

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.724/2016**

**DISTRICT: - NANDED**

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Sirajoddin s/o. Karimoddin Ansari,  
Age : 60 years, Occu. : Retired Government Service,  
R/o. House No.1-8-645,  
Labour Colony, Nanded,  
Tq. & Dist. Nanded.

...APPLICANT

**V E R S U S**

- 1) The State of Maharashtra,  
Through the Principal Secretary,  
School Education & Sports Department,  
Mantralaya, Mumbai.
- 2) The Director,  
Directorate of Sports and Youth Services,  
Maharashtra State, Pune-1.
- 3) The Joint Director,  
Directorate of Sports and Youth Services,  
Maharashtra State, Pune-1.
- 4) The Deputy Director,  
Sports and Youth Services,  
Latur Region, Latur.

...RESPONDENTS

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APPEARANCE :Shri Shamsundar B. Patil Advocate for  
the Applicant.  
:Shri S.K.Shirse Presenting Officer for the  
respondents.

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CORAM : B. P. Patil, Member (J)

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DATE : 12<sup>th</sup> October, 2017

**J U D G M E N T**  
**[Delivered on 12<sup>th</sup> day of October, 2017]**

By filing the present O.A., the applicant has challenged order dated 27-07-2016 issued by the respondent no.3 Joint Director, Sports and Youth Services, Maharashtra State, Pune thereby withdrawing first and second benefits given to the applicant under Assured Career Progression Scheme and prayed to quash the said order and direct the respondents to make payment of monthly provisional pension as fixed by Accountant General, Nagpur.

2. Applicant submits that he has passed B.Com examination in the year 1979. He was national player in football, and therefore, he was directly appointed as Clerk by the Director of Sports, Pune and he was posted in the office of District Sports Officer, Beed on 22-06-1981. Thereafter, the respondents published an advertisement for the recruitment of the Senior Clerks. The applicant filed application for the said post through proper channel. He appeared for the examination for the post of Senior Clerk. He secured highest marks, and therefore, he was appointed directly on the post of Senior Clerk w.e.f. 20-12-1984.

3. The respondents maintained seniority list of the post of Senior Clerk from time to time. In the seniority list as on 01-01-1985 the applicant was at Sr.No.12 while in the seniority lists of 01-01-2001 and 01-01-2006, he was at Sr. No.1. In the seniority list as on 01-01-2013, the applicant was at Sr.No.2. He was due for promotion on the post of Head Clerk as per his seniority and merit but promotion was not given to him on the post of Head Clerk. Deputy Director, Sports and Youth Services, Aurangabad Region, Aurangabad sent a proposal for his promotion by letter dated 13-07-2005 to the respondent no.2 Director but he was not considered for the promotion. Therefore, he made several representations with the respondents. On the basis of his representation respondent no.2 Director considered his case favorably and made recommendation to the Government for giving him promotion on the post of Head Clerk and then on the post of Superintendent with respective deemed dates. The Government sought clarification on that proposal. The Director by its letter dated 24-04-2009 forwarded detailed report to the Government. The Government had not taken decision on the same.

4. It is contention of the applicant that as per the Government scheme, the applicant was granted first benefit of time bound promotion on completion of 12 years on the post of Senior Clerk w.e.f. 20-12-1996. Thereafter, on completion of 24 years of service, the applicant was given second benefit of time bound promotion by order dated 15-12-2010 w.e.f. 20-12-2008 on the higher pay scale of Rs.9300-34800 Grade Pay Rs.4200/- but thereafter, it was corrected and he was given pay scale of Rs.9300-38200 Grade Pay Rs.4300/- by order dated 18-12-2010. It is his further contention that the Government sought some information from the Director of Sports in respect of proposal sent by it to grant deemed dates of promotion to the applicant on the post of Head Clerk and Office Superintendent. Office of Director, Sports supplied required information to the Government by its letter dated 17-09-2012.

