

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 382 of 2022 (S.B.)**

Somnath S/o Mohan Padule,
Aged 41 years, Occ. Service,
R/o. Government Quarters, Washim District Prison Class-I,
Washim, District- Washim- 444 505.

Applicant.

Versus

- 1] The State of Maharashtra,
through its Secretary, Department of Finance,
Mantralaya, Mumbai- 400 032.
- 2] The State of Maharashtra,
through its Principal Secretary,
Department of Home (Prison),
Mantralaya, Mumbai-400 032.
- 3] The Additional Director General of Police &
Inspector General of Prison & Correctional Service,
Maharashtra State, Central Building, Pune-01.

Respondents.

Shri S.D. Chande, Advocate for the applicant.
Shri S.A. Sainis, learned P.O. for respondents.

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated :- 06/12/2023.

JUDGMENT

Heard Shri S.D. Chande, learned counsel for the
applicant and Shri S.A. Sainis, learned P.O. for the respondents.

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

The applicant was appointed as a Jailor, Grade-II on 11/02/2005. Thereafter, the applicant was transferred from Jail Officers' Training College, Yerwada, Pune to Washim District Prison, Class-I on 31/05/2008 as Jailor Grade-I in Group-C. The applicant joined at Washim District Prison, Class-I on 02/06/2008. As per the rules, the respondents authorities have conducted the examination for promotion. The Maharashtra Public Service Commission (M.P.S.C.) conducted the examination from 13/02/2017 to 15/02/2017 and result was declared on 12/09/2017. The applicant has passed the qualifying examination. As per the G.R. dated 02/03/2019, the State Government has decided to grant the benefit according to the 7th Pay Commission, after 10,20,30 years of regular service. The respondents have granted the benefit w.e.f. 12/09/2017 instead of granting on 01/01/2016. Therefore, he approached to this Tribunal for the following reliefs –

“(a) direct the respondents authorities to grant the benefit of 7th Pay Commission since 01.01.2016 and further grant arrears of salary with all consequential benefits by applying 7th Pay Commission since 01.01.2016 till its finalization.”

3. The O.A. is opposed by the respondents. It is submitted that the applicant has not passed the departmental examination within three chances and within 5 years, therefore, he was not eligible to

grant benefit as per the G.R. dated 02/03/2019. It is submitted that the applicant has passed the examination in the year 2017 and therefore the benefit was granted to him w.e.f. 12/09/2017. Therefore, the O.A. is liable to be dismissed.

4. The learned counsel for the applicant has pointed out the G.R. dated 02/03/2019. As per the Government decision, the employee who have completed 10,20 and 30 years of continuous service, then they are entitled to get benefit of Assured Progressive Scheme w.e.f. 01/01/2016.

5. There is no dispute that the respondents have granted the benefit as per the G.R. dated 02/03/2019, but instead of granting it from 01/01/2016, it is granted from 12/09/2017.

6. The learned P.O. Shri Sainis has pointed out the Rules for the Maharashtra Prison Department (Executive Officers Qualifying Examination) Rules. As per the Rule- 3 (2) "every person working in any post in the cadre of Jailors, Group-I or Group-II or in the cadre of Superintendents of District Prisons, Class-II on the date of commencement of these rules, shall be required to pass the examination within three years and within three chances". As per the submission of learned P.O., the applicant has not passed the departmental examination within three years and within three chances

and therefore he was not granted the benefits as per the G.R. dated 02/03/2019.

7. The reply and the submission of the respondents show that the benefits as per the G.R. dated 02/03/2019 was granted w.e.f. 12/09/2017. Now the question arises, when he was not eligible to get the benefit on the ground that he has not passed the examination within three chances and within three years, therefore, he was not eligible, but the reply itself shows that he was eligible to get benefit of the said G.R. and it was granted w.e.f. 12/09/2017. Therefore, the submission by the side of respondents that applicant has not passed the departmental examination with a stipulated time is not correct. If applicant was not eligible, then why the respondents have granted the benefit w.e.f. 12/09/2017, because on that date he had not passed the departmental examination within three chances and within three years.

8. As per the submission of learned P.O., the applicant has passed the examination in 8th chance, therefore, the condition mentioned in the Rules is not applicable. The applicant was granted benefits w.e.f. 12/09/2017 instead of granting from 01/01/2016. Hence, the applicant is entitled for the benefit as per the G.R. dated 02/03/2019 w.e.f. 01/01/2016. Hence, the following order –

ORDER

(i) The O.A. is allowed.

(ii) The respondents are directed to grant benefit to the applicant as per the G.R. dated 02/03/2019 w.e.f. 01/01/2016.

(iii) No order as to costs.

Dated :- 06/12/2023.

(Justice M.G. Giratkar)
Vice Chairman.

*dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 06/12/2023.