

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 267 of 2022 (S.B.)

Rajesh S/o Shaligram Pande,
Aged about 55 years, Occu: Service,
R/o Plot No.5, Uday Nagar, Nagpur-24.

Applicant.

Versus

- 1) The State of Maharashtra through its
Additional Chief Secretary,
Social Justice and Special Assistance,
Mantralaya, Mumbai-32.
- 2) The Commissioner of Social Welfare,
Maharashtra State, 3, Church Path,
Agarkar Nagar, Pune-411 001.

Respondents.

Shri R.M. Fating, Advocate for the applicant.
Shri M.I. Khan, learned P.O. for respondents.

Coram :- Hon'ble Shri Justice M.G. Giratkar : Vice Chairman.
Dated :- 03/08/2023.

J U D G M E N T

Heard Shri R.M. Fating, learned counsel for the applicant
and Shri M.I. Khan, learned P.O. for the respondents.

2. The case of the applicant in short is as under –

The applicant has filed the present O.A. challenging the
inaction on the part of respondent no.1 for not extending the benefit of
deemed date of promotion w.e.f. 29/12/2015 from the date on which
his junior namely Smt. J.R. Sonkawade was promoted.

3. The applicant was initially appointed as a Social Welfare
Officer on 20/05/1995. The applicant came to be promoted in the

cadre of Assistant Director, Group-A (Class-I) on temporary basis as per the order dated 19/01/2002. The applicant is a Class-I Officer presently working in the respondents department on the post of Deputy Commissioner and Member, District Caste Certificate Scrutiny Committee, Gondia. The respondent no.1 regularized the temporary promotion of the applicant on the post of Assistant Commissioner w.e.f. 01/06/2008 as per the order dated 12/12/2013. The respondent no.1 has revised the seniority list in the cadre of Assistant Commissioner as on 01/01/2015, wherein, the applicant has been placed at Sr.No.25 in the seniority list. However, his junior Smt. J.R. Sonkawade who is at Sr.No.26 and three others who are at Sr.No.29,30 and 56, have already been promoted. Thereafter, the respondents promoted the applicant on the post of Deputy Commissioner as per the order dated 28/12/2016. The applicant is claiming that he is senior to Smt. J.R. Sonkawade and others, but he was not granted promotion as per the order dated 29/12/2015 (P-43). Therefore, the applicant has filed this O.A. for direction to the respondents to grant deemed date of promotion from the date on which Smt. J.R. Sonkawade was promoted.

4. The O.A. is strongly opposed by the respondents. It is submitted that one O.A. was filed before the M.A.T., Principal Bench at Mumbai. That O.A. was decided in the year 2004. Thereafter, that

order was challenged before the Hon'ble Bombay High Court in Writ Petition Nos.9453 and 9449/2004. The said Writ Petitions came to be dismissed. It is submitted that the final seniority list is not yet published, therefore, the claim of the applicant will be considered after finalizing the seniority list.

5. The Judgment of the M.A.T., Principal Bench, Mumbai is not filed on record. As per the submission in the reply, it appears that, that Judgment now becomes final. The respondents have published the seniority list as per the Circular dated 20/04/2015. Thereafter, as per the Circular dated 28/02/2016 (P-45), temporary seniority list was made final. Therefore, it is clear that the final seniority list was prepared. The applicant is shown at Sr.No.25 in the seniority list, whereas, Smt. J.R. Sonkawade is shown at Sr.No.26.

6. During the course of submission, the learned counsel for the applicant has pointed out the correction made by the respondents as per the order dated 16/04/2018 (P-52), wherein, the promotion of the applicant is shown from 22/06/2007. His seniority list was corrected as 24 instead of 25. From the perusal of the documents, it is clear that the applicant was senior to Smt. J.R. Sonkawade.

7. The learned P.O. has pointed out page no. 78, the Government Circular dated 16/06/2022. In the Circular, it is mentioned that the final seniority list will be published lateron. It appears that in

the year 2015, the final seniority list is published after the Government Circular dated 20/04/2015. Latest Circular dated 28/06/2016 clearly shows that temporary seniority list is made final. The applicant is shown at Sr.No.25, whereas, Smt. J.R. Sonkawade is shown at Sr.No.26. Therefore, it is clear that the applicant was senior to Smt. J.R. Sonkawade. Therefore, the applicant is entitled to get deemed date of promotion from the date on which Smt. J.R. Sonkawade was promoted. Smt. J.R. Sonkawade was promoted as per order dated 29/12/2015. Therefore, the applicant is entitled for deemed date of promotion on the post of Deputy Commissioner from 29/12/2015. Hence, the following order –

ORDER

- (i) The O.A. is allowed.
- (ii) The respondents are directed to give deemed date of promotion to the applicant w.e.f. 29/12/2015.
- (iii) The respondents are directed to revise the pay of the applicant after calculating the difference of pay and to pay benefits to the applicant within a period of three months.
- (iv) No order as to costs.

Dated :- 03/08/2023.

dnk.

(Justice M.G. Giratkar)
Vice Chairman.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 03/08/2023.