

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 940/2020
WITH CIVIL APPLICATION No.315/2021 (D.B.)

Bhaiyya Mahadeo Ramteke,
Aged 44 years, Occ. Service,
R/o 21 B, Samata Colony, Behind Law College,
Vidya Vihar Convents School Road, Tadoba Road,
Tukum, Chandrapur-442 401.

Applicant.

Versus

- 1) The State of Maharashtra,
through Public Works Department,
Mantralaya, Mumbai-400 032.
- 2) Desk Officer,
Government of Maharashtra,
Public Works Department, Mantralaya,
Mumbai-400 032.
- 3) Chief Engineer,
R/o Public Works Department, Region Bandkam Sankul,
Civil Lines, Nagpur-440 001.
- 4) Superintending Engineer,
R/o Public Works Circle, Chandrapur,
Civil Lines, Chandrapur-442 401.
- 5) Superintending Engineer,
R/o Public Works (Tribal) Circle,
Adiwasi Vikas Bhavan, Giripeth, Nagpur.

Respondents.

Shri J.M. Shamkuwar, Advocate for the applicant.
Shri A.M. Ghogre, P.O. for respondents.

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

Date of Reserving for Judgment : 13th January,2022.

Date of Pronouncement of Judgment : 18th January,2022.

JUDGMENT

Per : Vice Chairman.

(Delivered on this 18th day of January, 2022)

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

2. The case of the applicant in short is as under –

3. On 30/05/2008 the applicant was appointed as Civil Engineering Assistant by the respondent no.4. The applicant has been working under the control and supervision of the respondent no.5. The copy of Service Book of the applicant is filed on record at page nos.44 to 48. As per Service Book record on page no.45, the applicant belongs to S.C. category. As per Recruitment Rules dated 18/06/1998 (A-B,P-15), the condition no.13 on page no.20 is reproduced as below –

13- ijh{kk mRrh.kz gks;kpk dkyko/th vkf.k I akhph I j;k & de;k;k kus fdok LFkki R; vfhk; kf=dh I gk; dkaus 3 I akhe/;s vkf.k ifgY;k ifj{kB;k fnukadki kl q 4 o'kkP;k dkyko/thr ijh{kk mRrh.kz gksks vko" ; d vkgs rFkfi] ifgY;k ijh{kikl q , d o'kkP;k dkyko/thr] nq & k I akhpk mi ; ksx d#u ?krk ; bdy-^{}**

4. On 5/4/2008 Circular was issued relating to qualifying examination 2008 of Civil Engineering Assistant. The applicant passed qualifying examination in June,2014. The applicant also passed departmental examination of Junior Engineer in November,2015. On 2/1/2016 final seniority list of Civil Engineering Assistant was published by the State of Maharashtra. Again on 2/11/2020 a temporary seniority list of Civil Engineering Assistant was published by the State of Maharashtra. Therefore, on 3/11/2020 an objection was raised by the applicant to the temporary seniority list. Thereafter on 11/12/2020 final seniority list was published by the State of Maharashtra which is under challenge. The applicant has sought the following reliefs in the O.A. –

“8 (i) To pass an order quashing and setting aside the seniority list published on 11/12/2020.”

5. The applicant has also filed C.A.No. 315/2021 for direction in which he has prayed as follows –

“(1) To direct the respondent nos.1 to 4 to promote the applicant on the post of Junior Engineer in Public Works Department till the disposal of O.A.

(2) grant any other relief which is deemed fit in the facts and circumstances of the present matter.”

6. The respondents have filed reply-affidavit on 12/8/2021. The applicant has also filed letter dated 4/1/2021 (Annex-P,P-33&34) issued by the Superintending Engineer, PWD, Chandrapur. On page no.34 the applicant's name appears at Sr.No.1 and in column no.8 it is written that the applicant has not lost seniority of original date of appointment. In column no.6 the date of passing examination is mentioned as June,2014 and in column no.7 it is mentioned that the applicant has passed the examination in 3rd attempt. This may not be corrected since the applicant was appointed in the year 2008 and first examination was conducted in the year 2009 and second examination was conducted in the year 2010. In the year 2011, the examination was not conducted. The applicant took 1st attempt in the year 2012 but failed, then he took 2nd attempt in the year 2013 and again failed. He took 3rd attempt in the year 2014 and passed the examination.

7. As per the G.R. dated 24/8/1976 at page no.39, the Government has taken decision that the candidates from (i) Scheduled Castes, (ii) Scheduled Tribes and (iii) notified Tribes and Nomadic Tribes, should be given one more chance and one more year to pass the departmental examination, than is permissible under the rules to other candidates.

8. As per the service record, the applicant belongs to Scheduled Caste category, therefore, the applicant's case is squarely covered by the G.R. dated 24/8/1976. Hence, the following order-

ORDER

- (i) The O.A. is allowed as per prayer clause no. 8 (i).
- (ii) The C.A. also stands disposed off accordingly.
- (iii) No order as to costs.

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

(Shree Bhagwan)
Vice-Chairman.

Dated :- 18/01/2022.

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 : 18/01/2022.

Uploaded on : 18/01/2022*