

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 422/2016 (S.B.)**

Suresh S/o Ramchandra Rakshe,
Aged about 56 years, Occ. Service,
R/Adarsha Colony, Nagpur, Tq.& Dist. Nagpur.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary, Home Department,
Mantralaya, Mumbai-32.
- 2) The Director General of Police (M.S.),
Hutatma Chowk, Near Regal Cinema,
Mumbai.
- 3) The Additional Director of Police,
Wireless Office, Pashan Road, Pune-5.
- 4) The Commissioner of Police, Nagpur City Nagpur,
Civil Lines, Nagpur.

Respondents.

Shri S.N. Gaikwad, Advocate for the applicant.

Shri S.A. Sainis, P.O. for respondents.

WITH**ORIGINAL APPLICATION No. 431/2016 (S.B.)**

Chirsagar S/o Yashwantrao Raipure,
aged about 58 years, Occ. Service,
R/o 204, Parishram Apts., Opps. NIT Garden,
Kukade Layout, Nagpur.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary, Home Department,
Mantralaya, Mumbai-32.

- 2) The Director General of Police (M.S.),
Hutatma Chowk, Near Regal Cinema,
Mumbai.
- 3) The Additional Director of Police,
Wireless Office, Pashan Road, Pune-5.
- 4) The Commissioner of Police, Nagpur City Nagpur,
Civil Lines, Nagpur.

Respondents.

Shri S.N. Gaikwad, Advocate for the applicant.

Shri S.A. Sainis, P.O. for respondents.

WITH
ORIGINAL APPLICATION No. 432/2016 (S.B.)

Sunil S/o Babarao Mahatme,
Aged about 51 years, Occ. Service,
R/o New Sahakar Nagar, Nagpur,
Tq. & Dist. Nagpur.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary, Home Department,
Mantralaya, Mumbai-32.
- 2) The Director General of Police (M.S.),
Hutatma Chowk, Near Regal Cinema,
Mumbai.
- 3) The Additional Director of Police,
Wireless Office, Pashan Road, Pune-5.
- 4) The Commissioner of Police, Nagpur City Nagpur,
Civil Lines, Nagpur.

Respondents.

Shri S.N. Gaikwad, Advocate for the applicant.

Shri V.A. Kulkarni, P.O. for respondents.

WITH

ORIGINAL APPLICATION No. 433/2016 (S.B.)

Sudhir S/o Pandurang Sontakke,
Aged about 45 years, Occ. Service,
R/o Dnyeshwari Nagar, ear Malu College,
Amravati, Tq. & Dist. Amravati.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary, Home Department,
Mantralaya, Mumbai-32.
- 2) The Director General of Police (M.S.),
Hutatma Chowk, Near Regal Cinema,
Mumbai.
- 3) The Additional Director of Police,
Wireless Office, Pashan Road, Pune-5.
- 4) The Commissioner of Police,
Amravati City, Amravati.

Respondents.

Shri S.N. Gaikwad, Advocate for the applicant.

Shri A.M. Khadatkhar, P.O. for respondents.

WITH**ORIGINAL APPLICATION No. 434/2016 (S.B.)**

Indrabhan S/o Sonabaji Fulzele,
Aged about 58 years,
Occ. Service, R/o Narendra Nagar, Nagpur.
Tq. & Dist. Nagpur.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary, Home Department,
Mantralaya, Mumbai-32.
- 2) The Director General of Police (M.S.),
Hutatma Chowk, Near Regal Cinema,
Mumbai.

- 3) The Additional Director of Police,
Wireless Office, Pashan Road, Pune-5.
- 4) The Superintendent of Police, Nagpur Rural,
Nagpur Civil Lines, Nagpur.

Respondents.

Shri S.N. Gaikwad, Advocate for the applicant.

Shri H.K. Pande, P.O. for respondents.

WITH

ORIGINAL APPLICATION No. 473/2016 (S.B.)

Mahadeo S/o Marotrao Gotmare,
Aged about 58 years, Occ. Service,
R/o Ayodhya Nagar, Nagpur Tq. & Dist. Nagpur.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary, Home Department,
Mantralaya, Mumbai-32.
- 2) The Director General of Police (M.S.),
Hutatma Chowk, Near Regal Cinema,
Mumbai.
- 3) The Additional Director of Police,
Wireless Office, Pashan Road, Pune-5.
- 4) The Commissioner of Police, Nagpur City Nagpur,
Civil Lines, Nagpur.

Respondents.

Shri S.N. Gaikwad, Advocate for the applicant.

Shri M.I. Khan, P.O. for respondents.

**Coram :- Hon'ble Shri Anand Karanjkar,
Member (J).**

Date of Reserving for Judgment : 22nd July, 2019.

Date of Pronouncement of Judgment : 18th September, 2019.

COMMON JUDGMENT

(Delivered on this 18th day of September,2019)

Heard Shri S.N. Gaikwad, learned counsel for the applicants and Shri S.A. Sainis, learned P.O. and other P.Os. for the respondents.

2. All the applicants were appointed as Assistant Sub Inspectors in Wireless Section of the Police Department, their respective dates of joining in the services and other details are as under –

Sr. No.	O.A. No.	Joined in service	Name	First Appointment	Date/Year of passing Examination
1	422/2016	28/1/1981	S.R. Rakshe	ASI	1/4/2014
2	431/2016	14/8/1984	C.Y. Raipure	ASI	2013
3	432/2016	1/8/1988	S.B.Mahatme	ASI	2013
4	433/2016	24/12/1993	S.P.Sontakke	ASI	2013
5	434/2016	10/7/1981	I.S. Fulzele	ASI	2014
6	473/2016	18/10/1980	M.M.Gotmare	ASI	5/2/2008

3. It is grievance of all the applicants that they punctually and honestly performed the services till their retirement, but they were not given benefit of the scheme brought in force by the Government to give them time bound promotions as per the G.R. of 1995 and the benefits of the Assured Career Progressive Scheme as per the G.R. dated 20/7/2001 and as per later G.R. issued in 2010. It is contention of all the applicants that as per these G.Rs. the applicants were entitled to have two time bound promotions, first promotion on completion of 12 years service and the second promotion on completion of next 12 years service from the date of first time bound promotion. As the issues involved in all the applications are identical, therefore, all the applications are heard and decided by this common order.

