

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 420/2017 (S.B.)

Rajiv S/o Nasaje Kumar,
Aged about 58 years, Occ. Retired Govt. Servant
R/o 24 & 25 Shivam Housing Society,
Behind Misad Godawun, Bokhara Road,
Koradi Naka, Nagpur-441 111.

Applicant.

Versus

- 1) State of Maharashtra,
General Administration Department,
Mantralaya, Mumbai-32 through its Secretary.
- 2) The Divisional Commissioner,
Nagpur Division, Civil Lines,
Nagpur-440 001.
- 3) The Collector, Nagpur Division,
Civil Lines, Nagpur-440 001.

Respondents.

Shri S.M. Khan, Advocate for the applicant.

Shri A.M. Khadatkar, Id. P.O. for respondents.

**Coram :- Hon'ble Shri Shree Bhagwan,
Vice-Chairman.**

Date of Reserving for Judgment : 13th August, 2021

Date of Pronouncement of Judgment : 3rd September, 2021

JUDGMENT

(Delivered on this 3rd day of September,2021)

Heard Shri S.M. Khan, learned counsel for the applicant and Shri A.M. Khadatkar, learned P.O. for the respondents.

2. The applicant has joined as Talathi on 24/12/1983 in the Revenue Department. He is belonging to Schedule Caste category. After serving more than 27 years on the said post he has taken voluntary retirement on 30/08/2011.

3. The learned counsel for the applicant submitted that as per Govt. G.R. dated 08/06/1995 (A-2,P-10 &11) and revised Govt. G.R. dated 20/07/2001 (A-3,P-12 to15) whereby it has been stated that a person continuously working on one post for 12 years should be given time bound promotion with higher pay scales and therefore the applicant was eligible for promotion in time bound promotion scheme w.e.f. 26/12/1995 i.e. the date on which he has completed 12 years as a Talathi, however, the said benefits have not been granted to the applicant. The respondent no.3 vide order dated 30/04/2017 (A-1,P-9) has given the benefit of higher pay scale w.e.f. 19/06/2004. Aggrieved with this order, the applicant has approached to this Tribunal. The learned counsel has prayed following reliefs as per Clause no.7 on page no.6 of the O.A. –

“(i) to quash and set aside the order no.A10/CR-56/17, dated 30/04/2017 issued by the respondent no.3.

(ii) to grant promotional and consequential service and retiral benefits w.e.f. 26/12/1995.

(iii) to grant service/ retiral arrears & difference in pension, commutation of pension, gratuity, leave encashment along with interest at the rate of 12% from the date it has become due”.

4. The learned P.O. has filed reply of R-3 on dated 11/8/2017 (P-25 to 28). In the reply in para no.4, the respondents have mentioned that the applicant came to be appointed as Talathi on 24/12/1993 which is wrong statement. However, in para no.7, the respondent no.7 have corrected that mistake and they have mentioned that applicant was appointed as a Talathi on 24/12/1983 which needs to be corrected, it should be 26/12/1983 as per the service book. In the reply in para-4 at page no.26, it is also submitted that the Revenue and Forest Department, M.S. has framed Rules regarding promotion in the cadre of Revenue Inspector from the Talathi Cadre namely the Maharashtra Revenue Qualifying Examination Rules, 1998. The said rules contemplates under Rule 5 (2) that the Talathi already appointed before enforcement of said rules and if the Talathi has not crossed his 45 years of age, then the Talathi is required to pass the Revenue Qualifying Examination within four years and in three attempts from the commencement of said Rules.

However, the applicant has not passed the said examination within stipulated period of time. In the reply, it is submitted that as per G.R. dated 8/6/1995 for providing higher increment benefits to the government employees and as such by way of said G.R. the government has prescribed the criteria that employees should have completed 12 years continuous service and he should have eligible for considering his qualification and competency and the employee should have passed the Revenue Qualifying Examination and SSD Examination. It is also submitted that as per G.R. dated 20/7/2001 thereby introduced Ashwashit Pragati Yojana for providing higher increment benefits to the government employees provided that the employee who had completed 12 years continuous service and employee should have passed Revenue Qualifying Examination and his 5 years average of annual confidential reports is "B". It is also submitted that as per Rule 6 (2) it is provided that if the Talathi fails to pass the examination on or before 31/12/1999 as prescribed in sub rule 2 of rule 5, he shall not be entitled to any annual increment till he passes the examination or has been exempted from passing examination. Since the applicant has not passed the said qualifying examination within stipulated time and he has been exempted from passing said examination on 19/6/2004 after he crossed the age of 45 years on that date. Therefore, the case of applicant was placed before

the District Selection Committee for rendering the benefits of higher increment to the applicant on 2/9/2005. After due consideration by the District Selection Committee it was found that Annual Confidential Report of applicant was "B: and he has been exempted from passing examination on 19/6/2004. Therefore, he was found eligible for benefit of higher increment w.e.f. 19/6/2004.

