

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.94/2011. (D.B.)

Arun Shamrao Gondhale,
Aged about 53 years,
Occ-Senior Clerk,
O/o Sub-Divisional Agriculture Officer,
Wadsa, Distt.Gadchiroli.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Agriculture,
Mantralaya, Mumbai-32.
2. The Commissioner of Agriculture,
Central Building, Pune-1.
3. The Joint Director of Agriculture,
Nagpur Division, Nagpur.
4. The Sub-Divisional Agriculture Officer,
Wadsa, Distt.Gadchiroli.
5. Shri B.R. Kalbandhe,
Senior Clerk,
Office of Taluka Krishi Adhikari,
Wadsa, Distt.Gadchiroli.
6. Shri A.D. Nanotkar, **(His name is deleted)**
Senior Clerk,
Office of Sub-Divisional Agriculture Officer,
Rajura, Distt. Chandrapur. **Respondents**

Shri M.R. Rajgure, the Ld. Advocate for the applicant.
Shri A.M. Khadatkar, the Ld. P.O. for respondents 1 to 4.
None for respondent Nos. 5 and 6.

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

ORAL ORDER

(Delivered on this 18th day of September 2018.)

Per:Vice-Chairman (J)

Heard Shri M.R. Rajgure, the learned counsel for the applicant and Shri A.M. Khadatkar, the learned P.O. for the respondents 1 to 4. None for respondent Nos. 5 and 6.

2. The applicant is claiming promotion to the post of Junior Clerk as well as to the post of Senior Clerk w.e.f. from the date on which his junior Shri B.R. Kalbandhe (R.5) and Shri A.D. Nanotkar came to be promoted. He is also claiming consequential financial benefit out of such promotion. Mr. Kalbandhe and Mr. Nanotkar were promoted as Jr. Clerk as per order dated 26.11.1997 and as Sr. Clerk as per order dated 12.2.2008. The applicant is promoted as Jr. Clerk on 19.1.1999 and subsequently as Sr. Clerk w.e.f. 23.1.2010.

In fact, the applicant should have been promoted on the date on which his junior were promoted.

3. In reply affidavit, it has been admitted that name of the applicant was not considered inadvertently at the time of promotion. The learned P.O. has placed on record the order dated 6.9.2011 at page No.77, which is marked "X" for identification, in which this fact has been admitted. Relevant order reads as under:-

“५. श्री गोंधळे यांचा गट-ड संवर्गातील रुजू दिनांक विचारात घेता ते सन १९९७ मध्ये त्यांच्यापेक्षा सेवा कनिष्ठ असलेले श्री. काळबांधे यांचेएवजी लिपिक पदावर पदोन्नत होऊ शकले असते. तथापी गट-ड संवर्गातील एस.एस.सी.(म्याट्रिक) तसेच इंग्रजी/मराठी टायपिंग उत्तीर्ण असलेल्या कर्मचाऱ्यांना गट-क संवर्गात लिपिक पदावर पदोन्नती दिली, त्यामध्ये श्री. गोंधळी यांचे नाव विभागीय कृषी सहसंचालक कार्यालयाने त्यांची माहिती प्राप्त न झाल्याने पदोन्नतीसाठी एकत्रित केलेल्या ज्येष्ठता सूचित त्यावेळी समाविष्ट केलेले नसल्याने त्यांना डावलून त्यांच्यापेक्षा कनिष्ठ कर्मचारी श्री. काळबांधे यांना पदोन्नती दिलेली आहे.

६. विभागीय कृषी सहसंचालक, नागपूर यांनी श्री. गोंधळी यांना गट-ड संवर्गात सेवाकनिष्ठ असलेले श्री. काळबांधे यांचा दि. १.१२.१९९७ हा लिपिक पदावरील पदोन्नतीचा दिनांक हा मानीव दिनांक प्रस्तावित केला असून त्या कार्यालयातील विद्यमान पदोन्नती निवड समितीने वरील मानीव दिनांकास मान्यता प्रदान करण्याबाबत शिफारस केली आहे.

श्री. ए. एस. गोंधळी, लिपिक कार्यालय, तालुका कृषी अधिकारी, देवळी, जिल्हा वर्धा यांना विभागीय कृषी सहसंचालक, नागपूर यांनी दि. २८.५.२००८ रोजी झालेल्या विद्यमान पदोन्नती समितीच्या बैठकीत दि. १.१२.१९९७ या पदोन्नतीच्या मानीव

दिनांकास पात्र ठरवून त्यास मान्यता प्रदान करण्याबाबत कृषी आयुक्तालयास शिफारस केली आहे. त्यास अनुसरून शासनाच्या दि. ६.६.२००२ च्या परिपत्रकानुसार आयुक्त कृषी यांना प्रदान केलेल्या प्राधीकारात श्री. ए. एस. गोंधळी यांना दि. १.१२.१९९७ हा लिपिक पदावरील पदोन्नतीचा मानीव दिनांक प्रदान करण्यात मान्यता देण्यात येत आहे. त्यानुसार संबंधित कर्मचाऱ्याची उपरोक्त दिनांकापासून लिपील पदावर वेतन निश्चिती करून त्यांना प्रत्यक्ष पदोन्नतीच्या दिनांकापासून म्हणजे दि. १.२.१९९९ पासून थकबाकी लाभ देण्यात यावेत. या आदेशाची अंमलबजावणी तत्काळ करण्यात यावी."

4. From the aforesaid communication, it is now clear that admittedly Mr. Kalbandhe was junior to the applicant and the applicant should have been considered for promotion to the post of Jr. Clerk as well as Sr. Clerk at the time when Mr. Kalbandhe was promoted. This mistake is rectified by the respondents, but half-heartedly, since applicant's claim for Sr. Clerk has not been considered. There was absolutely no reason as to why deemed date of promotion to the post of Sr. Clerk from the date on which Mr. Kalbandhe and Mr. Nanotkar were promoted, i.e. date 12.2.2008 shall be given to the applicant also. In

5. view of discussion in foregoing paras, we proceed to pass the following order:-

ORDER

- (i) The O.A. stands allowed.
- (ii) Since the respondents have promoted the applicant to the post of Jr. Clerk w.e.f. 1.12.1997 vide order dated 6.9.2011, the respondents are directed to issue the order of promotion in respect of the applicant to the post of Sr. Clerk also w.e.f. 12.2.2008 i.e. the date on which Mr. Kalbandhe was promoted as Sr. Clerk.
- (iii) It is needless to say that the applicant will be entitled to claim arrears, as may be admissible due to said deemed date of promotion to the post of Sr. Clerk also.
- (iv) In the order dated 6.9.2011, it has been mentioned that the applicant will be entitled to deemed date of promotion w.e.f. 1.12.1997. But so far as financial benefits are concerned, he will be entitled to claim these benefits from 1.2.1999.
- (v) There is absolutely no reason as to why such benefits shall not be given from the date of promotion of Shri Kalbandhe i.e. 1.12.1997 and

since the deemed date of promotion has also been granted to the applicant and particularly when it was completely a mistake of the department and the applicant was not at all responsible for such mistake. The respondents are, therefore, directed to grant all financial benefits of promotional post i.e. Jr. Clerk w.e.f. 1.12.1997 and Sr. Clerk w.e.f. 12.2.2008.

- (vi) Pay accordingly shall be revised and necessary order shall be passed and arrears shall be paid to the applicant within a period of three months from the date of this order.
- (vii) No order as to costs.

(Shree Bhagwan)
Member (A)

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

Dated:- 18.9.2018.