5. When the applicant was in service a criminal case for the offence punishable u/s.409 and 34 of the Indian Penal Code was filed, and therefore, he was placed under suspension. Thereafter, his suspension has been revoked and he has been reinstated in service but Criminal Case

bearing No.300291/2010 is still pending before the Chief Judicial Magistrate, Nanded. Meanwhile, the applicant retired on superannuation on 30-11-2014. As criminal case is pending against him his pension case is not finalized and A.G. Nagpur has granted provisional pension to him by order dated 01-01-2015 till the conclusion of departmental enquiry.

6. It is contention of the applicant that one M.S.I. Shaikh, working as Superintendent in the office of Deputy Director, Latur had some grudge against him, and therefore, with a revengeful attitude he joined hands with one Shri G.S.Raibole Advocate and supplied copies of official information/record to him. On the basis of the information and documents supplied by Shri Shaikh, Shri Raibole, Advocate filed false complaint against the applicant with Lokayukta and the Director of Sports contending that the applicant had wrongly received the monetary benefits on completion of 12 years and 24 years of service. Joint Director of Sports made enquiry in the complaint. Thereafter, the Deputy Director, Pune issued show cause notice to him on 17-08-2015 as to why benefits given to him on completion of 12 years and 24 years' of

service should not be cancelled and proposal be sent in that regard. The applicant has given reply to the said notice on 22-08-2015. Thereafter, respondent no.2 Director passed order dated 27-07-2016 and withdrew the benefits given to the applicant on completion of 12 years and 24 years in service. Therefore, the applicant has filed the O.A. and prayed to quash the impugned order dated 27-07-2016 passed by the respondent no.2 Director. It is his contention that the order is illegal, and therefore, it is not binding on him. It is his further contention that the respondents may be directed to make payment monthly of provisional pension as fixed by A.G. Nagpur.

7. Respondent nos.1 to 3 have filed affidavit in reply and resisted the contentions of the applicant. They have not disputed the fact regarding appointment of the applicant initially as a Clerk, and thereafter as Senior Clerk. They have not denied the fact that two benefits have been granted to the applicant under the scheme of time bound promotion on completion of continuous service of 12 years and 24 years. They have admitted the fact that first time bound promotion was given to the applicant on completion

of his 12 years w.e.f. 20-12-1996 and second time bound promotion was given to him w.e.f. 20-12-2008 in view of the G.R. dated 08-06-1995.

8. It is their contention that the Government of Maharashtra introduced scheme of time bound promotion by G.R. dated 08-06-1995, and thereafter, took a decision to give benefits of time bound promotion after continuous service of 12 years to Group C and Group D employees. It is mentioned in the said G.R. that if employee refuses to join on promotional post, he will be reverted back to his post and he will be entitled to get pay scale as he/she used to receive before promotion. They have admitted the fact that the criminal case was filed against the applicant for the offence punishable u/s.409 and 34 of I.P.C. and same is pending. They have also admitted the fact that one G.S.Raibole Advocate who claims to be President of Rashtraseva Bhrashtachar Nirmulan Samiti filed complaint against the applicant for illegal promotion given to the applicant by filing application dated 02-12-2013. They have further contended that the Government has approved promotion to the applicant by order dated 29-05-2007 but the applicant refused to accept the promotional post and

continued to serve on the post of Senior Clerk, and therefore, the applicant was not entitled to get benefits of time bound promotion.

9. It is further contention of the respondents that the applicant was promoted on the post of Head Clerk by the order dated 29-05-2007 but the applicant had not joined the promotional post and moved an application dated 18-05-2007 and requested the respondents not to promote him and to transfer him at Nanded from Latur. It is their contention the applicant has not joined promotional post in view of the order dated 29-05-2007. Therefore, the benefits given to the applicant had been withdrawn by the respondent no.2 by its order dated 27-07-2016 as per G.R. dated 08-06-1995. It is their contention that since the applicant has denied to join on promotional post, he is not entitled to claim benefits of time bound promotion as per G.R. dated 08-06-1995. Respondent no.2 has rightly considered the provisions of G.R. dated 08-06-1995 and issued impugned order dated 27-07-2016. There is no illegality in the order, and therefore, they prayed to reject the O.A.



