

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 463 of 2018 (SB)

Prabhakar Bhadruji Dhande,
Aged about 59 years,
Occ. Service,
r/o Plot No.57, Gurudatta Society,
Ambar Colony, Dabha, Nagpur-440 023.

Applicant.

Versus

- 1) The State of Maharashtra
through its Secretary,
Ministry of Animal Husbandry Department,
Mantralaya, Mumbai-400 032.
- 2) The Commissioner,
Animal Husbandry Department,
M.S. Pune-411 001.
- 3) Joint Commissioner,
Animal Husbandry Department,
Nagpur Division, Nagpur.

Respondents

**S/Shri I.G. Meshram, Sunita R. Khandal, Advs. for the
applicant.**

Shri P.N. Warjurkar, learned P.O. for respondents.

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

JUDGMENT

(Delivered on this 19th day of March,2019)

Heard Shri I.G. Meshram, learned counsel for the applicant and Shri P.N. Warjekar, learned P.O. for the respondents.

2. The applicant was initially appointed on 25/01/1983 as a Labour on the farm / field. He has passed 4th Standard. After completion of 12 years continuous service he was granted 1st time bound promotional pay scale on 25/1/1995. After completion of further 12 years of service the applicant is entitled to claim 2nd time bound promotional scale as per G.R. 01/04/2010 and therefore he has filed representation. The similarly situated labourers like the applicant have been granted 2nd time bound promotion though they have passed 4th class examination only and therefore the applicant has claimed such promotional pay scale. Vide communication dated 05/09/2017 (Annex-A-9), however, the respondent no.3 rejected his claim. The applicant has therefore claimed that the communication dated 05/09/2017 be quashed and set aside and the respondent nos. 1 to 3 be directed to grant benefit of modified assured promotional scheme to the applicant along with arrears and that the respondent nos. 1 to 3 further be directed to fix his pay scale as per modified promotion scheme.

3. The respondents in their reply-affidavit submits that in order to apply the G.R. dated 08/06/1995 and 20/07/2001, an employee must fulfil the requisite educational qualification and other requirements of promotional post in addition to continuous service of 12 years. It is stated that the applicant is working on the post of Attendant and he has passed 4th Standard examination only. The minimum qualification for next promotional post, i.e., Dresser is 8th Standard and since the applicant does not bear the educational qualification of 8th Standard in English subject, he is not entitled to such 2nd time bound promotion.

4. The learned counsel for the applicant invited my attention to one communication dated 15/02/2010 which is issued by the Commissioner of Animal Husbandary (R/2) whereby it was intimated that those Labourers who have passed 4th Standard examination, shall be granted benefit of time bound promotion. It seems that on the basis of such Notification some of the labourers might have been granted the 2nd time bound promotional pay scale. However it seems that the said Notification has not been approved by the Government. The learned P.O. has placed on record the communication to this effect dated 16/04/2010 which is Exh-X1

and it seems that the Government has shown its disability to agree with the Commissioner's proposal to grant promotional pay scale to the employees i.e. labourers who have passed 4th Standard examination and therefore the Notification dated 15/02/2010 cannot help the applicant.

5. I have also perused the G.R. dated 20/07/2001 regarding grant of time bound promotional pay scale. The condition no.5 of the said G.R. reads as under –

*^ ¼5½ ; k ; kst usvar x r i nklurhP; k i nkph oruJskh ns Bjfoyh v l Y; kus ofj "B oruJskh feG.; kl kBh i nklurhP; k i nkdfjrk fofgr dysyih vgrk] ik=rk] tsBrk] vgrk i fj {kk] foHkkxh; i fj {kk ; k l ozckchph i r r k dj .ksrl p i nklurhph dk; i /nrh vuq j .ks vko'; d jkghy- t fks ; k 'kk l u fu.kz kl kcrP; k i fj f'k" Bkrhy oruJskh eatij dj.; kr ; bdy r fks xksi uh; vgokylP; k vk/kjjsi k=rk ri kl .; kr ; koh***

6. From the aforesaid condition it will be clear that for grant of 2nd time bound promotion, the employee must possess qualification for being promoted to the next higher post.

7. The learned P.O. has invited my attention to the recruitment rules for the post of Dresser in the Directorate of Animal Husbandry. These Rules of 1981 show that the Attendant in the Directorate of Animal Husbandary who have passed 8th Standard examination of a secondary school with English as one of subjects are only eligible for the post of

Dresser. The Rules are at Annex-R-2 at P.B. page no.42. Thus in order to get promoted/appointed to the post of Dresser and Attendant must have passed 8th Standard examination with one of the subjects in English. The applicant has only passed 4th Standard examination and therefore admittedly he is not entitled to be promoted to the post of Dresser and as such he will not be entitled to claim promotional pay scale for the 2nd time bound promotion. Vide impugned communication dated 05/09/2017 this fact has been communicated to the applicant and I find absolutely no reason to interfere in that communication dated 05/09/2017. The impugned communication is therefore perfectly legal and proper and hence the following order –

ORDER

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

Dated :- 19/03/2019.

dnk.

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