

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 85 / 2018 (S.B.)**

Sampat Lahanuji Sambare,  
Aged about 56 Yrs., Occupation : Service,  
R/o Plot No. 66, Chatrapati Nagar,  
Nagpur.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
Through its Secretary,  
Revenue and Forest Department,  
Mantralaya, Mumbai- 32.
- 2) Divisional Commissioner,  
Nagpur Division,  
Nagpur.
- 3) The Collector,  
Nagpur.

**Respondents**

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**Shri G.N.Khanzode, the Id. Advocate for the applicant.**

**Shri V.A.Kulkarni, the Id. P.O. for the respondents.**

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**Coram :- Hon'ble Shri Shree Bhagwan, Vice Chairman.**

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**JUDGMENT**

**Judgment is reserved on 04<sup>th</sup> Nov., 2019.**

**Judgment is pronounced on 06<sup>th</sup> Nov., 2019.**

Heard Shri G.N.Khanzode, Id. counsel for the applicant and Shri V.A.Kulkarni, Id. P.O. for the respondents.

2. The applicant was appointed as Talathi on 29/01/1985 and he was confirmed in the service on 06/02/1985. As per Government policy of Assured Progressive Scheme (hereinafter referred as "APS") the applicant became due for

first APS or time bound promotion on 6/2/1997 i.e. after 12 years of service. However he was granted from 6/2/1999 since he passed Revenue Qualifying Examination in 1999 and in view of that he again became due for second APS or time bound promotion on 6/2/2011 (i.e. 12 years after 1999).

3. The applicant has approached this Tribunal for second time bound promotion by O.A.No. 270/2016 which was decided on 23/06/2017 and orders were complied. The applicant accepted second time bound promotion from the date of MAT order and as per benefits given by the respondents for second time bound promotion from 06/02/2011.

4. The learned counsel for the applicant has also relied upon para-3 of the Judgment in O.A.330/2015. This para deals with ACR only and it is not relevant to the relief claimed in this O.A..

5. The matter was re-heard on 04/11/2019. The Id. Counsel for the applicant submitted that since the Revenue qualifying examination was introduced in 1999 only. Hence, applicant had no chance to pass Revenue qualifying examination before 26/10/1999. However, Id. Counsel for the applicant could not produce any reason for not asking relief related to first time bound promotion when O.A. No. 270/2016 was filed and order was passed on 23/06/2017 that time Id. Counsel was also aware about O.A. No. 330/2015 in which order had been passed on 04/10/2016 itself. So it is very clear that when hearing in the O.A. No. 270/2016 was in progress, Id. Counsel was having Judgment of O.A. No. 330/2015 in which Judgment was passed on 04/10/2016 only that means prior to Judgment in O.A. No. 270/2016 i.e. dated 23/06/2017. In view of this, his arguments are not tenable.

6. In fact, considering the principle of constructive *Res Judicata* the order passed in the previous O.A. has attained the finality and now the applicant cannot turn round and say that that order is wrong when in fact the same order was passed

on the basis of the submissions of the applicant, therefore, I am of the view that in view of the order which has attained the finality in O.A. 270/2016, the present O.A. is not maintainable. Hence, the following order –

**ORDER**

The O.A. is dismissed. No order as to costs.

**(Shri Shree Bhagwan)  
Vice Chairman**

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 06/11/2019.  
and pronounced on

Uploaded on : 07/11/2019.