

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 268 OF 2015

DISTRICT : PUNE

Shri Subhash Ramchandra Durape,)
Agricultural Officer, Purandhar,)
Agriculture Office Purandhar,)
Dist-Pune.)...**Applicant**

Versus

1. The State of Maharashtra)
Through Principal Secretary,)
Animal Husbandry, Fisheries &)
Agriculture Department, Mantralaya)
Mumbai 400 032.)
2. Divisional Commissioner,)
Animal Husbandry, Fisheries &)
Agriculture Department, Pune.)
3. Divisional Commissioner,)
Through E.G.S, Pune, having its)
Office at Vidhan Bhavan, Pune.)...**Respondents**

Shri M.D Lonkar, learned advocate for the Applicant.

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

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

DATE : 21.03.2016

ORDER

1. Heard Shri M.D Lonkar, learned advocate for the Applicant and Shri A.J Chougule, learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicant seeking second benefit of Assured Career Progression (A.C.P) Scheme, on completion of 24 years of service from June 2008.

3. Learned Counsel for the Applicant argued that the Applicant joined Government service on 10.7.1981 as Agriculture Assistant. He was promoted as Agriculture Supervisor in June, 1984. He was granted Time Bound Promotion (now called first benefit of Assured Career Progression Scheme) on completion of 12 years as Agriculture Supervisor. The Applicant came to be suspended on 1.8.2005. The Applicant approached this Tribunal by filing O.A no 508/2009 against his prolonged

suspension. By order dated 29.1.2010, this Tribunal ordered reinstatement of the Applicant subject to the outcome of the departmental enquiry and the criminal case pending against him. The Applicant was reinstated on 18.2.2010 and was given regular promotion as Agriculture Officer on 13.6.2011. Learned Counsel for the Applicant argued that the Applicant had made a representation to regularize his period of suspension from 1.8.2005 to 17.2.2010. However, no orders have been issued. The Respondent no. 2 had sent proposal to the Respondent no. 1 to grant second benefit of A.C.P Scheme to the Applicant on 9.6.2011, 14.12.2011 and 18.12.2014, but no decision is taken by the Respondent no. 1. The criminal case against the Applicant is still pending, though charge sheet was filed in 2006. Final report in the departmental enquiry against the Applicant is submitted to the Government, but no order has yet been passed. Learned Counsel for the Applicant argued that the Applicant has been granted regular promotion to the post of Agriculture Officer. He is fully eligible to get second benefit of A.C.P Scheme in terms of G.R dated 1.4.2010. He is due to retire shortly. Learned Counsel for the Applicant stated that the Applicant is ready to give undertaking that if the decision in the criminal case/D.E is adverse to the Applicant, all excess payment may be recovered from him.

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4. Learned Presenting Officer argued on behalf of the Respondents that a criminal case on charges of misappropriation of Government money is pending against the Applicant. The final orders in D.E pending against him have also not been issued. The period of suspension can, therefore, not be regularized. The Applicant has not completed 12 years of regular service after June 1996 as envisaged in G.R dated 1.4.2010 to become entitled to get the second benefit of A.C.P Scheme. In any case, the A.C.P Scheme envisages grant of higher pay scale and advantages are only monetary. If the Applicant is ultimately acquitted in criminal case/ exonerated in D.E, he can claim the benefit which has been denied to him now. Learned Presenting Officer argued that there is no provision to grant Time Bound Promotion when criminal case / D.E is pending against the Applicant.

5. It is seen that the Applicant has been given regular promotion by order dated 9.6.2011 as Agriculture Officer. However, this promotion has not resulted in any financial upgradation, as the Applicant was already getting pay applicable to that post on getting Time Bound Promotion in 1996. The Applicant claims that he is entitled to get second benefit of A.C.P Scheme in completion of 24 years after he was promoted to the post of Agriculture Supervisor in June 1996. The Respondents have claimed in the affidavit in reply dated 21.8.2015,

that the period of suspension of the Applicant cannot be said to be eligible for the second benefit of A.C.P scheme. This contention appears to be correct. Clause 2(c) of the G.R dated 1.4.2010 reads:-

“(क) योजनेचा दुसरा लाभ:-

(१) पहिल्या लाभानंतर १२ वर्षांची नियमित सेवा पूर्ण केलेल्या कर्मचा-यास पदोन्नतीच्या पदाची वेतनसंरचना दुसरा लाभ म्हणून मंजूर करण्यात येईल.”

The Applicant's service from 1.8.2005 to 17.2.2010, when he was under suspension, has not been regularized as yet. He cannot be held to have completed 12 years of regular service in June 2008. The Applicant is clearly not eligible to get second benefit of A.C.P Scheme as per G.R dated 1.4.2010.

6. Having regard to the aforesaid facts and circumstances of the case, this Original Application is dismissed with no order as to costs.

Sd/-

(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai

Date : 21.03.2016

Dictation taken by : A.K. Nair.