

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
CIVIL APPLICATION NO. 79 OF 2017 IN
ORIGINAL APPLICATION NO. 148 OF 2017 (S.B.)

Ashok Ramkrishna Tikar,
Aged about 62 years, Occupation – Retired Govt. Servant,
R/o Meharanand Colony, Akot, District Akola.

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary, Department of Water resources,
Mantralaya, Mumbai-32.
- 2) Executive Engineer, Irrigation Department,
Akola.
- 3) Superintendent Engineer, Akola Irrigation Department,
Akola.

Respondents

Shri R.V.Shiralkar, Id. Advocate for the applicant.

Shri H.K.Pande, Id. P.O. for the respondents.

**Coram :- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J).**

JUDGMENT

(Delivered on this 30th day of November, 2017)

Heard Shri R.V.Shiralkar, learned counsel for the applicant and Shri H.K.Pande, learned P.O. for the respondents.

2. The applicant has retired from the post of Driver from Irrigation Department, Akola. He was appointed as a Driver vide order dated 01/06/1988 by the respondent no. 3 and has retired on superannuation on 31/12/2013.

3. In the original application the applicant has stated that he has completed 12 yrs. of service as a Driver on 01/06/2000 and was entitled to get first time bound promotion w.e.f. 01/06/2000. However, he was granted first time bound promotional benefit w.e.f. 01/06/2002 vide order dated 04/04/2008. The applicant immediately made a representation and claimed first time promotion w.e.f. 01/06/2000 but his request was not considered.

4. Vide Govt. Resolutions dated 20/07/2001 and 01/04/2010 the Government issued a scheme called as "Assure Progressive Scheme" and made applicable second time bound promotional scale to the employees who were drawing pay scale up to 15600-39100. As per these Govt. Resolutions the applicant was entitled to second time bound promotion w.e.f. 01/06/2012, but the second time bound promotion was not made applicable to him. The applicant has therefore, filed the O.A. for following main reliefs:-

A. Direct the respondents to correct the date of grant of first time bound promotion to the applicant from 01/06/2002 to 01/06/2000 i.e. the date of which the applicant completed 12 yrs. of continues service on the post of Driver and consequently;

B. Direct the respondents to consider the case of the applicant for grant of second time bound promotion w.e.f. 01/06/2012 in view of Govt. Resolutions dated 20/07/2001 and 01/04/2010 with all consequential benefits arising out of the same, in the interest of justice.

5. Along with the O.A. the applicant has filed this Civil Application for condonation of delay i.e. C.A.79/2017. It is stated that the applicant was entitled to first time promotion w.e.f. 01/06/2000, but the same was wrongly granted to him w.e.f. 01/06/2002. Vide communication dated 06/07/2012, it was directed to make correction in the pay scale but the same was not considered. The order dated 06/07/2012 was therefore, not complied, as the applicant has been granted first time bound pay scale from 01/06/2000, he should have been held entitled to get second time bound promotion w.e.f. 01/06/2012. The applicant was therefore, deprived of second time bound promotion because of the wrong date of promotional pay scale of first time bound promotion. It is stated that the applicant took legal advice from the counsel in the first week of March, 2017 and as per advice of the Advocate he has filed this application, for which there was a delay of 1161 days. The applicant had requested that the said delay be condoned.

6. The respondent no. 2 has filed affidavit-in-reply to the application for condonation of delay and submitted that so called delay is not properly counted and the delay, in fact, is more than 8 yrs. and no reasons have been assigned for delay.

7. From the documents filed on record it seems that the applicant was granted first time bound promotion w.e.f. 01/06/2002. According to the applicant, considering the date of appointment of the applicant which is 01/06/1988, the applicant was entitled to scheme of first time promotion on 01/06/2000 and not on 01/06/2002. It is however, material to note that even though the applicant was granted first time bound promotion w.e.f. 01/06/2002, the applicant never challenged the same. When he made a representation for consideration of his claim for the first time bound promotion w.e.f. 01/06/2002, the Sub Divisional Officer, Akola vide letter dated 06/07/2012 intimated the applicant that his claim was not proper. The said intimation is placed on record as (Annexure-A-4) at P.B., Pg. No. 20. So, for the first time, the applicant was intimated about rejection of his claim for the first time bound promotion w.e.f. 01/04/2000. The applicant never challenged this communication dated 06/07/2012 and has filed this O.A. on 07/09/2017 i.e. after more than 5 yrs. The application for condonation of delay is totally silent as regards the unexplained delay for filing an application by the applicant to approach the Tribunal immediately. It is

not known as to how the applicant remained silent from 01/06/2002 till 06/07/2012, when his representation was not considered and, thereafter, from 06/07/2012 to filing of this O.A. on 14/03/2017 and the application for condonation of delay is filed on 06/09/2017. No reason for delay is either mentioned in the application nor the delay is properly explained. In the application, it is merely stated that the applicant took legal advice from the counsel in the first week of March, 2017 but it is not known as to why the applicant remained silent from 01/06/2002 till the first week of March, 2017 and didn't think it proper even to approach the Advocate.

8. The respondent no. 2 in its affidavit-in-reply has stated that the applicant was granted first time bound promotion from 2002 since he was not entitled to first time bound promotion in 2000 as per the Govt. Resolution dated 05/07/2010 and before completion of 12 yrs. of continuous service from the date of grant of first time bound promotion, the applicant stood retired and, therefore, there was no question of granting second time bound promotion to the applicant. In any case the applicant has miserably failed to explain the delay for challenging the order of grant of time bound promotion to him in the year 2002 till filing of this application in 2017. The so called delay for filing this O.A. therefore, is unexplained and such a huge delay cannot be condoned. Hence the following order:-

ORDER

1. The C.A. No. 79/2017 for condonation of delay stands rejected, consequently O.A. No. 148/2017 also stands rejected.
2. No order as to costs.

Dated :-30/11/2017

aps

**(J.D. Kulkarni)
Vice-Chairman (J).**