

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 01/2019 (S.B.)

Ramdas Pandurang Khodkumbhe,
Aged about 50 years,
Occ. Superintending Engineer,
Public Works Department, Akola.

Applicant.

Versus

State of Maharashtra,
through its Principal Secretary,
Public Works Department,
Mantralaya, Mumbai-32.

Respondents.

S/Shri D.M. Kakani, G.K. Bhusari, Advs. for the applicant.

Shri S.A. Sainis, P.O. for the respondent.

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Member (J).**

Date of Reserving for Judgment : 22nd April, 2022.

Date of Pronouncement of Judgment : 6th May, 2022.

JUDGMENT

(Delivered on this 6th day of May, 2022)

Heard Shri D.M. Kakani, learned counsel for the applicant
and Shri S.A. Sainis, learned P.O. for the respondent.

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

The applicant initially was appointed through Maharashtra
Public Service Commission on the post of Assistant Engineer, Grade-I
(Class-I) by order dated 27/02/1996. The applicant has been given

deemed date of appointment on the said post from 01/12/1993. According to the Recruitment Rules dated 19/12/1970, the applicant is entitled for promotion to the post of Executive Engineer after completion of seven years service, i.e., w.e.f. 01/12/2000. The applicant belongs to the Special Backward Class category and 2% reservation has been provided for promotion. The applicant had filed O.A.No. 466/2008. This Tribunal directed the respondents to consider the representation of the applicant. But the same was rejected on 05/05/2018. Hence, this O.A. challenging the communication dated 05/05/2018.

3. The reply is filed by the respondent. It is submitted that the applicant was to be appointed as per the advertisement on the post of Assistant Engineer, Grade-II (Class-I), but there was delay in the appointment procedure. He was appointed in the year 1996 and deemed date of appointment was given on 01/12/1993. Since his post was upgraded at the time of initial appointment, he was posted as Assistant Engineer, Grade-I. The respondents have followed the Rules. Nobody junior to the applicant is promoted, therefore, deemed date of appointment cannot be given. The respondents have rightly rejected the representation of the applicant. Hence, the O.A. is liable to be dismissed.

4. The applicant had filed O.A.No. 466/2008 for the relief “communication dated 21/04/2018 issued by respondent no.1 rejecting the claim of the applicant to give deemed date of promotion from 01/12/2000. The applicant had also claimed that he be held that he is entitled for deemed date of promotion to the post of Executive Engineer w.e.f. 01/12/2000 and consequential financial benefits which shall be given to him.” The O.A. was partly allowed with direction to the respondent to consider the representation of the applicant dated 5/2/2008 with a proper perspective considering all pros and cons discussed in the order. In para-7 of the order it is observed that “ the recruitment rules are not considered.” After passing the order in O.A.No.466/2008, the respondent no.1 rejected the representation of the applicant dated 5/2/2008.

5. Before filing the O.A.No. 466/2008, the applicant had filed O.A.No.380/2005 claiming promotion to the post of Executive Engineer. The said O.A. was dismissed on 10/04/2015. It appears that the applicant is filing several O.As. in respect of the same relief. From the perusal of the communication dated 5/5/2018, it is clear that all the rules were considered by the respondent no.1. The applicant is not entitled for deemed date of promotion as claimed in the representation. Nothing on record to show that any junior to him is

promoted to the said post. Hence, the applicant is not entitled to claim deemed date of promotion on 01/12/2000. Hence, the following order–

ORDER

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

Dated :- 06/05/2022.

dnk

(Justice M.G. Giratkar)
Member (J).

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 Member (J).

Judgment signed on : 06/05/2022.
and pronounced on

Uploaded on : 06/05/2022_{ok}