

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 544 / 2018 (S.B.)**

Vijaykumar S/o Bhaskarrao Tiwari,
Aged about 66 Yrs., Occupation : Retired 1st Grade Clerk Tahsil Office,
Nagpur City, Nagpur, R/o C/o Vinaya Bodhankar,
19 Sai Krupa Society Narendra Nagar,
Nagpur.

Applicant.**Versus**

- 1) The State of Maharashtra,
Through its Secretary,
Revenue & Forest Department,
Mantralaya, Mumbai- 400 032,
- 2) The Collector, Nagpur District,
Collector office, Akashwani Square,
Civil Lines, Nagpur-440 001.
- 3) Reviewing Officer/ Sub-Divisional Officer,
S.D.O. Office, Civil Lines,
Nagpur-440 001.

Respondents

Shri P.S.Wathore, the Id. Advocate for the applicant.

Shri H.K.Pande, the Id. P.O. for the respondents.

Coram :- Hon'ble Shri Shree Bhagwan, Vice Chairman.

JUDGMENT

Judgment is reserved on 23rd January, 2020.

Judgment is pronounced on 05th March, 2020.

Heard Shri P.S.Wathore, Id. counsel for the applicant and Shri H.K.Pande, Id. P.O. for the respondents.

2. A submission made by Id. Counsel for the applicant in O.A.; the applicant came to be appointed to the post of Junior Clerk on 19.08.1981 in the open category and joined services at Tahasil Office at Mauda. On 01.10.1994 the applicant was awarded first time bound promotion on completion of 12 years of service under the Assured Time Bound Promotion Scheme and was posted as 1st Grade Clerk again applicant was given second time bound promotion in 1999 on the same post. The applicant was due for promotion as Naib Tahsildar, however applicant retired on superannuation on 28.02.2010.

3. On 10.04.2017 the Collector issued order of promotion of 23 employees to the post of Naib Tahsildar in the pay scale of Rs. 9300-34800 Grade pay Rs. 4300. The applicant was expecting the promotion order but the name of the applicant did not figure in the list of 23 employees.

4. The relief sought by the applicant on P.B., Pg. No. 14, para no. 8 are:-

“(1) That, this Hon’ble Tribunal be pleased to hold and declare that the applicant was entitled to receive second benefit of time bound promotion to the post of Naib Tahsildar in the pay scale of Rs. 9300-34800 Grade pay Rs. 4300 w.e.f. 01.10.2006;

(2) Be pleased to direct the respondents to grant deemed date of promotion to the post of Naib Tahsildar in the pay Scale of Rs. 9300-34800 Grade pay Rs. 4300 w.e.f. 01.10.2006 with consequential benefits;

- (3) *Be pleased to quash and set aside the impugned memorandum dated 03.05.2007 being against the principle of justice and bad in the eye of law;*
- (4) *Be pleased to quash and set aside the impugned order dated 17.04.2017 as far as the second benefit is concerned and suitably modified the order granting second benefit with effect from 01.10.2006;*
- (5) *Be please to direct the respondents to pay the arrears w.e.f. 01.10.2010 along with interest at the rate of 12% p.a."*

5. As per the reply of respondent no. 2 i.e. The Collector, Nagpur:-

"2. The respondent no.2 has perused in details the arguments made in the original application as also the contents of the Annexures-A-1 to A-7 filed therewith. The respondent no.2 has filed the instant reply for the limited purpose of opposing admission of the present original application and grant of any interim relief whatsoever to the Applicant. The respondent no. 2 submits that considering the limited scope of the present submissions the averments of the original application which are not specifically replied may kindly not be deemed to have been admitted and are hereby denied individually and in toto. The respondent no. 2 further submits that the arguments made in the original application which are matter of record need no reply. The arguments made in the original application which are contrary to factual position or are otherwise inconsistent with submissions made in paragraphs appearing here-in-below are denied specifically, individually and in toto.

