

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 357/2019**  
**WITH CIVIL APPLICATION No. 417/2019 (D.B.)**

Ku. Vaishali Bhaurao Gohatre,  
Aged about 43 years,  
Occ. Office Superintendent,  
Integrate Tribal Development Project,  
Tah. Bhamragadh, Dist. Gadchiroli,  
Resident of Tah. Bhamragadh, Dist. Gadchiroli.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Tribal Development Department,  
Mantralaya, Mumbai-32.
- 2) The Commissioner,  
Tribal Development, Maharashtra State,  
Gadkari Chowk, Nashik-2.
- 3) The Additional Commissioner,  
Tribal Development, Giripeth, Nagpur.
- 4) The Deputy Commissioner,  
Tribal Development,  
Gadkari Chowk, Nashik-2.
- 5) The Project Officer,  
Integrate Tribal Development Project,  
Tah. Bhamragadh, Dist. Gadchiroli.
- 6) Shri D.M. Nagpure,  
Occ. Research Officer,  
Office of Scheduled Tribe Certificate  
Verification Committee, Gadchiroli.
- 7) Shri S.P. Panbude,  
Occ. Research Officer,  
Office of Scheduled Tribe Certificate  
Verification Committee, Nagpur.

**Respondents.**

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**Shri Vishal Anand, Advocate for the applicant.**

**Shri M.I. Khan, learned P.O. for respondent nos.1 to 5.**

**None for respondent nos.6 and 7.**

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**Coram :- Shri Shree Bhagwan,  
Vice-Chairman and  
Shri Justice M.G. Giratkar,  
Member (J).**

**Dated :- 11/03/2022.**

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### **JUDGMENT**

**Per : Member (J).**

Heard Shri Vishal Anand, learned counsel for the applicant and Shri M.I. Khan, learned P.O. for respondent nos.1 to 5. None for respondent nos. 6 and 7.

2. The applicant is working as Office Superintendent in the office of Project Officer, Integrate Tribal Development Project, Tah. Bhamragadh, Dist. Gadchiroli. She was appointed on the post of Tribal Development Inspector by the order dated 26/09/2000. The applicant belongs to Dhangar community, which is recognised as Nomadic Tribe (N.T.). The applicant was promoted on the post of Office Superintendent by the order dated 25<sup>th</sup> May,2006. Thereafter, the applicant was promoted on the post of Senior Tribal Development Inspector by the Order dated 27<sup>th</sup> February, 2015 issued by respondent no.3.

3. The respondent no.3 by its order dated 12<sup>th</sup> January,2017, issued seniority list for the period from 1/1/2015 to 1/1/2016. The applicant's name is at Sr.No.28 in the seniority list. The applicant has made representation about the seniority list. Thereafter, the applicant was posted as Office Superintendent in the Office of the Project Officer, Integrate Tribal Development Project, Tah. Bhamragadh, Dist. Gadchiroli. The respondent no.3 by its order dated 31<sup>st</sup> August,2017, granted seniority to the applicant of the post of Office Superintendent from the year,2006.

4. The main grievance of the applicant is that the respondent nos.6 and 7 are juniors to her, eventhough they are promoted on the post of Research Officer / Assistant Project Officer, whereas, the applicant was not promoted on the said post. It is the contention of applicant that she is senior to the respondent nos.6 and 7, therefore, act of the respondent / authority not promoting her is illegal. Hence, she prayed to cancel the promotion of respondent nos.6 and 7 to the post of Research Officer / Assistant Project Officer vide order dated 18<sup>th</sup> September, 2019.

5. The application is strongly opposed by the respondent nos. 1 to 5. It is submitted that the applicant never worked from 2006 on the post of Office Superintendent and therefore she was not promoted on the post of Research Officer / Assistant Project Officer.

6. Heard Shri Vishal Anand, learned counsel for the applicant. He has pointed out the Judgement of this Tribunal in O.A.No.146/2009, decided on 13/02/2017. He has submitted that as per the direction of this Tribunal, the respondents / authority have given seniority to the applicant from the year 2006. Therefore, as per contention of the respondent / authority that the applicant never worked from 2006, cannot be a ground to deny the promotion to the applicant.

7. Heard Shri M.I. Khan, learned P.O. for respondent nos.1 to 5. He has submitted that the applicant never worked as Office Superintendent from 2006 and therefore she was not given promotion.

