

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 735 of 2016 (S.B.)**

Kisan Atmaramji Kale,  
Aged about 62 years,  
Occupation-retired as Sub Divisional Officer,  
R/o. Shivkripa Shastri Nagar, Opposite Gore Apartment No.2,  
Tahsil and District Akola.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
through its Secretary Department of Water Resources,  
Mantralaya, Mumbai-32.
- 2) The Chief Engineer,  
Minor Irrigation (Local Sector) Maharashtra State,  
Bunglow No.12, Jail Road, Yerwada, Pune-6.
- 3) Zilla Parishad, Washim,  
through its Chief Executive Officer,  
Zilla Parishad, Washim

**Respondents.**

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**Shri M.R. Rajgure, Advocate for the applicant.**  
**Shri S.A. Sainis, learned P.O. for respondent nos.1 and 2.**  
**Shri V.G. Wankhede, learned Advocate for respondent no.3.**

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

**Dated :- 22/06/2023.**

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**JUDGMENT**

Heard Shri M.R. Rajgure, learned counsel for the applicant, Shri S.A. Sainis, learned P.O. for respondent nos.1 and 2 and Shri V.G. Wankhede, learned counsel for respondent no.3.

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

That the applicant is a retired Government servant. He was retired as a Sub Divisional Officer, Irrigation Sub Division, Zilla Parishad, Buldhana after attaining the age of superannuation. As per his submission, the applicant was entitled to get 1<sup>st</sup> time bound promotion after completion of 12 years of service in the year 1997. The respondents have not given the time bound promotion to the applicant. The respondents have given the time bound promotion to junior namely Shri R.D. Ghayal. It is submitted by the applicant that the case of the applicant was not kept before the DPC for time bound promotion, therefore, the applicant approached to this Tribunal for the following reliefs –

*“(i) Call for parawise comments and relevant records of D.P.C., after the year 2002 onwards and examine the reasons why applicants case for his eligibility for grant of Time Bound Promotion / ACP benefits, was neglected by the Respondents in the light of Government Resolution dated 06.08.1995 and 20.07.2001, and be pleased to issue directions for considering applicant’s case for benefit under ACP Scheme in the year 2002 itself, as he had completed more than 12 years service in one and same pay scale applicable to engineer.*

*“(ii) And be further pleased to issue directions to respondents carry out pay fixation in the scale applicable to S.D.O./Dy. Engineer from 2002, onwards, and to continue the same till his retirement and to pay him arrears of difference consequent to grant of such higher pay scale with interest @ 12% per annum.*

*(iii) And further pleased to direct correct pay fixation for purpose of his pension /gratuity benefit on retirement in 2012.”*

3. The O.A. is strongly opposed by respondent no.3. It is submitted that the record of the applicant was not good. Several charge sheets were issued, charges were proved against him and therefore he cannot claim the time bound promotion. As per the G.R. of 1995 while granting time bound promotion the ACRs of five years are to be considered by the DPC. Therefore, the applicant cannot claim time bound promotion.

4. During the course of argument, the learned counsel for applicant has pointed out page no.34 and submitted that the applicant had passed the departmental examination in the year 1982. Whereas one Shri M.S. Bathe had not passed any departmental examination. He was given time bound promotion. One Shri Ghayal who was junior to the applicant was also charge sheeted by the respondents and recovery was ordered. In the departmental inquiry, charges were proved against Shri Ghayal and Inquiry Officer proposed to recover the amount of Rs.3,13,879/- , therefore, Shri Ghayal was also not entitled to get time bound promotion because his ACRs were also not good. He had committed misconduct. The learned counsel for the applicant submitted that favouritism is shown in favour of Shri Ghayal, whereas, the case of the applicant was not kept before the DPC.

Hence, the learned counsel for applicant submitted that the O.A. be allowed for direction to the respondents to put up the case of applicant before the DPC and time bound promotion be given to the applicant.

5. The learned P.O. has submitted that the applicant has committed several misconducts and therefore he is not entitled for time bound promotion.

6. The learned counsel for respondent no.3, Shri V.G. Wankhede has submitted that several times charge sheets were issued to the applicant and amounts of misappropriation were recovered from the applicant. In fact, he should have been dismissed, but the applicant was not dismissed. If the submission of respondent no.3 is accepted, then it appears that the applicant has committed several misconducts. In such situation, nobody restrained the respondent no.3 to dismiss the applicant from service.

7. The main contention of the respondents is that the ACRs of applicant were not good, therefore, he was not given time bound promotion. The documents filed by the applicant in respect of Shri Ghayal shows that Shri Ghayal was also charge sheeted and amount of Rs.3,13,879/- was recovered from Shri Ghayal, therefore, it is clear that the record of Shri Ghayal was also not good, even though time bound promotion was granted to Shri Ghayal. It appears that the

respondents have shown favouritism in favour of Shri Ghayal and denied the claim of applicant. The respondents were at liberty to reject the claim of applicant by placing the material documents before the DPC. The DPC used to consider the records of employees as per seniority and as per the guidelines given in the G.R. of 1995. If the senior employee is not having any good record of the ACRs of last five years, then DPC used to deny the time bound promotion. In such circumstances junior can be given time bound promotion, but such is not the case in this O.A. The case of the applicant was not put up at all before the DPC. The respondents should have kept all the records before the DPC. It was for the DPC to decide as to whether the applicant is entitled for time bound promotion or not. The specific direction was given by this Tribunal to produce the record of applicant, but it was submitted by respondent no.3 that record of applicant is not available. It was for the respondent no.3 to keep the record of applicant, but respondent no.3 has not kept the record. Even specific direction was given by this Tribunal, record was not produced. It is clear from the documents filed by the applicant in respect of Shri Ghayal that he was charge sheeted and amount of Rs.3,13,879/- was recovered from Shri Ghayal. Even though Shri Ghayal was given time bound promotion. But the record of applicant was not put up before

the DPC. It was for the DPC to decide as to whether the employee is entitled for time bound promotion or not. Hence, the following order –

**ORDER**

- (i) The O.A. is disposed off.
  
- (ii) The respondents are directed to put up the record of applicant before the coming DPC and the DPC shall decide the claim of applicant in respect of time bound promotion keeping in view of the guidelines given in the G.R. of 1995.
  
- (iii) No order as to costs.

**Dated** :- 22/06/2023.

**(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 : 22/06/2023.