

MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO. 221/2000

- 1) Chandra Prakash Singh (Applicant) (Dead)
 - i) Ravindranath Chandraprakash Singh (Son)
R/o Empress Mill Road No.1, Nagpur-440 018.
 - ii) Sau. Jayashree Sandip Shewale (Married daughter),
R/o Santra Market Parsi Chawl, Masoba Mandir Road,
Near house of P.G. Gaur, Nagpur-440 018.
 - iii) Sau. Padmashree Siddharthakumar Singh
(Married daughter),
R/o "C" Block, 503, Pride Pristin, Vasundhara Layout,
Anant Nagar, Phase-3, Near Electronic City Hoskar
Gate, Bangalore-100.
- 2) Hanumant Sukhadeo Wankhede,
aged about 57 years, Occ. Assistant Food Grains
Distribution Officer (Accounts),
R/o 120, Sahakar Nagar, Nagpur.

Applicants

Versus

- 1) The State of Maharashtra
Food and Civil Supply Department,
Mantralaya, Mumbai-32.
- 2) Collector, Nagpur.
- 3) Commissioner, Nagpur Division, Nagpur.
- 4) Food Grains Distribution Officer, Nagpur.

Respondents

Mr. D.T.Shinde, Advocate for the applicant.

Mr. P.N.Warjurkar, P.O. for the Respondents.

Coram:- Hon'ble Shri S.S.Hingne, Member (J).

Dated: - 26-09-2016.

ORDER -

The applicants have filed this O.A. seeking the relief of deemed date of promotion as a Supply Inspector and consequential benefits arising thereon.

2. Heard Shri D.T. Shinde, Id. Counsel for the applicant and Shri P.N. Warjurkar, Id. Counsel for the respondents.

3. This is the second round of litigation. Earlier the O.A. was disposed of on 11-01-2002, on the oral submission made by the learned P.O. that the final seniority list as on 27-07-1979 was published on 05-09-2000. Consequently, the O.A. was disposed of by passing the following order.

“ In view of the above, the respondents are directed to implement the said seniority list within a period of six months. With these directions, the present O.A. stands finally disposed of with no order as to costs”.

4. The State of Maharashtra filed the W.P. No. 2254/2003 challenging the said order. Their Lordships allowed

the W.P. vide order dated 2-2-2016 and the order dated 11-01-2002 in the O.A. as well as other order dated 27-11-2002 in cont. petition no.1016/2002 were set aside. This is in short how the matter came up before the Tribunal.

5. The factual aspects are no longer in dispute and lie in a narrow compass. Two employees had filed the O.A., No. (1) C.P. Singh who was appointed as a Clerk on 8-5-1964. He died pending the proceedings and the L.Rs. are brought on record and applicant no. (2) H.S. Wankhede who is appointed as a Clerk on 12-6-1964. Both the appointments were made by the Collector, Nagpur (R/2).

6. The Govt. of Maharashtra issued the G.R. dated 19-2-1966 (A-3,P-45) to introduce "The statutory rationing in the Nagpur city" and has placed the Collector, Nagpur in charge of the scheme by appointing him as a "Controller of rationing ex-officio". At that time "Nagpur Household Card System" was vogue and the nucleus staff sanctioned under that scheme was merged with "Statutory rationing" w.e.f. 1-3-1966. To meet the official exigency, by order dated 12-3-1966 (A-4,P-48) some posts along with the holders of the post from the establishment

of the Collector office Nagpur were also placed at the disposal of the "Controller of rationing, Nagpur" w.e.f. 1-3-1966 by which the applicants were shifted from Collector office to "Controller of rationing establishment". As usual the dispute ensued about the internal seniority of the employees who came to be posted under "Controller of rationing establishment".

