

**THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

**ORIGINAL APPLICATION NO.729 OF 2012
(Subject : Time Bound Promotion & G.R. Challenging)**

DISTRICT : SOLAPUR

Mahadev Kallappa Javalagi,)
At present – legal practice in District Court,)
Solapur.)
A-2/222 Mantri Chandak Park,)
Bijapur Road, Solapur 413 004.)

...APPLICANT

VERSUS

1. The Collector, Solapur,)
Collector Compound, Solapur)
2. The Govt. of Maharashtra,)
Notice to be issued in the name of)
Principal Secretary, Finance Department,)
State of Maharashtra, Mantralaya,)
Mumbai.)

.....RESPONDENTS.

Shri M.K. Javalagi, Applicant in person.

Ms. N.G. Gohad, learned Presenting Officer for the Respondents.

CORAM : SHRI RAJIV AGARWAL, VICE-CHAIRMAN
SHRI R.B. MALIK, MEMBER(J)

DATE : 19.01.2017.

PER : SHRI RAJIV AGARWAL, VICE-CHAIRMAN

J U D G M E N T

1. Heard Shri M.K. Javalagi, Applicant in person and Ms. N.G. Gohad, learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicant seeking Time Bound Promotion in the scale of Naib Tahsildar from 01.10.2006 upto his retirement on 31.12.2010. He is also seeking declaration that he is not required to submit Caste Verification Certificate for getting Time Bound Promotion (T.B.P.) as Government Resolution (G.R.) dated 20.07.2001 does not require submission of Caste Verification Certificate. He has challenged order dated 29.07.2011 issued by the Collector, Solapur.

3. The Applicant argued that he was appointed as Clerk on 09.06.1981 and was given Time Bound Promotion in the Pay Scale of Awal Karkoon on 01.10.1994. He retired from Government service as Entertainment duty Inspector in the cadre of Awal Karkoon on 31.12.2009. The Applicant claims that he was eligible to get benefit of Time Bound Promotion / Assured Career Progression Scheme after completion of 12 years of service i.e. w.e.f. 01.10.2006 in terms of G.R. dated 01.04.2010. The Applicant is challenging order dated 21.07.2011 issued by the Respondent No.1 in which it has been mentioned that for backward class candidates,

production of caste validity certificate was required for availing the benefits of Assured Career Progression Scheme. The Applicant argued that this order is issued in the context of G.R. dated 01.04.2010, which makes available second benefit of Assured Career Progression Scheme. This order is illegal as there is no such requirement in any G.R. dealing with Time Bound Promotion. The Applicant has admitted that he was given regular promotion to the post of Awal Karkoon in June 2002. The Applicant claims that he was eligible to get second benefit of Assured Career Progression (A.C.P.) Scheme with effect from 01.10.2006 till his retirement.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that the Applicant was not eligible to get second benefit of Assured Career Progression Scheme on two counts viz.

- (i) G.R. dated 01.04.2010 provided that those who retired between 01.10.2006 to 31.03.2010 were not eligible to get the benefits of G.R. dated 01.04.2010 ; and
- (ii) As per G.R. dated 01.07.2011, backward class candidates were required to produce Caste Validity Certificate before they could be given second benefit of A.C.P. Scheme.

As the Applicant did not fulfill these conditions he was not given second benefit of A.C.P. Scheme.

5. We find that the Applicant was not given second benefit of Assured Career Progression (A.C.P.) Scheme. The first reason that Government clarification that those who retired between 01.10.2006 to 31.03.2010 will not get this

benefit no longer survives in view of the judgment of Hon'ble Bombay High Court dated 24.06.2016 in group of Writ Petitions No.7062 of 2014 (The State of Maharashtra & Others Vs. Dattatraya D. Mehta & Others) etc. Hon'ble High Court has struck down clarification by G.R. dated 01.07.2011 that benefit that G.R. dated 01.04.2010 will not be extended to those who retired between 01.10.2006 to 31.03.2010. However, the Applicant apparently belongs to backward class and had failed to submit caste validity certificate. He has stated that stipulation of production of caste validity certificate for availing of benefit of A.C.P. Scheme is illegal as G.R. dated 20.07.2001 introducing Assured Career Progression Scheme did not have any such stipulation. This contention of the Applicant cannot be accepted. Paragraph 2(5) of G.R. dated 20.07.2001 reads as below :-

- (५) या योजनअंतर्गत पदोन्नतीच्या पदाची वेतनश्रेणी देय ठरविली असल्याने वरिष्ठ वेतनश्रेणी मिळण्यासाठी पदोन्नतीच्या पदाकरिता विहित कॅलेली अर्हता, पात्रता, ज्येष्ठता, अर्हता परिक्षा, विभागीय परिक्षा या सर्व बाबीची पूर्तता करणे तसेच पदोन्नतीची कार्यपध्दती अनुसरणे आवश्यक राहिल. जेथे या शासन निर्णयासोबतच्यश परिशिष्टातील वेतनश्रेणी मंजूर करण्यात येईल तेथे गोपनीय अहवालाच्या आधारे पात्रता तपासण्यात यावी.

6. An employee is eligible for getting benefit of Assured Career Progression Scheme, only if he fulfills all the conditions for regular promotion to the next higher post. The Maharashtra Scheduled Castes, Schedules Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 provides that after coming into force of that Act, production of Caste Validity Certificate is a must for any promotion, or even

continuance in Government service. The Applicant had not furnished any details in this regard in the O.A. His prayer that this Tribunal may declare that production of Caste Validity Certificate is not necessary cannot be granted. If the Applicant is denied second benefits of Assured Career Progression Scheme, only on the ground that he retired between 01.10.2006 to 31.03.2010, he is eligible to get the benefit of G.R. dated 01.04.2010. However, if he was denied that benefit because he belongs to a backward class and had failed to produce caste validity certificate, we are unable to hold him eligible to get second benefit of A.C.P. Scheme under G.R. dated 01.04.2010. The Applicant has mentioned regarding application of Revised Pay Rules 2009 in his case. However, on perusal of his O.A. we are unable to comprehend the actual relief he is seeking under those rules.

7. This O.A. application is disposed of in terms of preceding paragraph with no order as to costs.

(R.B. MALIK)
MEMBER(J)

(RAJIV AGARWAL)
VICE-CHAIRMAN

Place : Mumbai
Date : 19.01.2017
Typed by : PRK