

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.617/2013.

(S.B.)

Yuvraj Namdeorao Waghmare,
Aged about 48 years,
Occ-Service as Circle Officer,
R/o Near Govt. Sub-District Hospital,
Main Road, Morshi, Distt. Amravati.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Rural Development Department,
Mantralaya, Mumbai-32.
2. The Sub-Divisional Officer,
Morshi, Distt. Amravati.
3. The Collector,
Amravati.
4. Shri K.S. Humne,
Circle Officer, Papad, Tq. Nandgaon Khandeshwar,
District-Amravati.

Respondents

Shri J.C. Shukla, the learned counsel for the applicant.
Shri P.N. Warjekar, the Ld. P.O. for the respondent Nos. 1 to 3.
None for respondent No.4.

**Coram:- Shri J.D. Kulkarni,
Vice-Chairman (J).**

JUDGMENT

(Delivered on this 16th day of November 2017).

Heard Shri J.C. Shukla, the learned counsel for the applicant and Shri P.N. Warjekar, the learned P.O. for the respondent Nos. 1 to 3. None appeared for respondent No. 4.

2. The applicant has claimed directions to respondent No.2 to immediately grant him deemed date of promotion on the post of Circle Inspector as was granted to respondent No.4. Respondent No.4 was promoted as Circle Inspector on 14.1.2009, though he was junior to the applicant.

3. The applicant came to be appointed as Talathi on 11.6.1984 whereas respondent No.4 was appointed on the said post on 12.9.1984. The respondent No.3 issued an order of promotion to respondent No.4 as Circle Inspector on 14.1.2009, whereas the applicant was promoted to the said post on 18.3.2010. The applicant made representation on 15.6.2010 and then on 19.4.2012 and requested that he being senior to respondent No.4, should be promoted first in time than respondent No.4. His representations, however, were ejected by respondent No.3 on 24.7.2012 as per Annexure A-8 and, therefore, the applicant has filed this O.A.

4. Respondent No.3 in its reply affidavit stated that the Government has enacted Maharashtra Service Departmental Examination (for the cadre of Talathi) Rules, 1997 (in short SSD Rules) for the cadre of Talathi in Maharashtra State. As per the said Rules, it

is stated that the person who has been appointed as Talathi, shall not be confirmed on the post unless and until he passes the examination within a period of four years from the date of appointment and within three chances or has been exempted from passing the examination as per Rule 7 of the SSD Rules.

5. The Government of Maharashtra has also enacted the Maharashtra Revenue (Qualifying Examination for Promotion to the post of Circle Officer (from the cadre of Talathi) Rules, 1998 (in short QPC Rules) for promotion to the post of Circle Officer from the cadre of Talathi. As per the above QPC Rules, a Talathi appointed before the gazette date, who is otherwise eligible under Rule 3, shall be required to pass the QPC Rules examination, unless he is exempted from passing the examination under Rule 8 of the QPC Rules within period nine years and in three chances from the date of regular appointment on the post of Talathi.

6. As per Rule 5 of the SSD Rules, seniority of Talathi shall be considered from the date on which he passed the examination or exempted from passing the said examination. The name of respondent No.4 is shown at Sr. No.69 whereas the name of the applicant is shown at Sr. No.70 in the list of Talathis who are eligible for promotion in the cadre of Circle Officer. Therefore, respondent No.4 is senior to the applicant. Respondent No.4 was exempted from

passing the said examination earlier to the applicant and, therefore, he was senior to the applicant. Therefore, the promotion given to respondent No.4 is legal and proper.

7. The learned P.O. has placed on record the judgment delivered by this Tribunal in **O.A. No.366/2009 in case of Ramesh Gangaram Gajapure V/s State of Maharashtra and others delivered on 6.7.2017.** The Full Bench judgment delivered by Principal Bench of this Tribunal in **O.A. No. 354/2015 on 2.2.2017** was also referred wherein issue was examined and decided finally. Admittedly, respondent No.4 was exempted from appearing the qualifying examination prior to the applicant and, therefore, respondent No.4 was shown senior to the applicant in the list of persons qualified to be promoted to the post of Circle Officer. Respondent No.4 was, therefore, rightly promoted prior to the applicant. I, therefore, do not find any merits in the claim made by the applicant. Since the applicant has failed to prove that respondent No.4 is junior to him in the list of Talathis, eligible for promotion to the post of Circle Inspector, his claim for deemed date of promotion has no merits. Hence, the following order:-

ORDER

The O.A. is dismissed with no order as to costs.

Dt. 16.11.2017.

(J.D.Kulkarni)
Vice-Chairman(J)

pdg