

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 353 of 2019 (S.B.)

Mahendra Sopandeo Kamde,
Aged about 59 years, Occu.: Retired Employee,
R/o 81, Awade Nagar, Nari Road, Uppalwadi, Nagpur-26.

Applicant.

Versus

- 1) State of Maharashtra,
General Administration Department,
Mantralaya, Mumbai - 32,
Through its Secretary.
- 2) The Divisional Commissioner,
Nagpur Division, Civil Lines, Nagpur-01.
- 3) The Collector, Civil Lines, Nagpur-01.

Respondents.

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

Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.

Dated :- 18/04/2023.

J U D G M E N T

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

2. The Id. Counsel for applicant has filed written notes of
arguments. It is taken on record and copy is given to the learned P.O.
3. The case of the applicant in short is as under –

The applicant was appointed on the post of Talathi w.e.f. 23/12/1983. The applicant was given benefit of 1st time bound promotion w.e.f. 01/08/2001 instead of 23/12/1995. The respondents have granted 2nd time bound promotion on 01/08/2013 instead of 23/06/2007. Therefore, the applicant approached to this Tribunal for direction to the respondents to grant time bound promotion after completion of 12 years of service from the date of his initial appointment and 2nd time bound promotion as per the Govt. G.Rs. related to the time bound promotion.

4. The O.A. is strongly opposed by the respondents. It is submitted that the applicant has not passed the Revenue Qualifying Examination. The applicant sought request transfer and therefore he is not entitled for qualifying service of 12 years. The applicant has passed the Revenue Qualifying Examination in the year 2000, therefore, he is not entitled for the benefit of time bound promotion. The applicant cannot be equated with his junior Mr. P.D. Ramteke. He was granted time bound promotion as per the Judgment of this Tribunal dated 04/10/2016 in O.A.No.330/2015. At last, submitted that the applicant is not entitled for time bound promotion. The O.A. is liable to be dismissed.

5. Heard Shri S.M. Khan, learned counsel for the applicant and Shri M.I. Khan, learned P.O. for the respondents. The learned

counsel for applicant has pointed out three main grounds raised by the respondents. As per submission of respondents, the applicant is not entitled for benefit of time bound promotion, because, he had sought request transfer.

6. The learned Counsel for applicant has pointed out G.R. dated 01/11/2008. The applicant was not granted 1st time bound promotion as per the G.R. dated 10/08/2007. In the said G.R., it was decided that those employees who seek request transfer are not entitled for time bound promotion. They are entitled for time bound promotion after completion of 12 years service from the date of joining at the new place. The said G.R. of 2017 appears to be cancelled. As per the G.R. 01/11/2008, the Government has decided that the employees who are transferred on their own request or on other grounds, they are entitled to get time bound promotion by counting their earlier services. Therefore, the objection raised in respect of request transfer is not legal and proper.

7. The respondents have raised objection that the applicant had passed the Revenue Qualifying Examination on 26/12/2000 and therefore he is entitled to get time bound promotion after passing the Revenue Qualifying Examination. The learned counsel for the applicant has pointed out the G.R. dated 01/02/2020. In the said G.R., explanation is given as under-

“शासन शुध्दोपत्रक -

विहित संधीत / मुदतीत अहता पराक्षा किंवा विभागीय पराक्षा उत्तीण न झाल्यामुळे ज्येष्ठता गमावलेल्या व परिणामी कालबध्द पदोन्नतीसाठी अपात्र ठरलेल्या काही कमचा-यांनी कालबध्द पदोन्नतीचे लाभ मिळणेबाबत, महाराष्ट्र प्रशासकाय न्यायार्थिकरणात दाखल केलेल्या मूळ अज क्र.२२/२००५, ७३१/२००६, ३५७/२००६, मूळ अज क्रमांक ३२८ / २०१० व संलग्न मूळ अज यामधील अजदार तसेच मुंबई उच्च न्यायालयात दाखल केलेल्या याचिकांमधील न्याय निणयाच्या अनुषंगाने, शासन निणय वित्त विभाग दि.१५.१०.२००९ तसेच शासन शुध्दोपत्रक वित्त विभाग दि.२१.५.२०१०, या शासन शुध्दोपत्रका अन्वये रद्द करून (Canceling) पुढील प्रमाणे सुधारित शासन शुध्दोपत्रक निर्गमित करण्यात येत आहे.