10. Heard Shri Shamsundar B. Patil Advocate for the Applicant and Shri S.K.Shirse Presenting Officer for the respondents. Perused documents produced on record by the parties.

11. Admittedly, the applicant was appointed as Clerk by the Director of Sports, Pune under Sports category as he was national player in football. Since 22-06-1981, he was serving as Clerk. Admittedly, in the year 1984, respondents published advertisement for recruitment on the post of Senior Clerk. The applicant filed application for the post through proper channel and appeared for the examination. He secured highest marks, and therefore, he was appointed as Senior Clerk directly w.e.f. 20-12-1984. There is no dispute about the fact that after completion of 12 years continuous service, respondents gave first benefit of time bound promotion in view of G.R. dated 08-06-1995 to the applicant w.e.f. 20-12-1996. Admittedly, the respondents granted second time bound promotion to the applicant on completion of his continuous 24 years' service by order dated 15-12-2010 w.e.f. 20-12-2008. It is not much disputed that by the impugned order dated 27-07-2016,

respondents had withdrawn two benefits given to the applicant under time bound promotion scheme on the basis of G.R. dated 08-06-1995.

12. Learned Advocate of the applicant has submitted that the applicant was senior-most employee in the cadre of Senior Clerk as per seniority list published on 01-01-1995, 01-01-2001, 01-01-2006 and 01-01-2013. He has submitted that the applicant time and against made representation with the respondents for giving him deemed date of promotion on the post of Head Clerk and Superintendent. The respondent no.2 sent proposal to the Government for considering his request favorably. He has submitted that the Government raised queries in the matter and called information from the respondent no.2 and the respondent no.2 has submitted information to the Government from time to time. He has submitted that the applicant was not promoted on the post of Senior Clerk or Superintendent till his retirement i.e. till 30-11-2014. He has submitted that one Shri Raibole Advocate filed a complaint with the Lokayukta contending that the applicant received time bound promotion and the monetary

benefits illegally. On the basis of his complaint respondent no.3 issued impugned order dated 27-07-2016 and withdrew the benefits given to the applicant. He has submitted that the said order is illegal. He has argued that the applicant has complied with the requirement for granting first and second benefit of time bound promotion in view of G.R. dated 08-06-1995, and therefore, the impugned order is not legal one. Hence, he prayed to allow the O.A.

13. Learned Advocate for the applicant has further submitted that in view of withdrawal of the benefits, there is likelihood that the A.G.Nagpur may pass order regarding reduction of his pension, and therefore, he prayed to direct the respondents to grant provisional pension as ordered earlier.

14. Learned P.O. has submitted that two time bound promotions were given to the applicant in view of the G.R. dated 08-06-1995 on completion of 12 years and 24 years of service w.e.f. 20-12-1996 and 20-12-2008, respectively. He has further submitted that in the year 2007, the applicant was promoted on the post of Head Clerk and

posted in Amravati Division by order dated 29-05-2007, copy of which is at paper book page 72. He has submitted that prior to the issuance of promotion order the applicant moved an application dated 18-05-2007 and requested the respondent no.2 to transfer him at Nanded from Latur because of his family problems. He has submitted that by the said letter, he requested respondent no.2 that he should not be promoted on the promotional post. Copy of the said letter is at paper book page 73. He has argued that by the said letter the applicant has refused to accept the promotion. Not only this but thereafter he has not joined promotional post in the Amravati Division in view of the order dated 29-05-2007. He has submitted that since the applicant has refused to accept the promotional post, he is not entitled to get benefits of first and second time bound promotion in view of the G.R. dated 08-06-1995. He has argued that the G.R. provides that if employee refuses to accept regular promotion then he will be reverted back to the original post and he will be given pay scale which he used to receive before his promotion. He has submitted that in view of the said G.R. respondent no.3 issued impugned order dated 27-07-2016 and withdrew the

benefits given to the applicant under the time bound promotion scheme. He has submitted that there is no illegality in the impugned order, and therefore, he prayed to reject the O.A.

