

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 64 of 2021 (DB)

Ishwar Deorao Pawar,
Aged about 36 years, Occ. Service,
R/o Shyam Nagari-1, Pattiwar School Road,
Pandharkawda, District Yeotmal.

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary, Department of Tribal Development,
Mantralaya, Mumbai-32.
- 2) Additional Commissioner,
Tribal Development, near Police Ground,
Near T.B. Hospital, Camp, Amravati.
- 3) Project Officer,
Integrated Tribal Development Project,
Pandharkawda, District Yeotmal.

Respondents.

Shri R.V. Shiralkar, Advocate for the applicant.
Shri A.M. Ghogre, learned P.O. for respondents.

Coram :- Hon'ble Shri Shree Bhagwan, Vice-Chairman.
And
Hon'ble M.A. Lovekar, Member (J).

Date of Reserving for Judgment : 1st December, 2022.

Date of Pronouncement of Judgment : 4th January, 2023.

JUDGMENT

Per : V.C.

(Delivered on this 4th day of January, 2023)

Heard Shri R.V. Shiralkar, learned counsel for the
applicant and Shri A.M. Ghogre, learned P.O. for the respondents.

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

The applicant belongs to VJ-A category, being Banjara by Caste. The applicant was initially appointed on the post of Junior Clerk as per the order dated 14/06/2006 (A-2,P-9). Thereafter, he was temporarily promoted on the post of Senior Clerk on the basis of seniority as per order dated 14/08/2019 (A-5,P-35) from open category. The respondent no.2 has passed the impugned order dated 17/01/2021 (A-7,P-42) in which the applicant has been reverted to the post of Junior Clerk as he belongs to Banjara Caste (VJ-A category) and therefore the applicant approached this Tribunal for the following relief -

“(i) to quash and set aside the order dated 17/01/2021 issued by the respondent no.2, being illegal and arbitrary consequently; continue the applicant on the post of Senior Clerk.”

3. The respondent nos.2 and 3 have filed reply dated 07/06/2021 (P-45 to 48). It is submitted by the respondents that the applicant was appointed as a Junior Clerk from VJ-A Category, thereafter he has been promoted on the post of Senior Clerk by order dated 14/08/2019 (A-5,P-35), thereby giving temporary promotion to the applicant subject to outcome of the SLP pending before the Hon'ble Supreme Court. The para nos.3,4 and 5 of the reply are reproduced as below –

*“ (3) It is pertinent to note that, Shri D.B. Ade and the applicant in the present O.A. were appointed from VJ-A category on 31/05/2001 and 20/06/2006 respectively in the seniority list of the Junior Clerk. **Mr. Ade is at Sr.No.39 and the applicant is at Sr.No.62.** It is further submitted that there are 34 sanctioned posts of Senior Clerk / Statistical Assistant. The Assistant Commissioner, Backward Cell, Amravati Division, Amravati had submitted their letter dated 01/01/2020 and thereby given the reservation percentage in the cadre of Senior Clerk. Similarly objections were taken by some of the employees. The copies of the letter of backward cell and Government letter dated 29/12/2017 are at Annex-R-4 to 6 respectively.*

(4) It is submitted that as per the Backward Cell Certification, only one post of VJ-A category is available in the cadre of Senior Clerk/ Statistical Assistant. As the Department has found that, there has been excess reservation to the category of VJ-A category, therefore, the DPC on 07/12/2020 has decided to demote those persons who have been in excess in the cadre of Senior Clerk. The copy of the DPC dated 07/12/2020 is at Annex-R-7.

(5) It is submitted that Shri D.B. Ade has been demoted to the post of Junior Clerk from the post of Senior Clerk and similarly those persons who are junior to the D.B. Ade are also needed to be demoted to their original post of Junior Clerk. From the above facts and the decision taken by the DPC dated 07/12/2020 it is crystal clear that the order impugned is just, legal and proper.”

4. Heard both the sides. We have gone through the record. From the reply filed by the respondents, it appears that one D.B. Ade and the applicant were initially appointed as Junior Clerk from VJ-A

reserved category in the year 2001 and 2006 respectively. In the seniority list of Junior Clerk, Mr. Ade is at **Sr.No.39** and the applicant is at **Sr.No.62**. Thereafter, both of them were promoted on the post of Senior Clerk. As per the Backward Cell Certification, out of 34 sanctioned posts, only one post of VJ-A category was available in the cadre of Senior Clerk/ Statistical Assistant. As the Department has found that, there has been excess reservation to the category of VJ-A category, therefore, the DPC as per order dated 07/12/2020 has decided to demote those persons who have been in excess in the cadre of Senior Clerk. Therefore, Shri D.B. Ade has been demoted to the post of Junior Clerk from the post of Senior Clerk **who is senior to the applicant**, therefore, as per the impugned order dated 17/01/2021 (A-7,P-42) the applicant has also been demoted to the post of Junior Clerk.

5. The impugned order dated 17/01/2021 (A-7,P-42) is issued as per the Backward Cell Certification and after the decision of DPC dated 07/12/2020. Before issuing the impugned order, the respondent / department has first demoted the person i.e. Mr. Ade who is senior to the applicant and he has no objection to the decision taken by the department. Therefore, there is no merit in the O.A. Hence, the following order –

ORDER

(i) The O.A. is dismissed.

(ii) No order as to costs.

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

(Shree Bhagwan)
Vice Chairman.

Dated :- 04/01/2023.
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 V.C. & Member (J) .

Judgment signed on : 04/01/2023.