

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL,**

**NAGPUR BENCH, NAGPUR**

**ORIGINAL APPLICATION NO.220/2016.** (S.B.)

Kishor Purushottam Bonde  
Aged about 51 years,  
Occ-Service as Talathi,  
R/o Khapa, Tq. Saoner, Distt. Nagpur.

**Applicant.**

**-Versus-**

1. The State of Maharashtra,  
Through its Secretary,  
Department of Revenue & Forests,  
Mantralaya, Mumbai-32.
2. The Collector,  
Civil Lines, Nagpur.

**Respondents**

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Shri Bharat Kulkarni, the Ld. Advocate for the applicants.  
Shri A.M. Ghogre, the Ld. P.O. for the respondents.

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

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**JUDGMENT**

(Delivered on this 7<sup>th</sup> day of August 2018.)

Heard Shri Bharat Kulkarni, the learned counsel for  
the applicants and Shri A.M. Ghogre, the learned P.O. for the  
respondents.

2. The applicant is a Talathi of village Khapa, Tehsil-Saoner, District Nagpur under the office of respondent No.2. It is stated that he is continuously working as such from 18.11.1987 and has completed continuous service of 12 years on 19.11.1999. As per G.R. dated 8.6.1995, he was entitled to first time bound promotion w.e.f. 19.11.1999. However, he has been granted such time bound promotion w.e.f. 1.10.2015. The time bound promotion was granted to the applicant vide communication dated 1.10.2015 and the said communication is challenged in this O.A. According to the applicant, he is entitled to the time bound promotion w.e.f. 19.11.1999 i.e. after completion of 12 years of continuous service, instead of 1.10.2015 and consequently, he is also entitled to second time bound promotion after completion of 24 years of continuous service. He is, therefore, claiming that the communication dated 1.2.2016 (Annexure A-1) whereby he has been granted first time bound promotion on 1.10.2015 instead of 19.11.1999 be quashed and set aside and the applicant be granted first time bound promotion w.e.f. 19.11.1999 and second time bound promotion thereafter completion of 24 years of continuous service.

3. The respondent No.2 i.e. the Collector, Nagpur has filed affidavit in reply. According to the respondents, as per G.R.

dated 6.8.1995, the time bound promotion is to be given on the basis of eligibility and not merely on completion of 12 years continuous service. Applicant's case was considered in the meeting dated 1.2.2003 and it was found that the applicant has not passed the Revenue Qualifying Examination and, therefore, the Departmental Promotion Committee (DPC) rejected his claim. Thereafter again in DPC meeting dated 2.9.2005, the applicant's claim was considered and it was found that his C.Rs were not proper and upto the mark. His case was further considered in the DPC meetings on 11.7.2007 and 21.1.2011. But the applicant was under suspension and hence his C.Rs were not available. In the further DPC meeting dated 3.1.2011, his claim was again considered, but it was turned down. The applicant has cleared the Revenue Qualifying Examination in 2003 and, therefore, his claim for first time bound promotion w.e.f. 17.11.1999 cannot be considered. In the second time bound promotion, the A.C.Rs of the employee for five years should be B+ and the applicant has not satisfied that condition.

4. The applicant has filed rejoinder and submitted that his adverse ACRs were not communicated to him, except for the years 2003-2004. As far as suspension period is concerned, it is

stated that the suspension period was treated as duty period in O.A. No. 02/2014 vide order dated 21.1.2015 passed by this Tribunal.

5. Alongwith reply affidavit, the respondent No.2 has placed on record the minutes of the meeting of DPC, in which the applicant's claim was considered time and again for first time bound promotion. It is material to note that, an officer to whom the benefit of G.R. of time bound promotion is to be given, must be qualified for being promoted. Admittedly, in this case, the applicant has not passed the Revenue Qualifying Examination till 2003 and, therefore, in any case, his case should not have been considered for first time bound promotion till 2003. Only after passing of such examination, person is entitled to be considered for time bound promotion and mere continuous service of 12 years is not sufficient. In any case, the applicant, therefore, was not entitled at all for first time bound promotion till 2003, since he has passed Revenue Qualifying Examination on 25.4.2003. In the DPC meeting dated 1.2.2003, the applicant's claim was rightly rejected. Thereafter, he was considered in the meeting dated 2.9.2005 and his C.Rs were not proper. Mere statement through rejoinder that the C.Rs were not served upon the applicant except 2003-2004, is not sufficient to disbelieve the fact that such reports were not considered in the meeting of DPC.

6. It has been stated that in the DPC meetings dated 11.7.2007 and 21.1.2011, the applicant was considered for first time bound promotion, but his ACRs were not available, as the applicant was under suspension. This cannot be said to be a fault on the part of the applicant. If the C.Rs were not available, the Committee ought to have considered the earlier ACRs of the applicant and, therefore, his claim should not have been rejected only on the ground that the ACRs of the applicant were not available. It seems that the applicant's claim was considered for the first time in the meeting dated 14.1.2015 favourably and, therefore, he has been granted time bound promotion w.e.f. 1.10.2015. The Committee ought to have considered the applicant's claim after he has cleared Revenue Qualifying Examination. In view of this, I am of the opinion that it is a fit case where the matter shall be sent back to the D.P.C. for considering the claim of the applicant for first time bound promotion w.e.f. 25.4.2003. If the applicant is otherwise fit, considering his CRs and other things, he may be considered for first time bound promotion from the date of passing the Revenue Qualifying Examination i.e. 25.4.2003. Hence, I proceed to pass the following order:-

**ORDER**

- (i) The O.A. is partly allowed.
- (ii) The impugned order dated 1.2.2016 granting first time bound promotion to the applicant w.e.f. 1.1.2016, is quashed and set aside.
- (iii) The respondent No.2 is directed to re-consider the case of the applicant with effect from the date of passing Revenue Qualifying Examination for first time bound promotion, provided the applicant is otherwise fit for such first time bound promotion.
- (iv) If the C.Rs of the applicant are not available during the concerned period, earlier ACRs of five years shall be considered.
- (v) A decision shall be taken within a period of two months from the date of this order and communicated to the applicant in writing.
- (vi) No order as to costs.

(J.D.Kulkarni)  
Vice-Chairman (J)  
7.8.2018.

