

MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO.234/2014.

Narayan Gosai Mate,
Aged about 62 yrs.,
Occ-Service,
R/o Gadchiroli.

Applicant

-Versus-

- 1) The State of Maharashtra,
Through its Secretary,
Department of Rural Development and
Water Conservation,
Mantralaya, Mumbai-440 032.
- 2) The Divisional Commissioner,
Nagpur Region, Nagpur.
- 3) Zilla Parishad, Gadchiroli
Through its Chief Executive Officer,
Gadchiroli.

Respondents

Shri Harshal Bobde, the Ld. Counsel for the applicant.
Shri V.A. Kulkarni, learned P.O. for the respondents 1 and 2.
Shri J.S. Mokadam, the learned counsel for respondent No.3.

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

JUDGMENT

(Delivered on this 4th day of August 2017.)

Heard Shri Harshal Bobde, the learned counsel for
the applicant, Shri V.A. Kulkarni, the learned P.O. for respondent

Nos.1 and 2 and Shri J.S. Mokadam, the learned counsel for respondent No.3.

2. In this O.A., the applicant is claiming directions to the respondents to grant all service benefits to him w.e.f. 13.2.2001 i.e. deemed date of promotion and to decide his representation dated 7.8.2013. The applicant was working in the office of respondent No.3. He was promoted to Class-II officer's post on the basis of his seniority. The said promotion was, however, cancelled and several juniors to the applicant were promoted. The applicant, therefore, filed O.A. No. 182/2001. In the said O.A., this Tribunal passed the order on 14.11.2011 in applicant's favour and directed that the applicant be promoted. This Tribunal in the said O.A. was pleased to pass the following order:-

The O.A. stands disposed of by directing the State Government to grant deemed date of promotion to the applicant pursuant to the recommendation of the DPC. The decision in this regard shall be taken as expeditiously as possible and preferably within 3 months from today. O.A. stands disposed of with no order as to costs.+

3. Since the order in O.A.No.182/2001 was not complied with, the applicant filed C.A. No. 441/2012. The said C.A. came to be disposed of vide order dated 7.3.2013. Application was disposed of

and it reveals that the applicant has been granted deemed date of promotion w.e.f. 13.2.2001 and his grievance stood redressed.

4. The applicant thereafter filed representation to grant promotional benefit in view of grant of deemed date of promotion. But nothing was done and, therefore, this O.A.

5. Respondent No.1 has filed affidavit in reply and has stated in para 2 as under:-

Although the deemed date of promotion in MDS Class-II w.e.f. 13.2.2001 was granted to the applicant, it was the fact that the applicant was previously promoted to MDS Class-II post as a Child Development Project Officer, Bhadravati vide order dated 13.2.2001 and was placed at Sr. No.35 in the said order of promotion. As five posts of Assistant District Water Supply Officer in MDS Class-II were abolished the applicant who was the juniormost in promotion order was reverted vide order dated 13.3.2001. As soon as posts in MDS Class-II were vacant, he was promoted to MDS Class-II post as an Assistant Project Officer (Monitoring), DRDA, Chandrapur vide order dated 27.6.2001 and was relieved by the respondent C.E.O., Z.P., Gadchiroli on 13.7.2001 A.N. but in spite of repeated reminders / chances, he did not join the promotional post on the pretext of wrong seniority list for the year 1999 and 2000 and requested for change in place of posting due to ill health of his wife. It resulted in cancellation of his promotion vide order dated 15.4.2002. Again, he was selected for promotion in the DPC meeting held in the year 2002 and was promoted in MDS Class-II post as a Child Development Project Officer, Bhadravati vide order dated 27.12.2002. Subsequently, he joined the promotional post on 1.1.2003. Thus, he was not on duty w.e.f. 14.7.2001

to 31.12.2002. After grant of deemed date of promotion to him, Respondent No. 2 Divisional Commissioner, Nagpur vide letter dated 31.10.2013 had recommended to the Respondent State Govt. for condonation of absence in service period of the applicant w.e.f. 14.7.2001 to 31.12.2002 by sanctioning it as a duty period. However, respondent No.1 State Government has sanctioned absence period of the applicant w.e.f. 14.7.2001 to 31.12.2002 as an extraordinary leave under Rule 63 (6) of the M.C.S. (Leave) Rules, 1981 on the condition that, it should not be counted for any service benefits including pension benefits vide order dated 22.11.2013. The order is just, proper, self explanatory and as per the provisions of MCS (Leave) Rules, 1981. It has been made clear that it was on the ground that, it was necessary for the applicant to remain present on duty while challenging the wrong seniority list. Hence, no service benefits during the period of 14.7.2001 to 31.12.2002 are given to the applicant, though deemed date w.e.f. 13.2.001 is granted to him by the Govt.+

6. The learned counsel for the applicant submits that even though respondents were directed to extend the benefit of deemed date of promotion and consequential benefits, nothing was done by the respondents. Perusal of the reply affidavit as referred above clearly shows that the applicant did not join the promotional post on the pretext of wrong seniority list of the year 1999-2000 and, therefore, his promotion was cancelled. Thereafter he was promoted in the D.P.C. held in the year 2002 and was promoted in the cadre of MDS Class-II as Child Development Project Officer. However, he was

not on duty w.e.f. 14.7.2001 to 31.12.2002. His absence was not condoned and in view of this circumstance, the applicant was not further promoted. Respondent No.1 has stated that it was necessary for the applicant to remain present on duty. But the applicant remained absent and, therefore, deemed date of promotion was not granted to him, since he was absent from duty. No rejoinder has been filed by the applicant to the reply affidavit filed by respondent No.1. It is clear from the order passed in O.A. No. 182/2001 and C.A. No. 441/2012 as already referred above that the earlier grievance of the applicant as regards deemed date of promotion was redressed and he was granted deemed date of promotion w.e.f. 13.2.2001. For subsequent promotion, the respondents have taken a conscious decision not to promote the applicant, since he remained absent from duty unauthorizedly. I do not find any reason to interfere in the decision taken by the respondents. Hence, I proceed to pass the following order:-

ORDER

The O.A. stands dismissed with no order as to costs.

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

