

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.1108 OF 2019

**DISTRICT : PUNE
SUBJECT : TIME BOUND
PROMOTION**

Shri Vitthal Dhanaji Suryawanshi,)
Age:- 44 years , Occ. Assistant Registrar,)
Cooperative Societies, Maval, Pune, Dist. Pune.)
and having residential address at A-12, 303,)
LATIS Society, Talegaon Dabhade, Taluka Maval,)
District Pune.)... **Applicant**

Versus

- 1) Government of Maharashtra, Through)
Principal Secretary, Cooperation Department)
Mantralaya, Mumbai - 400 032.)
- 2) Commissioner of Cooperation & Registrar,)
C.S., Maharashtra State, Pune -1.)
- 3) Additional Registrar, Cooperative Societies,)
(Administration), Maharashtra State, Pune.)
- 4) Divisional Joint Registrar, Cooperative Societies)
Pune Division, Shivaji Nagar, Pune – 411 005.)...**Respondents**

Shri Makarand D. Lonkar, learned Advocate for the Applicant.

Shri Ashok J. Chougule, learned Presenting Officer for the Respondents.

CORAM : A.P. KURHEKAR, MEMBER (J)

DATE : 27.03.2023.

JUDGMENT

1. The Applicant has challenged communication dated 03.04.2019 issued by Respondent No.2 – The Commissioner for Cooperation & Registrar, Pune whereby his claim to consider his earlier service period

from 01.07.2005 to 27.04.2009 rendered in Police Department for the benefit of Assured Career Progression Scheme (ACPS) is rejected in terms of G.R. dated 19.01.2013 invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

2. Following are uncontroverted facts to be borne in mind to decide the issue in the matter.

- A) Initially the Applicant was appointed as PSI in Home Department and served from 01.07.2005 to 27.04.2009.
- B) Later he was appointed on the post of Assistant Registrar in Cooperative Societies through MPSC and joined Cooperation Department from 28.04.2009.
- C) His earlier services from 01.07.2005 to 27.04.2009 rendered in Home Department were counted for pensionary benefits while joining Cooperation, Department.
- D) The Applicant made representation on 22.11.2018 to count his service rendered from 01.07.2005 to 27.04.2009 in the Home Department for the purpose of the benefit of ACPS but DPC rejected his claim stating that his service rendered in Home Department cannot be counted since the post held by the Applicants are not equivalent and secondly it carries different pay scale.

3. It is on the above background the Applicant has challenged communication dated 03.04.2019 issued by Respondent No.2 - The Commissioner for Cooperation & Registrar, Pune whereby his claim to count his initial service rendered in Home Department for clubbing with service rendered in Cooperation Department for the purpose of grant of ACPS benefit is rejected.

4. Shri M.D. Lonkar, learned Advocate for the Applicant sought to assail communication dated 03.04.2019 *inter-alia* contending that since his service rendered in Home Department is already considered for the purpose of pension in principle it also needs to be counted for the

benefits of ACPS. He further pointed out that the earlier post of PSI held by the Applicant PSI as well as subsequent post of Assistant Registrar both are Group 'B' post and therefore these posts are required to be held equivalent so as to grant the benefit of ACPS. According to him only difference in the pay scale is that in Home Department the Applicant was in pay scale of Rs.9300-34,800 + Grade Pay (G.P.) 4300/- and in Cooperation on joining his pay scale is 9300-34,800 + Grade Pay 4400/- and therefore difference of Grade Pay of Rs.100/- per month is hardly distinguishing factor. On this line of submission he urged that denial to count earlier service period rendered in Home Department for consideration of benefit of ACPS is totally unjust and arbitrarily.

5. Per contra, learned P.O. in reference to contention raised in Affidavit-in-Reply submits that Department examined eligibility of the Applicant for considering his earlier service period in terms of G.R. dated 19.01.2013 but the post found not equivalent and the Applicant being appointed on higher pay scale, his claim is rightly rejected.

6. In view of submission, issue posed for consideration is whether the Applicant is entitled to count his service rendered in Home Department for the purpose of ACPS and the impugned communication dated 03.04.2019 needs interference.