5. The learned P.O. has filed reply on behalf of R-2&3 on 22/11/2019. In the reply it is submitted that the applicant passed S.S.D. (Sub Service Departmental) Examination on 5/4/2002. After passing the departmental examination, the annual increment granted to the applicant. That entry of SSD Examination is taken in the service Book at Annex-R-1. It is also submitted that the Collector, Nagpur has issued a letter dated 25th March,2005 in which it is mentioned that the applicant has not passed the Revenue Qualifying Examination and he crossed the age of 45 years on 19/06/2004, so the Collector had granted exemption for passing RQE examination.

6. After going through the documents filed on record, it appears that in the Govt. G.R. dated 8/6/1995 (A-2,P-10) the clause 2 (b) is reproduced as below –

^2- ; k i nktlurhph r i f'kyokj ; kst uk [kkyhy i æk.ksvkg&

xV ^d* o ^M* %i phpsoxZ3 o 4½ e/ky i n/kj dkauk 12 o"kkp; k fu; fer I surj R; kR; k i nktlurh I k[kGhrty ojP; k i nkojhy oruJskh ns; kr ; bÿ- T; k deþk&; kkauk i nktlurh I k[kGhrty i nkoj

in kblurhl kBh in vflRokr ulgh v'kk deḗk&; kauk ; k fu.kz kl kcrP; k i fjf'k"Vke/; s n'kzo.; kr vKY; kuḗ kj ofj"B oruJskh ns; kr ; bly- ; k ; kstuph brj iæḗk oḗ'k"V; s o væyc tko.khph dk; i/nrh [kkyhyiek.ksvkgs

½c½ ; k ; kstusvrXr ofj"B oruJskh feG.; kl kBh in kblurhl kBh fofgr dk; i/nrh] tšBrki k=rk] vgrk i fj{kk] foHkxh; ; k ckchph i qrk dj.ksvko'; d vkg-*

7. In the Govt. G.R. dated 20/7/2001 in Clause 5 at page no.13, it is mentioned as follows –

^5- ; k ; kstusvrXr in kblurhlP; k in kph oruJskh ns Bjfoyh vl Y; kusofj"B oruJskh feG.; kl kBh in kblurhlP; k in kdfjrk fofgr dsyhy vgrk] ik=rk] tšBrk] vgrk i fj{kk] foHkxh; i fj{kk ; k l oz ckchph i qrk dj.k. rl p in kblurhlph dk; i/nrh vuḗ j.k. vko'; d jkghy- tšks ; k 'kk l u fu.kz kl kcrP; k i fjf'k"Brhy oruJskh eatij dj.; kr ; bly ršks xki uh; vgo kykP; k vk/kjs ik=rk rikl .; kr ; koi-*

8. As per clause 2 (b) of the G.R. dated 8/6/1995 (A-2,P-10) for providing higher pay scale benefits to the government employees and as such by way of said G.R. the government has prescribed the criteria that employees should have completed 12 years continuous service and he should have eligible for considering his qualification and competency and the employee should have passed the Revenue Qualifying Examination and Departmental Examination. As per Clause 5 of the Govt. G.R. dated 20/7/2001 also for providing higher pay scale benefits to the government employees provided that the employee who had completed 12 years continuous service and employee should have passed out Revenue Qualifying Examination. Means for granting higher pay scale the applicant should have passed

the S.S.D. (Sub Service Departmental) Examination as well as Revenue Qualifying Examination in the prescribed time limit and chance. In the present matter, the applicant has passed only S.S.D. (Sub Service Departmental) Examination on 5/4/2002, therefore, annual increment was granted to the applicant and such entry is also taken in the service book as per Annex-R-1. But the applicant has not passed the Revenue Qualifying Examination in the prescribed time limit and he has crossed the age of 45 years on 19/06/2004 therefore he has been exempted from passing the Revenue Qualifying Examination as per letter dated 25/3/2005 (Annex-R-2) and therefore on the basis of C.Rs. and recommendation of District Selection Committee he has been granted higher pay scale w.e.f. 19/6/2004. In my opinion, the respondents have followed all the procedures as per rules and regulations, therefore, I do not see any reason to interfere in the decision taken by the respondents.

9. The learned P.O. has relied upon the Judgment of Hon'ble Supreme Court in case of **Union of India & Ors. Vs. Chaman Rana in Civil Appeal No.2763/2018 and Union of India & Ors. Gulshan Kumar Sharma in Civil Appeal No.2764/2018 (2018)5 SCC 798**, decided on 12/03/2018.

10. The learned counsel for the applicant has also relied upon the Judgment in O.A. 828/2012 passed by the MAT, Bench at Nagpur

on 11/7/2017 and Judgment in O.A.166/2016 passed by the MAT Bench at Mumbai on 15/12/2016 and Government Circular dated 28/07/2017. After going through these Judgments and Circular, it appears that the said Judgments are not beneficial to the applicant. Hence, the following order –

ORDER

The O.A. stands dismissed. No order as to costs.

Dated :- 03/09/2021.

**(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 : D.N. Kadam

Court Name : Court of Hon'ble Vice-Chairman.

Judgment signed on : 03/09/2021.
and pronounced on

Uploaded on : 03/09/2021.

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