

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.280/2014. (D.B.)

Rajesh Devidasji Bhagat,
Aged about 41 years,
Occ- Service as Talathi,
R/o Lonsaoli, Tq. & Dist. Wardha.

Applicant.

-Versus-

- 1) The State of Maharashtra,
Through its Secretary,
Department of Revenue and Forests,
Mantralaya, Mumbai-400 032.
- 2) The Collector,
Wardha, Distt. Wardha.
- 3) The Sub-Divisional Officer,
Wardha, Distt. Wardha.
- 4) The Tahsildar, Wardha,
Distt. Wardha.

Respondents

Shri P.R. Pudke, the learned counsel for the applicant.

Shri A.M. Ghogre, the learned P.O. for respondents.

**Coram:-Shri Shree Bhagwan, Vice-Chairman and
Shri Anand Karanjkar, Member (J)**

Judgment is reserved on 3rd May 2019.

Judgment is pronounced on 26th June 2019.

JUDGMENT

(Delivered on this 26th day of June 2019.)

Per:-Member (J)

Heard Shri P.R. Pudke, the learned counsel for the applicant and Shri A.M. Ghogre, the learned P.O. for the respondents and perused the documents filed on record.

2. The applicant is serving as Talathi at village Lonsaoli, Tahsil & District Wardha. In the year 2011, 11 posts of Circle Officers were vacant, consequently, there was a drive to select suitable candidates to fill the posts. There was a meeting of Departmental Promotion Committee (DPC) on 21.12.2011 and 11 persons were selected to be promoted as Circle Officer. The DPC to meet the future exigency, prepared a waiting list of 14 candidates to be promoted as Circle Officer during the span of further one year in case vacancy arises.

3. It is grievance of the applicant that the waiting list was to expire on 20.12.2012. It was noticed by the office that 7 posts of Circle Officers were vacant due to retirement and, therefore, proposal was prepare which was placed before the Resident Deputy Collector and the Resident Deputy Collector approved proposal to promote 3 Talathis who were in the waiting list as Circle Officers. It is submitted that the said proposal was forwarded for the order to respondent No.2 the Collector, Wardha on 11.12.2012. The

Collector, Wardha did not take any decision on the proposal and consequently the list lapsed. It is the submission of the applicant that the respondent No.2 was negligent and careless and due to his conduct, the applicant lost the promotion at a proper time. The applicant is submitted that he be given deemed date of promotion as per the recommendation dated 11.12.2012.

4. The respondents have resisted the application on the ground that the Collector, Wardha was transferred on 3.11.2012 and consequently the matter could not be processed. It is submitted that when new Collector joined, the process was again initiated, but at that time the list was lapsed. It is submitted that there was no intentional negligence towards the proposal. According to the respondents, when new Collector joined his duty and in a short time it was not possible for the new Collector to examine the proposal and approve it. In the circumstances, it is submitted that no interference is required in this matter.

5. After hearing both sides and after perusing the documents, it appears that as per D.P.C. meeting, 11 candidates were selected to be promoted as Circle Officers and waiting list of 14 candidates was prepared. We have perused the minutes of the meeting dated 11.12.2012 (Annexure A-1). After reading Annexure

A-1, it seems that it was discussed in the meeting that 7 posts of Circle Officers became vacant due to retirement and, therefore, decision was taken to promote Shri C.M. Kute, R.D. Bhagat (applicant) and R.V. Wankhede. It is observed in Annexure A-1 that decision to fill remaining 4 posts could not be taken because candidates were not available. Next page alongwith Annexure A-1 in the sheet of paper on which it is mentioned that note-sheet be placed for consideration of the Collector and his approval. After perusing Annexure A-1, it seems that there is an endorsement of the Office Superintendent, "मान्यतेस सादर" and it is signed on 23.11.2012. Similarly, one another Senior Clerk has signed this note-sheet on 23.11.2012. On Annexure A-1, there is remark of R.D.C. dated 28.11.2012 which is as under:-

"संदर्भात शासन निर्णयासह समक्ष चर्चा करा".

6. On perusal of this remark, it seems that though 7 posts of Circle Officers were vacant, but the note-sheet was only to fill 3 posts, though in the waiting list, there were names of 14 candidates. It is also pertinent to note that, it is observed in the note-sheet that for filling remaining 4 posts, as candidates were not available, the contingency could not be considered. It seems that this was apparently contrary to the facts discussed in Annexure A-1.

In Annexure A-1, it is specifically mentioned that the waiting list of 14 candidates was prepared. There were 7 vacant posts. Then why decision was taken only to fill 3 vacant posts and why it was falsely mentioned in the note-sheet that remaining 4 posts could not be filled, as candidates were not available in the waiting list. Thus, this entire note-sheet was misleading.

7. It is pertinent to note that the Collector was transferred on 3.11.2012. There is nothing to show that when new Collector resumed his duty and whether any official had placed this note-sheet before the new Collector. Keeping in view the suspicious background, we do not see any merit in the present matter. It appears that the applicant was thereafter considered for promotion in the new process. The legal position is settled that the promotion is not a right, but it is equally true that the competent authority, while taking decision about the promotion could not act in arbitrary manner. In the present case, it appears that the entire facts mentioned in Annexure A-1 are highly suspicious. It is not contention of the applicant that this note-sheet was placed before the new Collector and he avoided to pay his attention. Under these circumstances, merely because of the name of the applicant was in the waiting list and he was recommended for promotion in suspicious manner, this

cannot give him right to claim promotional post. Hence, we proceed to pass the following order:-

ORDER

- (i) The O.A. is dismissed.
- (ii) No order as to costs.

(Anand Karanjkar)
Member (J)

(Shree Bhagwan)
Vice-Chairman

Dt. 26th June 2019.

pdg

