

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.186/2017.

(S.B.)

Dr. Jeevankumar Laxmanrao Tarar,
Aged about 71 years,
Occ-Retired as Senior Reader in Botany and
Head of the Department of Environmental Science,
Institute of Science, Nagpur.
R/o 104, Shivajinagar, Nagpur-10.

Applicant.

-Versus-

The State of Maharashtra,
Through its Secretary,
Department of Higher & Technical Education,
Annex, Fort, Mumbai-400 032.

Respondents

Shri N. Autkar, the learned counsel for the applicant.
Shri H.K. Pande, the learned P.O. for the respondents.

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

JUDGMENT

(Passed on this 2nd day of January 2019.)

Heard Shri N. Autkar, the learned counsel for the applicant and Shri H.K. Pande, the learned P.O. for the respondents.

2. The applicant is claiming directions to the respondents to grant him deemed date of promotion to the post of

Professor in terms of Government Resolutions dated 11.12.1999 and 26.8.2002 and to grant him the pay scale for the said post of Professor w.e.f. 27.7.1998. He is also claiming consequential benefits in view of the said promotion.

3. The applicant was appointed as Lecturer in Botany subject on 25.7.1974. ON 25.7.1987, he was promoted to the post of Reader under Career Advancement Scheme". As per G.R. dated 26.8.2002 (copies of which are placed on record at Annexures A-1 and A-2 respectively), the applicant was entitled to be considered for promotional post of Professor. However, he was not considered. The applicant earlier filed O.A. No. 109/2005 for getting promotion to the post of Professor. The said O.A., however, was withdrawn with liberty to file representation. Subsequently, the applicant filed representation. But his claim was not considered and, therefore, he filed the O.A. No. 79/2006. The said O.A. was disposed of by this Tribunal on 23.6.2015 with following directions:-

"The respondents are directed to hold an ad hoc meeting of the concerned selection committee for considering the eligibility of the applicant for promotion as Professor under C.A.S. from 1.1.1996 in terms of G.R. dated 11.12.1999 from 1.1.1996 till he retired. If he is found fit, we further direct the respondents to grant him pay and pensionery

benefits of the post of Professor from the date of promotion.”

4. The applicant received communication dated 7.2.2017 whereby the promotional post of Professor was rejected to him. Communication alongwith minutes of Selection Committee Meeting are placed on record at page Nos.36 to 40 (both inclusive) as Annexure A-6. Being aggrieved by the communication dated 7.2.2017, the applicant has filed this O.A. for the reliefs already stated.

5. The respondents have filed affidavit in reply. It is stated that for the promotional post of Professor, a Reader must complete eight years' of service as a Reader. As per G.R. dated 11.12.1999, the Lecturers who are placed as Lecturer (Senior Grade) and having Ph.D. degree will be called “Designated Reader” and the University Grants Commission (UGC) vide letter No. F.2-3/2000 (PS) dated June 2006 has clarified that the Lecturers (Selection Grade) are not eligible to be considered for promotion to the post of Professor under the Career Advancement Scheme. The applicant was appointed as Designated Reader, but was not entitled for promotion to the post of Professor as per the said G.R. The post of Professor shall be filled in through direct recruitment through

advertisement and the promotions may be from the post of Reader to that of Professor after eight years of service as a Reader. It is stated that the applicant was not eligible and, therefore, his claim was rejected.

6. The learned counsel for the applicant pointed out the G.R. dated 11.12.1999 and particularly Clause 3 (16) of the said G.R., which states about the requirement for the post of Professor (on promotion). The said clause shows that in addition to sanctioned position of Professors, it must be filled in through direct recruitment through All India Advertisement, promotions may be made from the post of Reader to that of Professor after eight years of service as Reader. This clearly means that there is a provision for appointment of Professor through promotion as well as through nomination. For a Reader to be considered to the post of Professor, what is required is eight years' experience as a Reader. The learned P.O. has invited my attention to one G.R. dated 24.8.2000 which is at Annexure R-3 at page Nos. 78 to 80 (both inclusive) and one communication received from U.G.C. dated June 2006 (Exh. R.IV, Page 89). Vide communication Exh. R.IV, it is communicated to the Deputy Secretary, Govt. of Maharashtra by U.G.C. that the Selection Grade Lecturers are not eligible to be considered for promotion as

Professor under "Career Advancement Scheme" and, therefore, the respondents were directed to cancel all promotions which were made from the post of Selection Grade Lecturers to the post of Professor as those were not approved by the U.G.C.