15. Learned P.O. has further submitted that in view of the order dated 27-07-2016, the benefits given to the applicant had been withdrawn, and therefore, his pay will be re-fixed again and on the basis of that, he will get provisional pension and regular pension. Therefore, the applicant is not entitled to get relief in that regard. On these grounds he has prayed to reject the O.A.

16. On going through the record, it reveals that the Government has issued G.R. dated 08-06-1995 and resolved to grant two time bound promotions to the Group C and Group D employees on completion of their continuous service of 12 years and 24 years as they had no opportunity of promotion because of non-availability of the promotional post. It has been resolved that those employees who refuse to accept regular promotion are not entitled to get benefit of the time bound promotion and they will be reverted back to their original post, in case, they

were given time bound promotion scale. Relevant provisions of G.R. at paper book page 62 are reproduced herein below:

"2- ; k i n k l u r h p h r i f ' k y o k j ; k s t u k [ k k f y y i z e k . k s v k g % & 1/4; 1/2 ; k ; k s t u s v a x z i n k l u r h f e G k y h r j h d e p k & ; k p s u k o d f u " B 1/4 e G 1/2 l o x k p ; k T ; S B r k l p h r j k g h y - v k f . k l o k i o s k f u ; e k r h y r j r p h u d k j m i y C / k f j D r r s r ; k k ; o G h f u ; f e r i n k l u r h l k B h 1/4 Functional Promotion 1/2 R ; k p k f o p k j d j . ; k r ; b j y - f u ; f e r i n k l u r h l v i k = B j y y ; k d e p k & ; k l ; k ; k s t u p k y k H k f e G . k j u k g h - R ; k p i z e k . k s f u ; f e r i n k l u r h u k d k j y y ; k d e p k & ; k l n s [ k h y ; k i n k l u r h p k y k H k f e G w ' k d . k j u k g h - ; k v k / k h p R ; k a u k 1/4 In-Site 1/2 i n k l u r h f n y h v l Y ; k l e G P ; k i n k o j i n k o u r d j . ; k r ; b j y - r ' k k v k ' k ; k p s c a k i = d e p k & ; k a u k f y g u | k o s y k x s y - e k = n s ; k r v k y y ; k v k f k z d y k H k k p h o l y h d s y h t k . k j u k g h - "

17. Not only this but the Government has clarified queries in that regard by its G.R. dated 01-11-1995, in which it has been specifically mentioned against point no.7 as under (paper book page 65):

" ' k k l u f u . k z d z , l v k j o g h 1095 @ i z d z 33 @ 95 @ c k j k ] f n u k d 1 u k g o j 1995 p s i f j f ' k " V

v- dz 1-	mi f l F k r e m a k 2-	Li "V h d j . k 3-
7	fn- 1-10-94 rs 8-6-95 ; k d k y k o / k h r t s d e p k j h f u ; f e r i n k l u r h l i k = v l u T ; k a u h v ' k h i n k l u r h u k d k j y h v ' k k d e p k & ; k a u k ; k ; k s t u p k y k H k f e G w ' k d s y d k ; \	; k s t u p k e G m n a s k i n k l u r h l i k = v l u g h i n k l u r h f e G r u l . k k & ; k a k k o f j " B o s u J s k h n s ; k p h v l Y ; k u s f n - 1 - 10 - 94 i n h z v f k o k u a r j f u ; f e r i n k l u r h u k d k j . k k & ; k l r l p i n k l u r h l v i k = B j y y ; k d e p k & ; k l ; k ; k s t u s [ k r y h o f j " B o s u J s k h p k y k H k n s k s v f H k i r u k g h - ; k l a n H k k z r f n - 8 - 6 - 95 P ; k ' k k l u f u . k z ; k r h y i f j P N n 2 e / k h y ^ ; ** e / k h y v V i j s k h L i " V v k g s