शासन निणय, सामान्य प्रशासन विभाग दिनांक २०.३.१९९७ मधील मुद्दा क्रमांक २ समोरोल स्पष्टोकरण	सुधारात स्पष्टोकरण
<p>या संदभात मूळ निणयामधील परि-२ (ब) मध्ये स्पष्ट केल्याप्रमाणे अहतापराक्षा किंवा विभागीय पराक्षा उत्तीण, होणे आवश्यक आहे. अहतापराक्षा किंवा विभागीय पराक्षा विहित संधीत / मुदतीत उत्तीण न झाल्यामुळे ज्येष्ठता गमावली असेल अशा कमचाऱ्यांस त्याची सुधारित ज्येष्ठता निश्चित करून त्या ज्येष्ठता सूचीवरोल त्याच्या कनिष्ठास जर कालबध्द पदोन्नती म्हणून वरची वेतनश्रेणी मिळत असेल तर अन्यथा पात्र ठरत असल्यास त्या कनिष्ठास दिलेल्या तारखेपासून वरची वेतनश्रेणी देण्यात यावी.</p>	<p>अ) अहता पराक्षा किंवा विभागीय पराक्षा विहित संधीत/ मुदतीत उत्तीण न झाल्यामुळे ज्येष्ठता गमावली असेल अशा कमचाऱ्याने १२ वर्षाच्या निर्यामित सेवा कालावधीत सदर पराक्षा उत्तीण केल्यास त्याला निर्यामित सेवेची १२ वर्ष पूण झाल्यानंतरच्या लगतच्या तारखेस अथवा</p> <p>ब) १२ वर्षाच्या निर्यामित सेवेनंतर, विभागीय / अहता पराक्षा उत्तीण झाल्याच्या तारखेस</p> <p>उपरोक्त (अ) अथवा (ब) यापैका कोणत्याही प्रकारात मोडणाऱ्या कमचारा / अधिकारा यांना विभागीय पदोन्नती समितीच्या बैठकीतील पात्रतेनुसार, (त्याच्या सुधारात ज्येष्ठता सूचीतील स्थानात बदल न करता) कालबध्द पदोन्नती योजनेअंतगत / सेवांतगत आश्वासित प्रगती योजनेअंतगत वरिष्ठ वेतनश्रेणी देण्यात यावी.</p>

8. As per the G.R. dated 01/02/2020, if the employee passed the Revenue Qualifying Examination within 12 years from the date of his initial appointment, then he is entitled to get 1st time bound promotion after completion of 12 years service.

9. The learned Counsel for the applicant has pointed out the Judgment of the M.A.T., Principal Bench, Mumbai in O.A.No.166/2016, decided on 15/12/2016. In para-13, the M.A.T., Principal Bench, Mumbai has reproduced the observations of the Hon'ble Supreme Court in the case of **K.C. Sharma and others Vs. Union of India and others (1997) 6 SCC 721**. It is reproduced as under –

"13. It is, therefore, very clear that the principle is that for Time Bound Promotion, the period is to be counted from the date of initial appointment and even if the concerned employee did not clear the examinations within the time and attempts, etc. that might give rise to any other consequence with regard to his service conditions, but as far as Time Bound Promotion is concerned, that would be no circumstance against him."

10. This observation shows that for time bound promotion, the period is to be counted from the date of initial appointment and even if the concerned employee did not clear the examinations within the time and attempts, etc. that might give rise to any other consequence with

regard to his service conditions, but as far as Time Bound Promotion is concerned, that would be no circumstance against him."

11. Relying on the Judgment of the Hon'ble Supreme Court, the M.A.T., Principal Bench, Mumbai has allowed the O.A. and directed the respondents to grant time bound promotion after completion of 12 years of service.

12. In view of the above cited Judgments and the Judgment of M.A.T., Principal Bench, Mumbai in O.A.No.166/2016, decided on 15/12/2016, the applicant is entitled to get time bound promotion, if he is otherwise entitled for the said benefit. Hence, the following order—

ORDER

(i) The O.A. is allowed.

(ii) The respondents are directed to grant time bound promotion to the applicant as per the Govt. G.Rs. after completion of 12 years service from the date of his initial appointment, if he is otherwise eligible for the same and if he has fulfilled all the criteria as mentioned in the G.Rs. for granting time bound promotion.

(iii) No order as to costs.

Dated :- 18/04/2023.

(Justice M.G. Giratkar)
Vice Chairman.

dnk.

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 : 18/04/2023.