7. To redress the grievance the employees filed the Special Civil Applications nos. 607/1974, 4258/1976, 4834/1976 and 11258/1976 before the Hon'ble High Court. Their Lordships of the Nagpur Bench decided these matters by order dated 13-01-1977 (P-52). The last para of order runs as under :-

"In the result, all the there petition are allowed. So far as the petitioners in Special Civil Application No. 707/1974 are concerned, the State Government is directed to treat those petitioners as employees holding the posts in the Food and Civil Supplies Department and to consider their cases of promotion as Supply Inspectors if permissible under the rules governing such promotions. So far as the orders of repatriation impugned in Special Civil Application Nos. 4258 and 4834 of 1976 are concerned, they are quashed and the petitioners are declared entitled to

be treated as employees holding posts in the Food and Civil Supplies Department. All the three petitioners are thus allowed with costs”.

8. The present applicants were petitioners in the Special Civil Application No.607/1974. Undisputedly, the petitioners were Jr. Clerks on the establishment of Collector and came to be transferred to the Food & Civil Supply Department. Several aspects regarding the effect of their postings from one department to another were raised and are considered by Their Lordships in the above matters and eventually Their Lordships concluded that the employees including the petitioners hold the posts in the Food and Civil Supply Department and to consider their cases of promotion as a Supply Inspector if permissible under the rules governing such promotions. Thus the matter is completely and peremptorily decided by the Hon'ble High Court. As such, it is not necessary to delve upon the arguments made by the counsel for parties which are covered by the Judgment.

9. Armed with the above decision the applicants claimed the relief. The above order paved the way of the applicants to get the promotions.

10. Not only that the learned counsel for the applicants relied on the order of this Tribunal passed on 28-7-2006 deciding the O.A. No.82/1998 in **Laxman Bhikaji Bankar Vs. State of Maharashtra.** In the said case the employee was transferred from one to other department and was deprived of the further promotions of Naib Tahsildar, Tahsildar and Dy. Collector. Hence, he filed the said O.A. which was allowed and he was given deemed date of promotion from the date on which the promotion of his other employees were made keeping in view of his service record and he found fit for appropriate promotions. In effect, the applicants also cannot be deprived of such benefit.

11. Now the question emerges about the fitness of the applicants for the promotion. It is not the respondents' case that the applicants were not fit for promotion. There is no an iota of material on record and in pleading in the affidavit-in-reply filed by the respondents so as to hold that the applicants could not have been promoted for any reason.

12. Now the matter is too old. The applicants were absorbed somewhere in 1966. The other employees were given

promotions from time to time. In the seniority list dated 27-7-1978 (A-8,P-76 to 78) applicant no.1 was shown at sr.nos.20 & 29. Therefore the applicants were deprived of the promotions being placed below. In the other seniority list of 20-7-1979 (A-1,P-39) the applicant no.(1) S.P. Singh is at sr.no. (9) and applicant no.2 is at sr.no. (12), after considering all the aspects and the directions by the Court etc. The same list was published as on 5-9-2000 (P-134) showing the applicants at same sr. nos. This list further shows that other junior employees to applicants were promoted but not the applicants. The applicants claimed the promotion on the basis of that seniority and the deemed date of the promotion from the date other are given so also the consequential financial benefits.

13. Now the latest and correct seniority list was published on 5-9-2000 as on 20-7-1979 and in that list the applicants' seniority is brought to the original place i.e. sr. no. 9 & 12. Therefore the applicants were entitled for consideration of the promotion on the basis of this seniority when their juniors were promoted.

14. So far as fitness of the applicants is concerned, now after the lapse of four decades it will be vex to impossible for the department to trace out the records and files. When there is no pleading of the respondents about the non eligibility / fitness of the applicants to get the promotion there is no point to deprive of the applicant to get benefits of the deemed date which will be restricted to financial benefits.

15. As a sequel to these reasons, the O.A. deserves to be allowed. Accordingly, the O.A. is allowed. The applicants be given deemed date of promotion as Supply Inspector from 1974 as claimed and financial benefits flowing from it. The payment of the consequential financial benefits be made within three months from the date of this order. No order as to costs.

(S.S.Hingne),
Member (J).

dnk.