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18. In view of the said G.R., the applicant was receiving benefits of first and second time bound promotion w.e.f. 20-12-1996 and 20-12-2008, respectively. The application dated 18-05-2007 placed on record at paper book page 73 filed by the applicant shows that the applicant moved an application addressed to the respondent no.2 and requested to transfer him at Nanded from Latur. In the said application, it has been specifically mentioned that he should not be given posting on the promotional post. Very wording of the letter dated 18-05-2007 sent by the applicant shows that he denied promotion on the post of Head Clerk. Wording of the letter dated 18<sup>th</sup> May, 2007 is material and important, therefore, it is reproduced as under (paper book page 73):

“mi jkDr I nHkh; fo”k; h I fou; fourh dh] eh vki .kkdMsfourh: u vki vki I kr ukM ; k fBdk.kh cnyh ekxhrysh vkgs ek-; k dksVchd vMpuh] ygu eykpsf’ k{k.k ; k I oZckchp I gkudkhi oZ fopkj d: u ek- I pkydkuh eyk i nksurh u nsk fourh o: u ukM ; k fBdk.kh cnyh djkoh- fg uezfourh-”

19. On going through the said letter the applicant in unequivocal words denied to accept the promotion. But the respondent no.2 had not considered his request and issued transfer order of the applicant on 29<sup>th</sup> May, 2007 (page 74) and he has been transferred on promotion as Head Clerk

and posted in Amravati region. In spite of the said promotion order, applicant had not joined the promotional post and he continued to work on the post of Senior Clerk. This also shows that the applicant by his conduct denied the promotion and continued to receive benefit of time bound promotion granted to him. As per clause 2-(;) of the G.R. dated 08-06-1995, the applicant is not entitled to receive monetary benefits given to him under the said scheme as he refused to accept promotional post. Therefore, respondent nos.2 and 3 made enquiry on the basis of the complaint filed by one Advocate Raibole. They had given opportunity to the applicant to defend himself and after considering the documents and G.R. respondent no.3 passed the impugned order dated 27-07-2016 (page 76) and withdrew the benefits given to the applicant under time bound promotion scheme. There is no illegality in the impugned order dated 27-07-2016 passed by the respondent no.3. Said order has been issued in view of the provisions of G.R. dated 08-06-1995. No fault can be attributed to the respondent no.3 for passing the said order. Therefore, in my opinion, there is no need to



interfere in the impugned order dated 27-07-2016. I do not find substance in the submissions advanced on behalf of the applicant in that regard.

20. Since time bound promotion given to the applicant in view of the G.R. dated 08-06-1995 had been withdrawn by the impugned order dated 27-07-2016, pay of the applicant has to be re-fixed again, and accordingly, provisional pension or pension, as the case may be, has to be fixed. Therefore, contention of the applicant that his pensionary benefits should not be affected in view of the said order, cannot be considered. Therefore, prayer made by the applicant in that regard cannot be granted.

21. In view of the abovesaid discussion, the applicant is not entitled to get benefits of time bound promotion as he refused to accept the promotional post. Therefore, promotional benefits given to the applicant under time bound promotion scheme had been withdrawn in view of the provisions of G.R. dated 08-06-1995. Respondent no.3 has issued the impugned order accordingly. There is no illegality in the impugned order. Therefore, no interference is called for in the impugned order.

22. In view of the above facts and circumstance of the case, there is no merit in the O.A. Consequently, it deserves to be dismissed. Hence, O.A. stands dismissed accordingly with no order as to costs.

**(B. P. Patil)**  
**MEMBER (J)**

**Place : Aurangabad**  
**Date : 12-10-2017.**