7. The learned P.O. also pointed out the G.R. at Exh.R-3 dated 24.8.2000 which is in the form of explanation wherein it is stated as under:-

"(1) Directly recruited Readers as well as Readers under the Career Advancement Scheme are eligible for promotion to the post of Professor.

(2) Eight years of service as Reader is compulsory for promotion to the post of Professor.

(3) वरील खुलाश्यावरून असे स्पष्ट होते कि, सरळ सेवाप्रवेशाने नियुक्त झालेले प्रपाठक त्याचप्रमाणे करियर advancement योजनेखालील "प्रपाठक" हे "प्राध्यापक" या पदावर पदोन्नती देण्यास पात्र आहेत. तथापि अधिव्याख्याता (निवडश्रेणी) हे प्राध्यापक पदावर पदोन्नती मिळण्यास पात्र नाहीत. ज्या निवडश्रेणी अधिव्याख्याता पी.एच.डी. पदवी धारण केली आहे त्यांना शासन निर्णय उच्च व तंत्रशिक्षण आणि सेवायोजन विभाग क्रमांक एचबीटी१०९२/३७२०/९२/९२ मशी-२, दिनांक २३ मे १९९५ अन्वये "पदनामित प्रपाठक" (Designated Reader?" म्हणून संबोधण्यात आले आहे. त्यांची सेवा ज्येष्ठता सेवाशर्ती या अधिव्याख्याता संवर्गातील

असल्याने त्यांना प्रपाठक समजून पदोन्नती देता येणार नाही. ही बाब सर्व विद्यापीठांनी लक्षात घ्यावी.

(४) प्रपाठक पदावरील प्राध्यापक पदावर बढती देण्याकरिता प्रपाठक पदावर किमान ८ वर्षे सेवा झालेली असणे आवश्यक आहे. विद्यापीठांनी पत्र प्रपाठकांना प्राध्यापक पदावर बढती देतांना याची खात्री करून घेणे आवश्यक आहे.

शिक्षण संचालक (उच्च शिक्षण) महाराष्ट्र राज्य, पुणे यांनी ही बाब सर्व विद्यापीठे व संबंधित सहसंचालकांना निदर्शनास आणून द्यावी व त्याप्रमाणे कार्यवाही केली जाईल याची खात्री करावी."

8. The learned P.O. pointed out one communication dated 18.7.1994 from which it seems that some of the officers including the applicant was designated Reader from 18.7.1994.

9. Perusal of the record shows that earlier applicant's name was recommended for the post of Professor. However, no Promotion Committee was formed and, therefore, his name was not considered prior to his retirement on superannuation i.e. prior to June 2004. Perusal of the G.R. dated 11.12.1999 and particularly clause 16 of the said G.R. clearly shows that the Reader is entitled to be promoted to the post of Professor on completion of eight years' of service as a Reader. It is undisputed that the applicant in the present case has been promoted as Reader on 25.7.1987 and,

therefore, he had completed eight years of service as a Reader in 1995 and, therefore, he was very much eligible to be promoted as Professor. However, his case was never considered. For that purpose, he was required to file writ petition and thereafter the O.A. before the Tribunal. He was given liberty to file representation and, therefore, had withdrawn earlier O.A. and thereafter since his representation was not considered, he was required to file O.A. No.79/2006. In O.A. No.79/2006, a clear direction was given to the respondents to hold an *ad hoc* meeting of the concerned Committee for considering the eligibility of the applicant for promotion as Professor. Accordingly the Committee has considered the case of the applicant. From the minutes of the meeting of the concerned committee dated 16.11.2016, it seems that the applicant was eligible for being promoted as Professor and not only that he was earlier recommended. The relevant para of the minutes of the meeting of the committed at page No.38 will prove this, which is as under:-

