

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.123/2014.

(S.B.)

Rameshwar Vishnugiri Giri,
Aged about 61 years,
Occ-Retired Naib-Tehsildar,
R/o At and Post Borgaon Manju,
Distt. Akola.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Revenue,
Mantralaya, Mumbai-32.
2. The Divisional Commissioner,
Amravati Division, Amravati.
3. The Collector,
Akola.

Respondents.

Shri P.V. Thakre, the learned counsel for the applicant.

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

**Coram:- Shri J.D. Kulkarni,
Vice-Chairman (J).**

JUDGMENT

(Delivered on this 4th day of January 2018).

Heard Shri P.V. Thakre, the learned counsel for the applicant and Shri A.M. Ghogre, the learned P.O. for the respondents.

2. In this O.A., the applicant is claiming that the impugned order dated 16.2.2013 whereby the applicant has been

granted deemed date of promotion to the post of Naib-Tehsildar w.e.f. 27.10.2005, be quashed and set aside and the applicant be granted deemed date of promotion to the post of Naib-Tehsildar w.e.f. 23.3.2004. He is also claiming arrears of salary in view of such deemed date of promotion and also benefit of senior scale second time bound promotion to the post of Tehsildar under revised Assured Career Progression Scheme as per the G.R. dated 1.4.2010 and second revision of his pension.

3. The applicant was appointed to the post of Talathi on 18.2.1977. He was terminated on 5.8.1978, but was reinstated in view of order dated 28.12.1978. The said reinstatement was subject to outcome of departmental enquiry. However, no departmental enquiry was initiated against the applicant till his retirement and ultimately he got retired on superannuation on 30.6.2011 as Naib-Tehsildar.

4. According to the applicant, two junior officers were promoted as Naib-Tehsildar prior to the applicant on 23.3.2004 and, therefore, the applicant is entitled to deemed date of promotion to the post of Naib-Tehsildar on 23.3.2004.

5. From the history of litigation, it seems that on earlier occasions, the applicant was denied promotion to the post of Circle Officer and, therefore, he was required to file O.A. No. 740/1996 before this Tribunal. In the said O.A., this Tribunal passed the order on

5.6.2008 and directed the respondents to show the name of the applicant at a proper place above the names of S/s Alone and Gite in the seniority list of Talathis from the year 1992 onwards and to promote the applicant to the post of Circle Officer w.e.f. 17.6.1996 i.e. the date on which he and S/s Alone and Gite were promoted as Circle Officers. Consequential monetary benefits were also made permissible to the applicant as per rules. Respondent No.2 i.e. the Divisional Commissioner, Amravati Division, Amravati submitted that time bound promotion has been given to the applicant as per the G.R. dated 8.6.1995 w.e.f. 1.10.1994. As per the G.R. dated 20.7.2001, the applicant is eligible for second time bound promotion on completion of twelve years of service from 16.7.1996 i.e. in the year 2008. However, he was given deemed date of promotion in the cadre of Naib-Tehsildar w.e.f. 27.10.2005. The applicant, therefore, was entitled to the second time bound promotion in the cadre of Naib-Tehsildar in the year 2017. However, he got retired on superannuation on 30.6.2011 and, therefore, he is not entitled to second time bound promotion in the cadre and pay scale of Tehsildar, as claimed by the applicant.

6. In the rejoinder-affidavit, the applicant submitted that he was entitled to deemed date of promotion from 23.3.2004 to the post of Naib-Tehsildar and the office has already recommended his case accordingly to the Government. The applicant has placed on

record a copy of recommendation letter dated 20.3.2009 at page Nos. 36 & 37 (both inclusive) (Annexure A-6). However, inspite of such recommendation for deemed date of promotion w.e.f. 23.3.2004, the applicant has been given deemed date of promotion w.e.f. 27.10.2005 vide impugned order dated 16.2.2013.

7. I have perused the recommendation letter dated 20.3.2009 (Annexure A-6) as referred above. In the said letter, the applicant's case has been recommended for deemed date of promotion on the post of Naib-Tehsildar w.e.f. 23.3.2004. The said relevant recommendation is as under:-

श्री. आर. एच. एम. सया मंडळ अधिकारी यांना दिनांक २३.३.२००४ पासून नायब तहसीलदार संवगाही मानीव तारखे देण्याकरिता यांच्या गोपनीय अहवाल संचिकेतील लगतच्या पाच वर्षांच्या गोपनीय अहवालाचे मुल्यांकन खालीलप्रमाणे आहे. हे सर्व गोपनीय अहवाल तलाठ पदावर काम केण्याबाबतचे आहेत. (मुळ गोपनीय अहवाल संचिका सोबत जोडले आहे).

वर्ष	मुल्यांकन	सरासरी त्वार	अभिया
१९९८-१९९९	ब+	ब+	पा
१९९९-२०००	ब		
२०००-२००१	ब		
२००१-२००२	ब+		
२००२-२००३	ब+		
२००३-२००४	ब+		

श्री. आर. एच. एम. सया मंडळ अधिकारी यांच्या गोपनीय अहवालाच्या त्वारानुसार ते दि. २३.३.२००४ पासून नायब तहसीलदार पदावर पदोन्नतीस पाठ ठरत असल्याने हे मानीव तारखे देऊन यांना आधिक्य लाभसह नायब तहसीलदार पदावर पदोन्नती देण्याबाबत शासनाचे आदेश आहेत, हे व्रंती.”

8. From the aforesaid communication, it is clear that even the Divisional Commissioner, Amravati Division, Amravati (R.2) has recommended the name of the applicant for deemed date of promotion to the post of Naib-Tehsildar w.e.f. 23.3.2004. However, the competent authority granted deemed date of promotion to the applicant w.e.f. 27.10.2005 as Naib-Tehsildar and no specific reason has been assigned as to why deemed date of promotion from 23.3.2004 has not been granted.

9. From the aforesaid circumstances, it will be clear that two junior officers to the applicant were promoted as Naib-Tehsildar on 23.3.2004 and, therefore, it was incumbent upon the respondents to give deemed date of promotion to the applicant on the post of Naib-Tehsildar w.e.f. 23.3.2004. The impugned communication granting deemed date of promotion to the applicant on the post of Naib-Tehsildar w.e.f. 27.10.2005 is not legal and, therefore, it is required to be quashed and set aside.

10. So far as the claim of time bound promotion to the post of Naib-Tehsildar is concerned, it is material to note that the second time bound promotion can be granted on completion of twelve years of continuous service in the post. Even for the sake of argument, it is accepted that the applicant is entitled to deemed date of promotion to the post of Naib-Tehsildar w.e.f. 23.3.2004, he will be entitled to

claim second time bound promotion on completion of twelve years of continuous service in the post of Naib-Tehsildar and, therefore, he will be entitled to claim second time bound promotion on 23.3.2016. The applicant, however, got retired on superannuation on 30.6.2016 as Naib-Tehsildar, i.e. prior to completion of twelve years continuous service in the post of Naib-Tehsildar and, therefore, the applicant cannot claim second time bound promotion and pay scale of Tehsildar.

11. In view of discussion in foregoing paras, I proceed to pass the following order:-

ORDER

- (i) The O.A. is partly allowed in terms of prayer clause 7 (i).
- (ii) The respondents are directed to grant deemed date of promotion to the post of Naib-Tehsildar to the applicant w.e.f. 23.3.2004 and shall pay arrears of salary, if any due to change of such deemed date of promotion **within three months from the date of this order.**
- (iii) No order as to costs.

Dt. 4.1.2018.

(J.D.Kulkarni)
Vice-Chairman(J)

