

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 511 of 2017 (SB)

Vilas S/o Laxmanrao Akinwar,
aged 59 years, Occ. retired
R/o 125/54, MHADA Colony, Khapri (Railway), Nagpur.

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary,
Department of Higher & Technical Education,
Maharashtra State, Mantralaya, Mumbai-32.
- 2) Directorate of Education,
(Higher Education), Maharashtra State,
Central Building, Pune-411 001
through its Director.

Respondents.

Shri Anup Dhore, Advocate for applicant.
Shri A.M. Khadatkar, learned P.O. for respondents.

**Coram :- Hon'ble Shri M.A. Lovekar,
Member (J).**

Date of Reserving for Judgment : 18th January, 2023.

Date of Pronouncement of Judgment : 24th January, 2023.

JUDGMENT

(Delivered on this 24th day of January, 2023)

Heard Shri Anup Dhore, learned counsel for the applicant
and Shri A.M. Khadatkar, learned P.O. for the respondents.

2. Case of the applicant is as follows –

The applicant was appointed as Junior Clerk on
01/02/1983. In November, 1995 he was promoted as Senior Clerk. In
2006, he was promoted as Head Clerk. On 01/01/2010 he was

promoted as Superintendent at Institute of Science, Nagpur. On the post of Superintendent he worked for more than three years and became entitled for being considered for the promotional post of Registrar or Junior Administrative Officer or Superintendent (Gazetted). One K.P. Mane who was similarly placed approached the Principal Bench of this Tribunal by filing O.A.No. 822/2013. By order dated 28/11/2013 the Tribunal directed the respondent department to complete the process of promotion within six weeks. This order was not complied with. Therefore, Contempt Petition was filed. Order of promotion of some persons who were similarly placed was issued only on 22/07/2016. However, before that i.e. on 30/06/2016, the applicant had retired on superannuation. Thus, he was deprived of promotion solely owing to lax approach of the respondent department. He made representations but to no avail. Hence, this O.A. seeking directions to the respondents to grant to the applicant pay scale of promotional post from the date falling immediately after expiry of six weeks from 28/11/2013, with consequential benefits.

3. In their reply at pages 33 to 37 respondent nos.1 and 2 have averred-

(i) The applicant was not party to O.A.No.822/2013 in which this Tribunal, by order dated 28/11/2013, stipulated time frame of six

weeks to complete the process for promoting persons like the applicant.

(ii) 8 similarly placed employees were promoted by order dated 22/07/2016. By this time, i.e. on 30/06/2016, the applicant had already retired on superannuation.

(iii) No deemed date of promotion was granted, as per G.R. dated 06/06/2002 (Annex-R-1), to any employee whose case was identical.

(iv) No employee who was below the applicant in the seniority list was promoted to the higher post before retirement of the applicant.

4. A conjoint consideration of rival submissions supports stand of the respondents that reliefs sought by the applicant cannot be granted as the same do not conform to the guidelines contained in G.R. dated 06/06/2002. In ***Baij Nath Sharma vs Hon'ble Rajasthan High Court at Jodhpur and Ano (1998) 7 SCC 44***, it is held that a retired employee can have a legitimate grievance if any of his juniors had been given promotion from a date prior to his superannuation but not when given prospectively after his retirement. This ratio squarely applies to the facts of this case.

5. In the result, the O.A. is dismissed with no order as to costs.

(M.A.Lovekar)
Member (J).

Dated :- 24/01/2023.
dnk.

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

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 24/01/2023.