

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 584 of 2019 (SB)

Mukund S/o Tanbaji Darunde,
Aged 58, Occ: Retired, R/o Suraj Nagar,
Agrawal Layout, Near Jamankar Nagar, Yavatmal,
Tq. Yavatmal, Dist. Yavatmal.

Applicant.

Versus

1) The State of Maharashtra
Through its Secretary Department of Tribal Development,
Mantralaya, Mumbai, 440032.

2) Commissioner of Tribal Development,
Amravati Division, Amravati, Dist. Amravati.

3) Deputy Commissioner of Tribal Development,
Amravati Division, Amravati, Dist. Amravati.

4) Project Officer, Integrated Tribal Development Project,
Pandharkawada, Tq. kelapur, Dist: Yavatmal.

5) Head Master, Shashkiya Aadiwaasi Aashram Shala,
Hiwari, Tq. Yavatmal, Dist: Yavatmal.

Respondents.

S/Shri S.S. Dhengale, M. Chandekar, Advocates for applicant.

Shri A.M. Ghogre, learned P.O. for respondents.

**Coram :- Hon'ble Shri M.A. Lovekar,
Member (J).**

Date of Reserving for Judgment : 30th June, 2023.

Date of Pronouncement of Judgment : 5th July, 2023.

JUDGMENT**(Delivered on this 5th day of July, 2023)**

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

2. In this O.A. order dated 12/02/2019 (Annex-A-2) passed by respondent no.3 denying benefit of 2nd Assured Progression Scheme (in short "APS") to the applicant is impugned.

3. Case of the applicant is as follows –

On 08/08/1988 the applicant entered service as a Secondary School Teacher in a School which was receiving government grants. By order dated 06/07/1994 (Annex-A-7) the applicant was appointed as a Secondary School Teacher in a Government School. These two service tenures were clubbed by order dated 10/08/2015 (Annex-A-22). Consequently, date of grant of selection grade to the applicant was preponed from 06/07/2006 to 08/08/2000. He thus became entitled to the second benefit under the APS on 08/08/2012. On 4/2/2014 the applicant declined promotion as he was undergoing treatment for Cancer. After serving for 24 years, at no point of time after 08/08/2012, the applicant was expressly offered or informed about promotion. In these facts, the second benefit of APS could not have been denied by relying on G.Rs. dated 20/07/2001 (Annex-A-3) and 10/04/2010 (Annex-A-4).

4. In the impugned order the reason for denial of benefit was stated as follows –

“वित्त विभाग, शासन निर्णय क्र. वेतन ११९९/प्र.क्र.२/९९/सेवा- ३ दि २० जुलै, २००९ मधील परिच्छेद क्र.२ मधील मुददा क्र.७ मध्ये नियमित पदोन्नती नाकारलेल्या तसेच नियमित पदोन्नतीस अपात्र ठरलेल्या कर्मचाऱ्यांना या योजनेचा (१२ वर्ष / २४ वर्ष) लाभ देय होणार नसल्याची तरतूद असून वित्त विभाग, शासन निर्णय क्र. वेतन- ११०९/प्र.क्र.४४/सेवा ३ दि १ एप्रिल, २०१० मधील मुद्दा / परिच्छेद क्र.३ मध्ये पदोन्नती नाकारलेल्या कर्मचाऱ्यांचे लाभ काढून घेण्याची तरतूद असून संबंधित कर्मचारी यांनी माध्यमिक मुख्याध्यापक पदाची पदोन्नती नाकारल्याने विभागीय पदोन्नती समितीद्वारे निवड श्रेणीकरीता अपात्र ठरविण्यात आले.”

5. It was argued by learned counsel Shri S.S. Dhengale for the applicant that on 4/2/2014 when the applicant declined promotion he was in fact not due for promotion. There is no merit in this submission. In his letter dated 4/2/2014 (at page 36) the applicant expressly stated – “माध्य. मुख्याध्यापक या पदावर पदोन्नतीची सेवाजेष्ठतेप्रमाणे माझ्या नावाचा समावेश असल्याचे कळले आहे. करीता सदर पदोन्नती स्विकारण्यास मी वैद्यकीय कारणास्तव असमर्थ आहे, तरी आदरणीय महोदयानी जेष्ठतेप्रमाणे माझ्या नंतर येणा-या शिक्षकास पदोन्नती दिल्यास माझी कोणतीही हरकत नाही.”

6. While supporting the impugned order learned P.O. relied on para-2 (8) of G.R. dated 20/07/2001 and para-3 of G.R. dated 01/04/2010 which read as under –

“(८) नियमित पदोन्नती नाकारलेल्या तसेच नियमित पदोन्नतीस अपात्र ठरलेल्या कर्मचा-यांना या योजनेचा लाभ देय होणार नाही. या योजनेअंतर्गत वरिष्ठ वेतनश्रेणी दिल्यानंतर नियमित पदोन्नती नाकारलेल्या वा नियमित पदोन्नतीस अपात्र ठरलेल्या कर्मचा-यांना देण्यात आलेला लाभ काढून घेण्यात येईल. मात्र दिलेल्या लाभांची वसुली करण्यात येणार नाही.”

“३.या योजनेखाली पहिला / दुसरा अथवा दोन्ही लाभ मंजूर केल्यानंतर प्रत्यक्ष पदोन्नती नाकारलेल्या अथवा पदोन्नतीस अपात्र ठरलेल्या कर्मचा-यांना देण्यात आलेले लाभ काढून घेण्यात येतील अशा लाभांची वसुली करण्यात येईल. सदर वसुलीची संपूर्ण जबाबदारी संबंधित आस्थापना अधिका-यांची राहिल.”

7. Since the applicant expressly declined promotion by letter dated 04/02/2014, the impugned order, having regard to the aforementioned G.Rs., cannot be faulted.

8. The O.A. is therefore dismissed with no order as to costs.

(M.A.Lovekar)
Member (J).

Dated :- 05/07/2023.

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 Member (J).

Judgment signed on : 05/07/2023.