

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 778/2019 (S.B.)**

Shri Mukteshwar S/o Tukaram Wani, Age about 71 years,
Occ. Pensioner, R/o New Subhedar Layout, Thaware Colony,
Plot No. 22, Ayodhaya Nagar, Nagpur.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary, General Administration Department,
Mantralaya, Mumbai-32.
- 2) Mantralaya of Home Department, Mumbai, 400 032,
Through its Secretary.
- 3) The Director General of Police, Maharashtra State, Shahid
Bhagatsingh Marg, Collaba, Mumbai-400 001.
- 4) Additional Director General of Police and Director of Police
Wireless, Pune – 411 008 (Maharashtra State)

Respondents.

Shri C.F.Bhagwani, the Id. Advocate for the applicant.

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

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

Date of Reserving for Judgment : 21st January, 2021.

Date of Pronouncement of Judgment : 02nd February, 2021.

JUDGMENT

(Delivered on this 02nd day of February, 2021)

Heard Shri C.F.Bhagwani, the learned counsel for the applicants and Shri A.M.Khadatkar, the learned P.O. for the respondents.

2. The applicant was initially appointed as Assistant Sub Inspector in Wireless Section of the Police Department, his date of joining in the service and other details are as under –

Sr. No.	Joined in service	First Appointment	Date/Year of passing Examination	D.O.B.	Date at which completed 45 years.
1	27/08/1975	ASI	---	16.05.1948	16.05.1993

3. It is grievance of applicant that he punctually and honestly performed the services till his retirement, but he was not given benefit of the scheme brought in force by these Government to give them time bound promotion as per the G.R. of 1995 and the benefit of the Assured Career Progressive Scheme as per the G.R. dated 20/07/2001 and as per later G.R. issued in 2010. It is contention of the applicant that as per these G.Rs. the applicant was 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.

4. It is contention of the learned counsel for the applicant that benefits of G.Rs. dated 8/6/1995, 20/7/2001 and 1/4/2010 were not

given to the applicant for the reason that the applicant was 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 applicant that it was not necessary for the applicant 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 the applicant in terms of the G.Rs. dated 8/6/1995,20/7/2001 and 1/4/2010.

5. The respondent no. 4 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, the application is barred by limitation. However, due to delay Justice cannot be denied to anyone. Hence, this argument advanced by respondent no. 4 is not acceptable.

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 applicant did not clear the Class I examination as

per the norms of the Police Wireless Department, consequently the applicant was not entitled for the benefit of the G.R. dated 8/6/1995 and the subsequent G.Rs. It is contention of the respondents that the applicant was not entitled for time bound promotions or accrued Career Progressive. In view of this, it is submitted that the application is liable to be dismissed.

7. The learned counsel for the applicant 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. 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 applicant that it was not at all necessary for the applicant to clear the departmental examination 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, 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 application is 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 applicant is entitled for limited relief in this matter. In the result, I pass the following order -

ORDER

The respondents are directed to issue time bound promotion / Assured Career Progressive benefit to the applicant from the date he

has completed the age of 45 years. The respondents shall fix the salary of the applicant, pay him the arrears and revise his pension. The respondents are directed to comply this order **within six months** from the date of this order. No order as to costs.

Dated :- 02/02/2021.

**(Shree Bhagwan)
Vice Chairman.**

*APS.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : A.P.Srivastava

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 02/02/2021.

and pronounced on

Uploaded on : 03/02/2021.