7. The facts adverted to above are not in dispute. There is no denying that initially the Applicant was serving as PSI (Group 'B' Non-Gazetted post) carrying pay scale of 9300-34,800 + Grade Pay 4300/- and later on his appointment in Cooperation he was appointed as Assistant Registrar (Gazetted Group 'B') carrying pay scale 9300-34,800 + Grade Pay 4400/-. The aim and object of ACPS is to take care of stagnation and to extend monetary benefits of promotional post to employee who has rendered 12 years continuous service on the same post and eligible to hold promotional post. Thus where employee is deprived of promotion because of insufficient number of promotional

post, he is entitled to the benefit of ACPS if he rendered continuous service on the same post. Whereas, in the present case initially the Applicant was serving as PSI in Home Department but later through MPSC he was selected as Assistant Registrar Cooperative Society and accordingly joined on 28.04.2009. The Government under Finance Department by G.R. dated 19.01.2013 set out terms and conditions subject to which earlier service period rendered in one Department can be counted for the benefit of ACPS where such employee is appointed in another Department by nomination. In this behalf terms and conditions mention under G.R. dated 19.01.2013 are material which are as under:-

“शासन निर्णय

शासकीय कर्मचा-यांची महाराष्ट्र लोकसेवा आयोग अथवा तत्सम निवड मंडळामार्फत नामनिर्देशनाने/सरळ सेवेने दुस-या शासकीय पदावर नेमणूक झाल्यास त्या कर्मचा-याची नामनिर्देशनाने नियुक्तीपूर्वीची सेवा कालबद्ध पदोन्नती /सेवांतर्गत आश्वासित प्रगती योजना /सुधारित सेवांतर्गत आश्वासित प्रगती योजनेच्या लाभासाठी खालील अटीच्या अधीन राहून ग्राह्य धरण्यात यावी:-

१. शासकीय कर्मचा-याने लोकसेवा आयोग किंवा तत्सम निवड मंडळाने विहित केलेल्या मार्गाने अर्ज केलेला असावा.

२. महाराष्ट्र नागरी सेवा (वेतन) नियम, १९८१ मधील नियम १४ व त्याखालील टीप १ व २ मधील तरतुदीप्रमाणे पूर्वीची सेवा व नविन नियुक्तीमध्ये २४ तासांपेक्षा अधिक खंड असू नये. तसेच संबंधित कर्मचा-याला पूर्वीच्या कार्यालयातून त्याला विहित मार्गाने कार्यमुक्त केलेले असावे.

३. शासकीय कर्मचा-याची नामनिर्देशनाने /सरळ सेवेने नियुक्ती झालेले पद नामनिर्देशनापूर्वीच्या पदास समकक्ष असावे. कर्मचा-याची नियुक्ती उच्च किंवा कनिष्ठ पदावर झाल्यास पूर्वीची सेवा सेवांतर्गत आश्वासित प्रगती योजनेच्या लाभासाठी ग्राह्य धरता येणार नाही.

४. शासकीय कर्मचा-याची नामनिर्देशनापूर्वीची नियमित सेवा विचारात घेण्यात यावी तसेच उपरोक्त योजनांच्या शासन निर्णयातील अटी/शर्तीनुसार पात्र असल्यास लाभ अनुज्ञेय राहतील.”

8. Thus here the issue is about compliance of Clause No.3 of G.R. which states that both posts should be equivalent and secondly where employee is appointed by nomination on higher or lower post in that

event his earlier service period rendered in one Department cannot be considered or counted for benefit of ACPS. In present case admittedly the Applicant was in pay scale of 9300 – 34,800 + Grade Pay 4300 in Home Department and later in Cooperation he was given higher pay scale of 9300 – 34,800 + Grade Pay 4400. This being so obviously these two posts cannot be said equivalent. Indeed, these two posts are carrying different pay scale. Apart, the Applicant is given higher pay scale since in Cooperation he was given Grade Pay of Rs.4400 in place of Grade Pay 4300. Thus though these little difference in Grade Pay, fact remains that post on which he is later appointed carries higher pay scale. This being so, it cannot be said that the both posts were equivalent so as to count earlier service period for the benefits of ACPS.

9. Only because Government allowed to count of his earlier service period for pension purpose that *ifso-facto* would not confer upon the Applicant to claim the benefit of earlier period for ACPS scheme. Needles to mention, eligibility for benefits of ACPS needs to be examined independently in terms of scheme promulgated by the Government particularly G.R. dated 19.01.2013. Suffice to say, the Applicant's post in Cooperation and his former post in Home Department cannot be termed equivalent. The Applicant is appointed on higher pay scale in Cooperation which rendered his claim to count his earlier service for ACPS untenable on the touch-stone of G.R. dated 19.01.2013.

10. For the aforesaid reason, the submission advanced by learned Advocate for the Applicant that his client is entitled to count his initial service period rendered in Home Department for the benefit of ACPS holds no water. The challenge to the impugned communication dated 03.04.2019 is thus without merit and O.A. is liable to be dismissed. Hence, the Order.

ORDER

The Original Application is dismissed with no order as to costs.

Sd/-
(A.P. Kurhekar)
Member (J)

Place: Mumbai
Date: 27.03.2023
Dictation taken by: N.M. Naik.

Uploaded on: _____