

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.915 OF 2016

DISTRICT : MUMBAI

Mr. Deepak Bhaskar Kanere,)
Aged about 57 year, Inspector of Motor Vehicles,)
Office of Regional Transport Officer, Panvel,)
District Raigad, and having residential address)
as Flat No.A-4, Madhugiri Apartments,)
Plot No.408, V.N. Purav Marg, Chembur,)
Mumbai 400 071)...**APPLICANT**

VERSUS

1. The Government of Maharashtra,)
Through Additional Chief Secretary,)
(Transport), Home Department,)
2nd floor, Madam Cama Road,)
Mantralaya, Mumbai 400 032)

2. Transport Commissioner,)
3rd and 4th floor, Administrative Building,)
Government Colony, Bandra (East),)
Mumbai 400 051)...**RESPONDENT**

Mr. M.D. Lonkar, learned Advocate for the Applicant.

Ms. Archana B.K., learned Presenting Officer for the Respondent.

CORAM : **Justice Mridula Bhatkar (Chairperson)**
Ms. Medha Gadgil (Member) (A)

DATE : **21.06.2023.**

J U D G M E N T

1. Applicant prays that he should be granted declaration that the qualifying examination Rules are not applicable and therefore denial of promotion to the post of ARTO and Dy. RTO is illegal and also he should be given Time Bound Promotion.

2. Learned Advocate for the Applicant has submitted that the Applicant joined on 29.09.1983 as Assistant Inspector of Motor Vehicles. The Department has already granted 1st Time Bound Promotion by order dated 22.04.2019 w.e.f. 06.10.2003. He states that as far as question of 2nd Time Bound Promotion is concerned the Applicant can make representation to the Government and the same can be considered as per the Rules. Learned Advocate has pointed out that on 29.09.1983 the Applicant came to be appointed as Assistant Inspector of Motor Vehicles and on 26.12.1986 he was further promoted to the rank of Inspector of Motor Vehicles. Applicant retired on 30.10.2016. Learned Advocate has referred to Inspectors in the Motor Vehicles Department (Qualifying Examination for promotion to the posts of District Transport Officers) Rules, 1983 (hereinafter referred as 'DTO Rules, 1983' for brevity). Earlier the designation of District Transport Officer was subsequently changed to Assistant Regional Transport Officer. Learned Advocate referred to sub Clause (g) of Rule (2) & Rule (4) of the DTO Rules, 1983.

“(g) Inspector” means an Inspector in the Department.

“4. Examination to be passed before promotion - Subject to the provisions of rule 6, every Inspector, on the date of commencement of these rules, shall be required to pass the Examination for being eligible for promotion to the post of District Transport Officer.”

(emphasis placed)

3. Applicant joined as Assistant Inspector of Motor Vehicles on 29.09.1983. The said Rules were brought into force w.e.f. 18.04.1984. Learned Advocate states that these Rules cannot be made applicable to the persons who are not Assistant Inspector of Motor Vehicles on that date. The representation was made by the Applicant on 06.11.2009.

4. The submissions made by learned Advocate are based on erroneous interpretation of statute. It is true that the term ‘on the date’ is mentioned. It is to be read as ‘from that date onwards’. The Rules were framed on 08.04.1984 came into force from 18.04.1984 and therefore the Applicant who has joined earlier on 29.09.1983 is obviously required to pass examination. He cannot be an exception to these Rules. Thus by way of Rule of harmonious construction, term ‘on the date’ is to be read as ‘from that date onwards’.

5. Thus there is no merit in the case of the Applicant hence, the O.A. stands dismissed.

Sd/-
**(Medha Gadgil
Member (A))**

Sd/-
**(Mridula Bhatkar, J.)
Chairperson**

prk