

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.549 OF 2016

DISTRICT : SANGLI

Shri Rashidkhan P. Shaikh.)
Retired – Awal Karkun,)
M. Post, Somwarpeth, Shimpi Galli,)
Tasgaon, Tal. Tasgaon, Dist : Sangli.)...**Applicant**

Versus

1. The Sub-Divisional Office, Miraj,)
Tal. Miraj, Dist. Sangli.)
2. District Collector, Sangli.)...**Respondents**

Mr. M.B. Kadam, Advocate for Applicant.

Mr. A.J. Chougule, Presenting Officer for Respondents.

P.C. : R.B. MALIK (MEMBER-JUDICIAL)

DATE : 03.08.2017

JUDGMENT

1. This Original Application (OA) is brought in connection with the dispute about the grant of Time Bound



Promotion from a particular date.

2. I have perused the record and proceedings and heard Mr. M.B. Kadam, the learned Advocate for the Applicant and Mr. A.J. Chougule, the learned Presenting Officer (PO) for the Respondents. The Respondent No.1 is the S.D.O, Miraj and the 2nd Respondent is District Collector, Sangli.

3. The Applicant came to be appointed as a Clerk in the Office of the Respondents on 30.9.1978. He claims to have become entitled for the 1st Time Bound Promotion by virtue of the G.R. of 8.6.1995 from 1.10.1994. According to him, a Departmental Promotion Committee was held on 28.10.1996 for the said purpose. However, it was found by the Respondents that his ACRs for 1991-92 and 1995-96 were adverse, resulting in the refusal by the Respondents to grant the said benefit of the Time Bound Promotion. On 20.1.1999, the Applicant was promoted to the post of Awalkarkun. He retired on 31.1.2011. On 20.4.2011, the Applicant made an application putting forth his grievance for the grant of Time Bound Promotion. The 2nd Respondent rejected his representation on 25.5.2011.

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4. In the Affidavit-in-reply filed by Mr. Sudhakar S. Bhosale, Tahasildar, Tasgaon on behalf of both the Respondents, the adverse allegations are denied. It is emphasized that, as per the relevant G.R. when tested on that anvil, the record of the Applicant was found poor. His ACRs were not up to the mark and hence, he was not promoted in 1994. On 20.9.1999, he was promoted as Awal Karkun. There is a reference to the GR of 8.6.1995 and the criteria fixed thereby on which according to them, the Applicant was not found fit. According to the Respondents, one of the important criteria for Time Bound Promotion was that, his ratings for a period of immediately five years preceding, the relevant years should at least be 'B' Grade which according to them and I insist, it is only according to them, the Applicant did not get. I must mention here itself that as per my directions, the relevant file came to be produced and it is there before me now. That does not tally with the plea raised by the Respondents. As per the GR of 8.6.1995, the ACRs of immediately preceding five years are examined. Even when the 1995 GR was substituted by the GR of 20.7.2001, the criteria remained the same. While admitting that the Applicant was entitled for the 1st Time Bound benefit on 1.10.1995, but he did not satisfy the requirement above discussed and he was not at all eligible for 2nd Time Bound



Promotion because he was granted promotion in 1999 and in 2011, he stood superannuated.

5. I have read the Affidavit-in-reply in extenso. It must have become quite clear that, according to the Respondents, the ACRs of the relevant period 1990-95 and then for another block of similar period were not up to the mark. Perusal of the file would show that, as per the then prevailing practice, the ACR for the period from 27.6.1990 to 31.3.1991 showed that, his performance under the various heads was either satisfactory or good and he was found fit for promotion. In the general assessment, however, laconic expression was used as 'dis-obedient hand'. Rating in the form of A, B, C, etc. is not there. In the next year from 1.4.1991 to 31.3.1992 under the various heads, his performance was 'fair' against three heads, 'not satisfactory' against one, 'good' against intelligence, 'doubtful' against integrity and character and in the general assessment, it was stated that he was 'arrogant and unreliable hand requiring repeated hammering' whatever that phrase might mean. His work was unsatisfactory. Again, there was no precise rating as A, B, C, etc. but I may proceed on the basis that, this one ACR was an undoing of the Applicant. The next ACR is for the period from 1.8.1992 to 15.1.1993 whereagainst all the

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columns, the remarks were laudatory, good, cooperative, etc. and he was found fit for promotion. There is no assessment like A, B, C, etc. The next is for the period from 1.4.1993 to 31.3.1994. There also, the rating is good against all the heads though the rating in the form of A, B, C, etc. is not there, but he has been found to be industrious, competent, cooperative, intelligent, quick of high integrity and eligible for promotion, etc. The next ACR for the period from 1.4.2014 to 31.3.1995 also is similarly laudatory more or less like the immediately preceding one. Here also, the rating in the form of A, B, C, etc. is not there but the general performance had been found to be good.

6. Before I offer my comments on this block of years, I think, I had better read the other ACRs which are relevant herefor as well, because they would be relevant for consideration of 2nd Time Bound Promotion. The ACR for the period from 20.9.1999 to 31.3.2000 has been rated as 'B+ Positively Good'. For 6.4.2000 to 31.3.2001, it is again rated as 'B+ Positively Good'. For 1.4.2001 to 31.3.2002, it is again rated as 'B+ Positively Good'. For 1.4.2002 to 31.3.2003, it is again rated as 'B+ Positively Good'. For 1.4.2003 to 31.3.2004, it is rated as 'A-Excellent (Outstanding)' and finally for 6.10.2005 to 31.3.2006, he

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has been again rated as "B+ Positively Good". I may also note that, for the period from 2.5.2006 to 31.3.2007, he was rated as "A-Very Good".

7. Now, taking an over-all view of the performance of the Applicant, I find it difficult to accept the contention of the Respondents that his ACRs were not upto the mark. No short work of his case could be done just by recourse to one ACR when all others are what have been mentioned above. No doubt, the jurisdictional constraints of a forum that exercises the power of judicial review of administrative action are such that, on such matters, the judicial forum will not just for the asking rush for substituting the ratings made by the authorities below. However, the fact of the matter is that, I am not substituting my own ratings at all. I merely take the ratings given by the authorities themselves as they are and examine as to whether the ultimate outcome thereof is as they claim to be. This is more or less the mathematical exercise which I not only can but am in duty bound to perform and if that was so, I disagree with the Respondents that the performance of the Applicant manifested by the ACRs was such as to disentitle him to the benefits as claimed by the Applicant.

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8. The impugned order is quashed and set aside. The Respondents are hereby directed to extend the benefit of the Time Bound Promotion to the Applicant w.e.f.01.10.1995 and 01.10.2008 respectively with all consequential benefits. Compliance within six weeks from today. The Original Application is allowed in these terms with no order as to costs.

Sd/-
(R.B. Malik)
Member-J
03.08.2017

03.08.17

Mumbai

Date : 03.08.2017

Dictation taken by :

S.K. Wamanse.

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