4. It is contention of the learned counsel for the applicants that benefits of G.Rs. dated 8/6/1995, 20/7/2001 and 1/4/2010 were not given to the applicants for the reason that the applicants were unable to clear the Class-I examination as observed in Para-191 of the Bombay Police Manual. It is submission of the learned counsel for the applicants that it was not necessary for the applicants to pass the examination mentioned in Para-191 of the Bombay Police Manual and therefore, action of the respondents not giving benefits of the G.Rs. and time bound promotions to the applicants is in violation of law. It is

submitted that the direction be given to the respondents to issue time bound promotions to all the applicants in terms of the G.Rs. dated 8/6/1995,20/7/2001 and 1/4/2010.

5. The respondent no.3 submitted reply-affidavit on behalf of all the respondents and justified the action of the Department. The first contention of the respondents is that there is inordinate delay in approaching this Tribunal, therefore, all the applications are barred by limitation.

6. The second contention of the respondents is that as per the first G.R. dated 8/6/1995 there was a criteria for giving benefit of time bound promotion to the Government servant serving in Class-C and Class-D. According to the respondents for claiming the benefit of the G.R. a Government servant must be otherwise eligible for the promotion. It is submitted that as the applicants did not clear the Class I examination as per the norms of the Police Wireless Department, consequently the applicants were not entitled for the benefit of the G.R. dated 8/6/1995 and the subsequent G.Rs. It is submission of the respondents that the applicants have cleared the Class-I examination on the respective dates and year as mentioned in the reply. It is contention of the respondents that before clearing the examination, the applicants were not entitled for time bound

promotions or accrued Career Progressive. In view of this, it is submitted that all the applications are liable to be dismissed.

7. The learned counsel for the applicants has placed reliance on the Judgment delivered by the Hon'ble Bombay High Court, Division Bench at Aurangabad in Writ Petition No.3643/2009, on 21/11/2017. Before the Hon'ble High Court the issue was that whether the Assistant Police Sub Inspector in Wireless Section of Police Department was entitled for the relief of time bound promotion on completion of age 45 years without clearing the departmental examination. In that proceeding contentions were raised by the Petitioner that the G.R. was issued by the GAD, Government of Maharashtra and direction was given by the Government in the year **1977** to exempt the persons who have crossed 45 years of age from passing the departmental examinations and directions were issued to the Departments of State to carry out suitable amendments in the Service Rules applicable to the respective Departments. Before the Hon'ble High Court it was demonstrated that in spite of this direction, the various Departments of the Government (including wireless section of the Police Department) did not take any interest in framing the rules to give exemption to the Government servants from passing the departmental examination on completion of age of 45 years.

8. The Petitioner in Writ Petition No. No.3643/2009 (Mukund S/o Shankarlal Daima) was the Assistant Police Sub Inspector in Wireless Section of the Police Department and he joined service in the year 1980. The Petitioner cleared Class-IV examination and Class-III examination. Thereafter, he was unable to clear Class-II and Class-I examinations as per the norms fixed by the Department. In this situation, in Para-19 it is held by the Hon'ble High Court as under –

“(19) In view of aforesaid, it would be appropriate that the petitioner employed in Wireless Section of Police Department is given benefit of promotion to the next level post without insisting upon departmental or Class-I and II examination, on attaining age of 45 years by giving deemed date of promotion. Since it is stated that petitioner is no longer in service having retired on superannuation, as such, he shall be given deemed date of promotion from the date of promotion of his junior, along with all consequential benefits.”

9. In my opinion in view the above discussion, it is not possible to accept submission canvassed by the learned counsel for the applicants that it was not at all necessary for the applicants to clear the departmental examinations as per the norms fixed by the Police Department, but in view of the law laid down by the Hon'ble Bombay High Court in Writ Petition No.3643/2009, I am of the view that on ground of parity, on completion of age of 45 years, each applicant was entitled for the time bound promotion or the accrued Career Progressive as per the G.Rs. issued by the Government.

10. So far as question of limitation is concerned, I do not see any merit in this contention of the respondents, for the reason that

being a model employer, it should not lie in the mouth of the respondents that the applications are barred by limitation. As a matter of fact after the Judgment in Writ Petition No.3643/2009 it was necessary on the part of the respondents to examine the cases of the Police Personnel serving in Wireless Section of Police Department who had completed the age of 45 years but to whom time bound promotions or accrued Career Progressive benefits were not given and should have sue-motu granted them the reliefs.

11. In view of this discussion, I am compelled to say that the applicants are entitled for limited relief in these matters. In the result, I pass the following order -

ORDER

The respondents are directed to issue time bound promotion / Assured Career Progressive benefit to the applicants from the date they have completed the age of 45 years. The respondents shall fix the salary of the applicants, pay them the arrears and revise their pension. The respondents are directed to comply this order within six months from the date of this order. No order as to costs.

Dated :- 18/09/2019.

(A.D. Karanjkar)
Member (J).

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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 : 18/09/2019.
and pronounced on

Uploaded on : 19/09/2019.