

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 709 of 2023 (S.B.)**

Dinesh Sahebrao Deolkar,
R/o. Durga nagar MIDC, Hingna Road,
Nagpur 47123 Pin-440036.

Applicant.

Versus

- 1) State of Maharashtra through its secretary,
Home department, Mantralaya, Mumbai-32.
- 2) The Additional director General of Police and
Director of Police wireless, M.S., Pune.
- 3) The superintendent of Police,
Gondia Fulchar Gondia, Dist. Gondia.

Respondents.

**Shri D.S. Sawarkar, Advocate for the applicant.
Shri A.P. Potnis, learned P.O. for respondents.**

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated :- 18/12/2023.

JUDGMENT

Heard Shri D.S. Sawarkar, learned counsel for the applicant and Shri A.P. Potnis, learned P.O. for the respondents.

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

The applicant was working as Police Wireless Operator (Head Constable) on the establishment of Superintendent of Police, Gondia. The applicant was appointed on 31/07/1996.

3. The applicant is retired after the age of superannuation. The applicant was not granted promotion, because, the applicant not passed the departmental examination. Therefore, the applicant approached to this Tribunal for the following reliefs –

“(i) That give direction to the respondent to implement the GR vide A2, A3 and A4.

“(ii) That give direction to the respondent to release withheld increment of time bound promotion from the date of 01/07/2014 and consequential benefit thereupon.”

4. The O.A. is strongly opposed by the respondents. It is submitted that the applicant has not passed the departmental examination and therefore the applicant is not entitled for Assured Career Progressive Scheme (ACPS) / (Time bound promotion). Hence, the O.A. is liable to be dismissed.

5. During the course of submission, the learned counsel for the applicant has pointed out the G.R. dated 01/11/1977 and the Judgment of this Tribunal in O.A.No.879/2020.

6. As per the G.R. dated 01/11/1977, the Government has decided to grant ACPS after completion of 45 years to the Government servant who has not passed the departmental examination, but he shall not claim the seniority.

7. The learned counsel for applicant has pointed out the Judgment of Hon’ble Bombay High Court, Bench at Aurangabad in

Writ Petition No.3643/2009. In para-3, the following observations are made –

“(3) In the case of Civil Engineering Assistants, the tribunal had allowed exemption from passing qualifying examination for their further promotions despite there being no amendment to the rules and in the present case, similar request being declined to the petitioner, disregarding the general instructions of department rather falling oblivious of the emerging situation since directions have been issued by the State Government from time to time from 1977 onwards.”

8. This Tribunal while allowing the O.A. has come to the conclusion that the employees who have not passed the departmental examination and who have completed 45 years of age are entitled for exemption from passing the departmental examination. Therefore, this Tribunal has directed the respondents to grant time bound promotion / ACPS from the date on which the said employee completed the age of 45 years.

9. The applicant has completed the age of 45 years on 01/07/2014, therefore, the applicant is entitled for the time bound promotion after completion of the age of 45 years. He is entitled for exemption from passing the departmental examination as per G.R. dated 01/11/1977. Hence, the following order –

ORDER

- (i) The O.A. is allowed.
- (ii) The respondents are directed to grant ACPS / time bound promotion to the applicant after completion of the age of 45 years and pay the consequential benefits.
- (iii) No order as to costs.

Dated :- 18/12/2023.

(Justice M.G. Giratkar)
Vice Chairman.

*dnk.

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

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 18/12/2023.