

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.67/2010. (D.B.)

Dilip Shrawan Padgelwar,
Aged about years,
Occ-Service,
R/o Chandrapur.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Tribal Development,
Mantralaya, Mumbai-32.
2. The Director of Tribal Development,
(M.S.), Nasik.
3. The Additional Commissioner,
Tribal Development, Nagpur Division,
Giripeth, Nagpur.
4. Shri R.S. Gajame,
Aged about Major,
Occ-Service,
R/o Office of Project Officer,
Integrated Tribal Development Project,
Chimur, Distt. Chandrapur.
5. Shri M.B. Gayaner,
Aged about Major,
Occ-Service,
R/o Office of Project Officer,
Integrated Tribal Development Project,
Gadchiroli, Distt. Gadchiroli.

Respondents

Shri S.P. Kshirsagar , the Ld. Advocate for the applicant.
Shri H.K. Pande, Ld. P.O. for the respondents 1 to 3.
None appeared for respondent Nos.4 & 5.

Coram:-Shri J.D. Kulkarni,
Vice-Chairman (J) and
Shri Shee Bhagwan, Member (A)

ORAL ORDER

(Passed on this 3rd day of September 2018.)

Per:Vice-Chairman (J)

Heard Shri S.P. Kshirsagar, the learned counsel for the applicant and Shri H.K. Pande, the learned P.O. for respondent Nos. 1 to 3. None appeared for respondent Nos.4 & 5.

2. The applicant in this case is claiming directions to the respondent Nos. 1 to 3 to promote him to the post of Senior Clerk / Statistical Assistant and further to grant him deemed dater of promotion from 2.8.1999 with all consequential monetary benefits.

3. The applicant was appointed to the post of Junior Clerk under NT category in 1994 and in 2008, he was accommodated on the post of Assistant Statistician. Respondent Nos. 4 and 5 were junior to the applicant and were at Sr. Nos. 63 and 71 respectively in the seniority list, whereas the applicant is at Sr. No.27. Respondent Nos. 4 and 5 were further accommodated in the post of Sr. Clerk

which amounts to promotion, though they were junior to the applicant. This action on the part of the respondents was contrary to the G.R. dated 12.5.1998. The applicant filed several representations and requested the respondent authorities to promote him. But no decision was taken and, therefore, the applicant has filed this O.A.

4. Respondent No.3 i.e. the Additional Commissioner, Tribal Development, Nagpur Division, Nagpur has filed reply affidavit and stated that the applicant does not possess requisite qualification for the post of Steno-Typist, which is a requisite qualification for promoting Junior Clerks for the said post. As against this, the respondent Nos. 4 and 5 possessed the said qualification and came to be promoted to the post of Steno-Typist. In the meantime, some posts of Class-III and Class-IV in the Division were abolished vide G.R. dated 25.1.2007 and vide letter dated 20.3.2007 issued by the Commissioner, Tribal Development (M.S.), Nasik. The posts of Steno-Typists were abolished and the employees who were working on that posts were absorbed on the equivalent posts of same scale and, therefore, the respondent Nos. 4 and 5 were absorbed as Sr. Clerks. Since the applicant was not qualified, he was not promoted.

5. We have perused the appointment order dated 1.6.1996 in respect of the applicant. Copy of the said order is placed

on record at Page No.33, Annexure A-5. It seems that the applicant was initially appointed as Sr. Clerk on certain conditions. He was to clear the departmental examination within two years from the date of appointment and it was specifically stated that if a regular candidate is available during that period or if departmental examination is not passed within two years, the applicant will be reverted to the post of Jr. Clerk. It is not disputed that the applicant did not comply with the conditions in the order and he was reverted as Jr. Clerk in 1998. Thereafter he passed the departmental examination in 1999 and was then promoted as Sr. Clerk on 4.6.2008. According to the applicant, one person out of region was accommodated and, therefore, he i.e. the applicant was not promoted. However, that does not seem to be the fact. When respondent Nos. 4 and 5 were absorbed as Sr. Clerks, they were qualified since they have possessed the requisite qualification and Steno-Typists. As against this, the applicant was not eligible at all for being promoted / absorbed in the post of Sr. Clerk. In such circumstances, the applicant cannot raise any objection for promotion of respondent Nos. 4 and 5 only on the ground that they were junior to the applicant. Even if it is accepted that respondent Nos. 4 and 5 were junior to the applicant, admittedly; they have passed the requisite qualifying departmental examination

within a stipulated period and, therefore, they were rightly absorbed as Steno-Typists as against the applicant. We do not find any illegality in the decision taken by the respondent Nos. 1 to 3 in not promoting the applicant w.e.f. 2.8.1999 or prior to the respondent Nos. 4 and 5.

6. It is pertinent to note that earlier the applicant was promoted as Sr. Clerk vide order dated 1.6.1996, subject to passing of post recruitment examination of the department within two years from the date of promotion , as already stated. It is also clear that he could not clear said examination and, therefore, he was reverted to the post of Jr. Clerk on 25.3.1997. Being aggrieved by the said order, the applicant filed O.A. No. 89/1997 before this Tribunal and this Tribunal was pleased to dismiss the said O.A. The order is dated 3.2.1998. The applicant was, therefore, reverted vide order dated 9.3.1998 and was posted at Government Tribal Boys Hostel at Allapalli, Distt. Gadchiroli.

7. Though, the applicant has stated that one candidate from outside was posted to deny the applicant's claim, it seems that one Shri Solanke, a Statistical Assistant was absorbed in view of order passed in O.A.No.251/1999 by this Tribunal and there was no post of Statistical Assistant available at that time and, therefore, the

applicant was reversed from the post of Statistical Assistant to the post of Jr. Clerk. The order in this regard is placed on record alongwith reply. As against this, the respondent Nos. 4 and 5 were already absorbed on the post of Sr. Clerk, since they fulfilled the prescribed terms and conditions for such absorption / promotion. We, therefore, do not find any merit in this O.A. Hence, we proceed to pass the following order:-

ORDER

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

(Shree Bhagwan)
Member (A)

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

Dated:- 3.9.2018.

