

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI, BENCH NAGPUR

ORIGINAL APPLICATION NO 806 OF 2014 (C)

DISTRICT : AKOLA

Brijpalsingh Mhansingh Thakur,)
Occ : Service, Aurunodaya Nias,)
Deshmukh Faile, Akola.)...**Applicant**

Versus

1. The State of Maharashtra)
Through its Secretary,)
Department of Water Supply)
and Sanitation, Mantralaya,)
Mumbai 400 032.)
2. Director,)
Ground Water Survey and)
Development Agency, Pune.)...**Respondents**

Shri R.V Shiralkar, learned advocate for the Applicant.

Shri M.I. Khan, learned Presenting Officer for the Respondents.

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CORAM : Shri Rajiv Agarwal (Vice-Chairman) (A)
Shri J.D Kulkarni (Vice-Chairman) (J)

DATE : 10.03.2017

PER : Shri Rajiv Agarwal (Vice-Chairman)(A)

ORDER

1. Heard Shri R.V Shiralkar, learned advocate for the Applicant and Shri M.I. Khan, learned Presenting Officer for the Respondents.
2. The case of the Applicant is that he is the senior most Senior Geologist in the Department and on the basis of his performance eligible to be promoted to the post of Deputy Director. However, the D.P.C in its meeting held on 6.12.2012, considered the case of the Applicant and found him ineligible on the ground that a D.E was proposed against him. Learned Counsel for the Applicant stated that a proposed D.E cannot be a ground for denying promotion to a Government employee who is otherwise found eligible for promotion. Learned Counsel for the Applicant stated that even if a D.E or criminal proceedings are pending against a Government servant, the D.P.C has to give a finding whether the Government servant was eligible for promotion or not and the case has to be kept in a sealed cover. A conscious decision

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has to be taken by the Competent Authority whether to promote such a person or not. Learned Counsel for the Applicant, therefore, prayed that Respondents may be directed to hold a fresh D.P.C/ review D.P.C to consider the case of the Applicant for promotion to the post of Deputy Director and if found fit by the D.P.C, the competent authority may take necessary decision regarding promotion of the Applicant.

3. Learned Presenting Officer stated that there is no merit in the Original Application. The D.P.C has rightly held him ineligible for promotion because at the relevant time a D.E was proposed against him. Learned Presenting Officer stated that the Applicant is not suffering from any financial loss as he has already been given pay in the higher pay scale of Deputy Director.

4. We find a lot of weight in the submission of the learned Counsel for the Applicant that the D.P.C has to give its findings whether the Applicant is eligible for promotion or not. If it is within the knowledge of the D.P.C that D.E or criminal case is pending against the Applicant, what is known as sealed cover procedure should be followed, which means that the Competent Authority would be required to take a conscious decision whether to promote the Applicant or not.

5. In view of the facts and circumstances of the case, we direct the Respondents to form a fresh D.P.C./review D.P.C and to place the case of the Applicant for promotion to the post of Deputy Director in view of the observations made in the preceding paragraph. This Original Application is allowed accordingly with no order as to costs.

sd/-

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

sd/-

(Rajiv Agarwal)
Vice-Chairman (A)

Place : Nagpur
Date : 10.03.2017
Dictation taken by : A.K. Nair.