

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 132/2022 (D.B.)

Bhupendra Shravan Sirsat,
Aged about 36 years, Occ. Service,
R/o Ropvatika, Shirla, Tahsil Patur,
District Akola.

Applicant.

Versus

- 1) The State of Maharashtra,
Through the Secretary,
Department of Agriculture,
Mantralaya, Mumbai-32.
- 2) Joint Director of Agriculture,
Amravati Division,
University Road, Camp,
Amravati.
- 3) Commissioner of Agriculture,
Sakhar Sankul, Shivaji Nagar,
Pune.

Respondents

Shri Bhupendra Shravan Sirsat, applicant in person.

Shri S.A.Sainis, Id. P.O. for the respondents.

**Coram :- Hon'ble Shri Shree Bhagwan, Vice-Chairman &
Hon'ble Shri M.A.Lovekar, Member (J).**

JUDGMENT

Judgment is reserved on 11th Jan., 2023.

Judgment is pronounced on 13th Jan., 2023.

(Per:-Member (J))

Heard Shri Bhupendra Shravan Sirsat, applicant in person and Shri S.A.Sainis, learned P.O. for the Respondents.

2. Case of the applicant is as follows. By order dated 29.05.2008 (A-2) the applicant was appointed as Nursery Assistant which is a Group-D post. He was then possessing qualification of having passed 10th std.. He then completed Diploma in Tracer Trade and also acquired qualification of 12th std.. Vide order dated 18.03.2020 (A-3) he was granted time bound promotion w.e.f. 02.06.2018. By order dated 13.12.2016 (A-5) one Uddhav S. Mhaske who was junior to the applicant, as can be gathered from perusal of seniority list (A-4), was promoted to the post of Agriculture Assistant. The applicant came to know that he was not promoted to the post because he did not possess Diploma in Agriculture prescribed under the Recruitment Rules of 2018. On 31.10.2018 respondent no. 2 gave a personal hearing to the applicant and concluded that the applicant could not be promoted to the post of Agriculture Assistant because he did not possess Diploma in Agriculture as prescribed in Recruitment Rules of 2018. Prior to introduction of Recruitment Rules of 2018 persons not possessing Diploma in Agriculture were promoted to the post of Agriculture Assistant. The applicant who possesses a Diploma in Tracer Trade could have been promoted as Tracer because several posts of Tracer are lying vacant.

Since he was not so promoted the applicant filed U.L.P. Complaint No. 129/2019 but subsequently withdrew the same. Several posts of Tracer are still vacant. Persons junior to the applicant have been promoted to the post of Tracer as can be gathered from the perusal of seniority list (A-8). For redressal of his grievance the applicant made a representation dated 30.11.2019 (A-9) but to no avail. Hence, this original application for following reliefs:-

"A. Hold and declare that applicant is eligible and qualified and, therefore, entitled for promotion on the post of Tracer.

B. Direct the respondent no. 2 to consider the case of the applicant for promotion on the post of tracer.

C. Direct the respondent no. 2 to grant promotion to the applicant on the post of tracer immediately.

D. Grant any other relief, in the interest of justice."

3. So far as prayers made in this original application are concerned, it is the contention of the contesting respondents that directions have been issued not to fill posts of Tracer till further orders are received in that behalf from the Government. Communication issued to this effect is at A-R-4 (P. 58). It reads as under:-

“आयुक्त (कृषि),
महाराष्ट्र राज्य, पुणे

- विषय - कृषी विभागातील पदांचा आढावा कृषि आयुक्तालय ते क्षेत्रिय स्तरापर्यंत कार्यालयाचा सुधारीत आकृतिबंध.
- संदर्भ - शासन निर्णय क्रमांक आकृति-१२०८/प्र.क्र.७२/१५-अ, दि २२.५.०९.

उपरोक्त संदर्भाधीन शासन निर्णयान्वये कृषि आयुक्तालय ते क्षेत्रिय स्तरापर्यंत कार्यालयाचा सुधारीत आकृतिबंध अंतिम करण्यात आलेला आहे. यामध्ये अनुरेखक व आरेखक या संवर्गाची मंजूर पदे दर्शविण्यात आलेली आहेत. तथापि वित्त विभागाच्या सूचनेनुसार अनुरेखक या संवर्गातील पदे शासनाचे पुढील आदेश होईपर्यंत भरण्यात येवू नयेत.”

So far as this communication is concerned, it was submitted by the applicant that the G.R. dated 22.05.2009 referred to in it deals with pay fixation and it has absolutely no nexus with filling vacant posts of Tracer. It was further submitted by the applicant that the aforesaid communication does not specify whether the ban on filling posts of Tracer applies to Direct Recruitment/ Promotion or both and benefit of this ambiguity should be extended to the applicant. We do not find any ambiguity in the communication dated 05.06.2009 (A-R-4). This communication directs that posts of Tracer shall not be filled till further orders. The prohibition will apply to Direct Recruitment as well as Promotion. In the facts and circumstances of the case following order shall meet ends of justice. Hence, the order:-

O R D E R

The respondents shall consider claim of the applicant for being promoted to the post of Tracer on its own merits, immediately after the prohibition put in place by the Government by communication dated 05.06.2009 (A-R-4) is lifted. In order to ascertain whether such prohibition is lifted or not, the respondent department shall, if deemed necessary, make a reference to the Government. If it transpires that the prohibition is already lifted, the respondent department shall, at once consider claim of the applicant for being promoted to the post of Tracer on its own merits. **The original application is disposed of in these terms with no order as to costs.**

(M.A.Lovekar)
Member(J)

aps

Dated – 13/01/2023

(Shree Bhagwan)
Vice Chairman

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

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Vice Chairman
& Hon'ble Member (J).

Judgment signed : 13/01/2023.
on and pronounced on

Uploaded on : 16/01/2023.