“डॉ. तरार यान क्यास योजनेंतर्गत प्राध्यापक पदावर पदोन्नतीसाठी आवश्यक असणारी अर्हता धारण करत असून ते पदोन्नतीसाठी पात्र ठरत असल्याबाबत संचालकांच्या अध्यक्षतेखालील समितीने केलेली सकारात्मक शिफारस, संबंधित, विषयतज्ञांनी दिलेल्या सकारात्मक शिफारशी तसेच मागील ५ वर्षांच्या गोपनीय अहवालाच्या संदर्भात संचालकांनी केलेला खुलासा विचारात घेता व बैठकीमध्ये सदर विषयावर झालेला उहापोह विचारात घेता डॉ. तरार हे अर्हता पूर्ण करित असल्यामुळे दिनांक १५.२.२०१६ रोजीच्या

विभागीय पदोन्नती समितीच्या बैठकीमध्ये पदोन्नतीसाठी शिफारस करण्यात आली होती."

10. The Committee refused promotion with following observations:-

“शासन निर्णय दिनांक २४.८.२००० मध्ये पुढीलप्रमाणे नमूद आहे. सरळ सेवाप्रवेशाने नियुक्त झालेले प्रपाठक, त्याचप्रमाणे career advancement योजनेखालील प्रपाठक हे प्राध्यापक या पदावर पदोन्नती देण्यास पात्र आहेत. तथापि, अधिव्याख्याता (निवड श्रेणी) हे प्राध्यापक पदावर पदोन्नती मिळण्यास पात्र नाहीत. ज्या निवडश्रेणी अधिव्याख्यात्यांनी पीएचडी धारण केली आहे त्यांना शासन निर्णय दिनांक २३.५.१९९५ अन्वये पदनामित प्रपाठक म्हणून संबोधण्यात आले आहे. सदर बैठकीमध्ये विभागीय पदोन्नती समितीसोर ठेवण्यात आलेल्या प्रस्तावासोबत विद्यापीठ अनुदान आयोगाने पादेनिर्देशित प्रपाठक यांच्या पदोन्नतीबाबत खुलासा करणारे दिनांक २३.६.२००६ रोजीचे पत्र तसेच दिनांक २४.८.२००० रोजीच्या शासन निर्णयातील तरतुदी त्यांना प्रपाठक समजून प्राध्यापक पदावर पदोन्नती देता येणार नाही. या आधारे संचालनालयाने असे सादर केले आहे कि श्री. तरार यांची सेवाज्येष्ठता सेवाशर्ती या अधिव्याख्याता संवर्गातील असल्याने त्यांना प्रपाठक समजून पदोन्नती देता येणार नाही.

संचालनालयाचे पत्र क्रमांक ममअ-२४९३/२७९१३/ (पदनाम)/प्रशा-१ दिनांक १८.७.१९९४ अन्वये शासकीय कला, विज्ञान व वाणिज्य महाविद्यालये विज्ञान संस्था यामधील निवडश्रेणीतील पीएचडी धारक अधिव्याख्यात्यांना प्रपाठक पदनाम देण्यात आलेले असून सदर पत्रासोबतच्या यादीमध्ये डॉ. तरार यांच्या नावाचा समावेश आहे.

शासन निर्णय दिनांक २४.८.२००० मधील तरतूद विचारात घेता डॉ. तरार हे पदनिर्देशित प्रपाठक असल्यामुळे त्यांना क्यास अंतर्गत प्राध्यापक पदावर पदोन्नती देता येत नसल्याचे ठरले."

11. As already stated, as per rules, the requirement is only eight years continuous service as a Reader for a person to be held eligible for promotion as Professor. Since the applicant has completed eight years of service as a Reader in 1992 itself, he was definitely eligible for being promoted as Professor. Rule nowhere says that the designated Reader shall only be promoted and, therefore, the impugned communication whereby the promotion was denied to the applicant, is not legal and proper. Hence, I proceed to pass the following order:-

ORDER

- (i) O.A. is partly allowed in terms of prayer Clause 7 (i) of the O.A..
- (ii) The respondents shall pass necessary order granting deemed date of promotion to the applicant accordingly within one month from the date of this order.
- (iii) The applicant, however, will not be entitled to claim financial benefits out of such promotion, since he has not actually worked on the

promotional post. However, he will be entitled to claim pensionary benefits to the post of Professor from the deemed date, that may be granted to him.

(iv) No order as to costs.

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

Dt. 2.1.2019.

Pdg.