3. It is significant to state here that the present applicant came to be appointed as Junior Clerk on 14.08.1980 and as such the

first time bound promotion came to be conferred upon him w.e.f. 01.10.1994.

4. *It is submitted that the State Government vide Government Resolution dated 01.04.2010 has declared "Ashwasit Pragati Yojna" in respect of second time bound promotion of 24 years. The employee who had completed 12 years in continuation of his services and his 5 years average of Annual Confidential Reports is B+, after getting first time bound promotion, the second time bound promotion is applicable. In the present case the first time bound promotion was given to the applicant on 01.10.1994 and his second time bound promotion was due on 01.10.2006. The applicant came to be superannuated on 28.02.2010. According to Government Resolution issued by the Finance Department of Government of Maharashtra dated 01.07.2011 and the clarification given there under, the employee who has retired during the period from 01.10.2006 to 31.03.2010 is not eligible for claiming 2nd Time Bound Promotion. The copy of said Government Resolution with explanation is enclosed herewith at **Annexure-R-I**. The Government of Maharashtra through Finance Department has issued clarification vide Government corrigendum dated 09.12.2016 in the contingency that if the employees are retired during the period from 01.10.2006 to 31.03.2010 they were debarred from the Ashwashit Pragati Yojna for claiming 2nd time bound promotion, however, the Government has relaxed the said restriction by directing that if the employee fulfils the criterion regarding 2nd time bound promotion as per the requirement stipulated in Government Resolution dated 01.04.2010. The copy of said Government corrigendum dated 09.12.2016 is enclosed herewith at **Annexure-R-II**."*

6. On perusal of respondent no. 2; the applicant C.R. from 2002-2003 to 2006-2007 which were placed before selection committee (reply pg. no. 81) is shown in following tables:-

2002-03 to 2006-07

YEAR	PERIOD	CONFIDENTIAL REPORT (FROM 2002-03 TO 2006-07)	REMARKS
2002-2003	01.04.2002 31.03.2003	B +	Confidential Report for last 5 years is not B+ (Absolutely Good) and therefore considering the same he has been disqualified for second time bound promotion.
2003-2004	01.04.2003 TO 31.03.2004	B +	
2004-2005	01.04.2004 TO 05.02.2005	A	
2005-2006	18.04.2005 TO 31.03.2006	B-	
2006-2007	01.04.2006 TO 31.03.2007	B +	

7. Again applicant C.R. from 2005-2006 to 2009-2010 which was placed before Selection Committee (P.B., Pg. No. 81 of reply):-

2005-06 to 2009-10

YEAR	PERIOD	CONFIDENTIAL REPORT (FROM 2005-06 TO 2009-10)	REMARKS
2005-2006	18.04.2005 TO 31.03.2006	B-	The applicant being retired employee and therefore considering sympathetically he has been considered w.e.f. 01/10/2009 for second time bound promotion

2006-2007	01.04.2006 TO 31.03.2007	B +	
2007-2008	01.04.2007 TO 31.03.2008	B	
2008-2009	01.04.2008 TO 31.03.2009	A	
2009-2010	01.04.2009 TO 28.02.2010	A	

8. As per above tables; applicant has been given second time bound promotion from 01.10.2009 by respondents which is mentioned in remark column of the tables.

9. As per G.R. dated 09.12.2016 (Annexure-R-2, P.B., Pg. No. 91) explanation has been given were it is clearly written that employees who retired from service between 01.10.2006 to 31.03.2010 will not be entitled for second time bound promotion. Admittedly, the applicant retired on superannuation on 28.02.2010 i.e. before 31.03.2010. In view of this provision of this G.R. applicant was not entitled for second time bound promotion from 01.10.2006. Hence, his relief clause does not sustain in the eyes of Government policies and Laws at relevant time.

10. In view of discussion in above para, O.A. requires to be dismissed. Hence, following orders:-

ORDER

1. O.A. is dismissed.
2. No order as to costs.

(Shri Shree Bhagwan)
Vice Chairman

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

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 05/03/2020.
and pronounced on

Uploaded on : 05/03/2020.