned Advocate Shri R.P. Bhumkar for the Applicant and
Shri M.P. Gude, learned Presenting Officer (P.O.) for the Respondents.

2. This O.A. has been filed by eight applicants who were appointed
as Assistant Motor Vehicle Inspectors (A.M.V.I.) and they are seeking

benefit of Assured Career Progression Scheme (A.C.P. scheme) after completion of 12 years in service in terms of G.R. dated 8.6.1995.

3. Learned Counsel for the Applicants argued that the Applicants were appointed as A.M.V.I. on different dates and were subsequently promoted as M.V.I. The details are given in Exhibit – A (para 10 of the Paper Book). They completed 12 years of continuous serviced as Motor Vehicle Inspectors (M.V.I.) in the years 1994 to 1998. They were, therefore, eligible for grant of Time Bound Promotion as per G.R. dated 8.6.1995. Such benefits were extended to other employees, but the Applicants were not given the benefits of Time Bound Promotion. Though the Applicants had made representations on 22.3.2004, 7.12.2006, 2.8.2007 and 3.11.2009, no action has been taken by the Respondents. Learned Counsel for the Applicants argued that the Applicants are entitled to get Time Bound Promotion on completion of 12 years of service in the cadre of M.V.I.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that the Applicants are not eligible to be given benefit of Time Bound Promotion in terms of G.R. dated 8.6.1995. In fact, the scheme of Time Bound Promotion as per G.R. dated 8.6.1995 was closed and a new scheme by G.R. dated 20.7.2001 called Assured Career Progression Scheme was introduced. As per para 2 (3) of this G.R. the Applicants were not eligible for benefit of this scheme.

5. In the affidavit in reply filed on behalf of the Respondent nos. 1 & 2 on 25.9.2013, it is mentioned in para 5 that information submitted by the Applicant in chart of Exhibit 'A' is not disputed. The said information, slightly rearranged is as below :-

Sr. No.	Name of Applicant S/shri	Date of Birth	Date of Appointment as AMVI	Date of appointment as MVI	Date of completion of 12 years as M.V.I.
1	2	3	4	5	6
1.	S.N. Ghante	12.4.1945	15.6.1979	17.12.1983	2.1.1996
2.	Y.P. Pujari	7.3.1946	6.5.1973	25.9.1975	1.10.1994
3.	G.H. Pardeshi	1.6.1947	15.7.1979	7.2.1985	7.2.1997
4.	P.B. Jadhav	14.11.1952	24.12.1976	15.2.1985	15.2.1997
5.	S.M. Khan	20.12.1952	15.7.1979	28.2.1986	28.2.1998
6.	M.B. Khare	26.6.1947	23.12.1976	16.9.1983	20.6.1997
7.	M.N. Shaikh	7.8.1951	15.7.1979	28.2.1986	28.2.1998
8.	A.A. Deshmukh	7.6.1944	11.1.1977	15.2.1985	15.2.1997

6. All the Applicants were eligible to get exemption from passing the Departmental examination on completion of 45 years of age, which was before the dates on which they completed 12 years of continuous service

as M.V.I. We are unable to comprehend the reliance of the Respondents on G.R. dated 20.7.2001, when they appear to be eligible for Time Bound Promotion in terms of G.R. dated 8.6.1995. In any case, para 2(3) of G.R. dated 20.7.2001 reads :-

“सेवेत दोन किंवा त्याहून अधिक वेळा पदोन्नती मिळालेल्या कर्मचा-यांना या योजनेचा लाभ अनुज्ञेय होणार नाही.”

7. In para 7 of the affidavit in reply, the Respondents have stated that the Applicant joined service as A.M.V.I. on 15.7.1979 and was promoted in the cadre of M.V.I. on 2.1.1984. This O.A. in fact has been filed by eight Applicants and the Applicant no. 1 viz. Shri S.N. Ghante joined service as A.M.V.I. on 15.7.1979 and as per chart at Annexure 'A' was promoted as M.V.I. on 17.12.1983. He was granted exemption from passing the Departmental examination on reaching the age of 45 years on 12.4.1990. He completed 12 years of M.V.I. on 2.1.1996. At that time, G.R. dated 8.6.1995 was in operation. There is no dispute that the post of M.V.I. was a Group 'C' post in the pay scale of Rs. 5000-8000. Paraz 2 (D) of this G.R. reads :-

“(ड) ज्या कर्मचा-यांना यापूर्वी दोन पेक्षा जास्त पदोन्नती मिळाल्या आहेत अशा कर्मचा-यांना या योजने अंतर्गत वरिष्ठ वेतन श्रेणी मिळणार नाही.”

8. It is quite clear that the Applicants had received only one promotion as M.V.I. When they completed 12 years in that cadre, they

appear to be eligible for Time Bound Promotion, much before G.R. dated 20.7.2001 came into force. The Respondents have mentioned that Applicant was promoted as Assistant Regional Transport Officer on 11.6.1999 and Dy. Regional Transport Officer on 9.8.2002. It is presumed that the Respondents are referring to the Applicant no. 1. As per chart at Annexure 'A', the Applicant no. 1 was eligible to get Time Bound Promotion and Pay scale of the post of Assistant Regional Transport Officer from 21.1.1996. He was given regular promotion to that post on 11.6.1999. He appears to be eligible for financial upgradation from 21.1.1996. The other Applicants may also be entitled to similar benefits.

9. The Respondents have claimed that this O.A. has been filed in the year 2013, while the cause of action arose in the year 1994 to 1997, when the Applicants became due for Time Bound Promotion. The Respondents claimed that this O.A. is barred by limitation. Learned Counsel for the Applicants has relied on the judgment of Hon'ble Supreme Court in **M.R. Gupta Vs. Union of India & Others : 1996 AIR 669**. In this case, the Applicant had filed O.A. before the Central Administrative Tribunal in 1989, seeking proper fixation of initial pay from 1.8.1978. C.A.T. has dismissed the O.A. as time barred. Hon'ble Supreme Court held that it was a case of continuing wrong. The question of limitation would arise only regarding arrears, if the claim of the

Applicant was accepted. The facts are quite similar in the present case. Though the Applicants have retired, their pension is affected.

10. We, therefore, direct the Respondents to consider the representations of the Applicants dated 23.2.2010, 17.3.2011 and 17.5.2012 regarding grant of Time Bound Promotion in terms of G.R. dated 8.6.1995 in the light of our observations in the preceding paragraphs. If the Applicants are found eligible for grant of Time Bound Promotion, their pay & pension be fixed accordingly. However, the Applicants would be entitled to arrears for the period of 3 years from the date of filing this O.A.

11. This O.A. is allowed in the above terms with no order as to costs.

MEMBER (J)

VICE CHAIRMAN