8. The learned counsel for the applicant has pointed out the order dated 31/08/2017 issued by the Additional Commissioner, Tribal Development Department, Nagpur and submitted that as per the direction of this Tribunal, the applicant is given seniority from the year,2006 on the post of Office Superintendent and therefore she is entitled for promotion along with the respondent nos.6 and 7 who were juniors to the applicant. The learned counsel for the applicant submitted that as per seniority list as on 1/1/2019 (P-42), the applicant is senior to the respondent nos.6 and 7.

9. From the perusal of the seniority list, it is clear that the name of applicant appears at Sr.No.8 in the said seniority list (P-42),

whereas, the names of respondent nos. 6 and 7 are mentioned at Sr.Nos.14 and 15. There is no dispute about it. From the record, it appears that earlier the promotion of the applicant on the post of Office Superintendent was withdrawn by the respondent / authority. Aggrieved with this, the applicant had filed the O.A. No. 146/2009 before this Tribunal. This Tribunal vide order dated 13/2/2017 had passed the following order –

*“ (i) The present Original Application is partly allowed.*

*(ii) The impugned order of reversion dated 17/4/2007 of the applicant issued by respondent no.2 is quashed and set aside.*

*(iii) The applicant shall be allowed to continue to work on the promotional post i.e. Office Superintendent.*

*(iv) It seems that the applicant was reverted and there is nothing on record to show that she worked on the promoted post even after reversion since the date of reversion. In view of this, the applicant will be entitled to seniority in the promotional cadre and not the arrears of pay as claimed by her in the present Original Application.*

*(v) Accordingly, the present Original Application stands disposed of with no order as to costs. ”*

10. As per the direction of this Tribunal, the respondents / authority issued the order dated 31/8/2017 (P-22) and the applicant is given seniority from the year 2006 to the post of Office Superintendent, but the promotion was given to the respondent nos. 6 and 7 from the post of Office Superintendent to the post of Research

Officer / Assistant Project Officer vide order dated 18<sup>th</sup> September, 2019, though they are juniors to the applicant.

11. The contention of the respondents / authority that the applicant never worked as Office Superintendent from 2006 and therefore she was not given promotion.

12. The learned P.O. has pointed out the Promotion Rules dated 31/7/2017 (P-44). The Rule 3 reads as under –

*“ (3) Appointment to the post of Assistant Project Officer, Statistical Officer, Administrative Officer, Research Officer, House Master or Registrar in the Directorate, shall be made either –*

*(a) by promotion of a suitable person on the basis of seniority subject to fitness from amongst the persons holding the post of -*

*(i) Office Superintendent ;*

*(ii) Cultural Officer ;*

*(iii) Warden*

*(iv) Senior Tribal Development Inspector ;*

*(v) Junior Administrative Officer ; or*

*(vi) Research Assistant*

*having not less than three years regular service on that post;”*

13. As per the Rule 3, *“appointment to the post of Assistant Project Officer, Statistical Officer, Administrative Officer, Research Officer, House Master or Registrar in the Directorate, shall be made either by promotion of a suitable person on the basis of seniority*

*subject to fitness from amongst the persons holding the post of Office Superintendent ----”.*

14. The applicant was working as Office Superintendent and her seniority of the said post was given from 2006, but the respondent nos.6 and 7 were promoted as per order dated 18/9/2019 though they are juniors to the applicant. The act of the respondents / authority by not giving promotion to the applicant on the ground that she never worked from 2006 on the post of Office Superintendent, is not proper, because, the respondents / authority have complied the order of this Tribunal dated 13/2/2017 in O.A.146/2009 and seniority to the applicant was given from 2006. Therefore, her service was to be counted as Office Superintendent from 2006.

15. There is no dispute that the respondent nos. 6 and 7 were juniors to the applicant at the time of promotion, but now they are retired and therefore their promotions cannot be cancelled. At the most, the applicant is entitled for deemed date of promotion.

16. In that view of the matter, We pass the following order –

**ORDER**

(i) The O.A. is partly allowed.

- (ii) The respondent nos.2 and 3 are directed to give promotion to the applicant from the date on which her juniors, i.e., respondent nos.6 and 7 were promoted.
- (iii) Difference of salary shall be paid to the applicant as per the rules within six months from the date of receipt of this order.
- (iv) The C.A. No.417/2019 also stands disposed off.
- (v) No order as to costs.

**(Justice M.G. Giratkar)**  
**Member(J).**

**(Shree Bhagwan)**  
**Vice-Chairman.**

**Dated** :- 11/03/2022.

dnk\*



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

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble V.C. and Member (J).

Judgment signed on : 14/03/2022.

Uploaded on : 14/03/2022.\*