

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 250 OF 2015

DIST. : OSMANABAD

Pralhad s/o Shripatrao Pande,)
Age. 58 years, Occ. Service,)
(as Govt. Labour Officer, Osmanabad)
C/o O/o Govt. Labour Officer,)
Garad Building, Samta Colony,)
Osmanabad.)-- **APPLICANT**

VERSUS

1. The State of Maharashtra,)
Through its Principal Secretary)
(Labour), Department of Industries,
Energy & Labour, M.S.,)
Mantrayala, Mumbai – 32.)

2. The Commissioner of Labour,)
M.S. Mumbai.) -- **RESPONDENTS**

APPEARANCE :- Shri Avinash S. Deshmukh, learned
Advocate for the applicant.

: Smt. Sanjivani Deshmukh Ghate, learned
Presenting Officer for the respondents.

CORAM : JUSTICE M.T. JOSHI, VICE CHAIRMAN
AND
ATUL RAJ CHADHA, MEMBER (A)

DATE : 5th February, 2019

JUDGMENT

[Per : Justice M.T. Joshi, Vice Chairman]

1. Heard Shri Avinash S. Deshmukh, learned Advocate for the applicant and Smt. Sanjivani Deshmukh Ghate, learned Presenting Officer for the respondents.

2. By filing the present Original Application, the applicant is claiming following reliefs :-

“(A) This Original Application may kindly be allowed thereby holding and declaring that the impugned action of the Respondents in general and of the Resp. No. 1 in particular of not only deleting applicant’s name from the final Select List of Govt. Labour Officers held fit for promotion as Assistant Commissioners of Labour but further of not promoting him as such vide order dtd. 31.5.2014 or 24.6.2014 to be patently bad and untenable in law.

(B) This Original Application may kindly be allowed thereby directing the Respondents in general and the Resp. No. 1 in particular to forthwith issue order of promotion of the applicant to the cadre of Assistant Commissioners of Labour in view of his having been found to be fit therefor by the competent D.P.C. in its meeting held on 30.10.2013.

(C) This Original Application may kindly be allowed thereby further directing the Respondents to award 31.5.2014 as the deemed date of promotion to the applicant in the cadre of Assistant Commissioners of Labour and further to extend him all the consequential benefits attached thereto.”

3. It is an admitted fact that other employees junior to the present applicant were granted merely ad-hoc promotions. Learned Advocate for the applicant, on instructions, candidly submits that during the pendency of the present O.A. none of those junior employees were regularly promoted. Applicant is now superannuated in the meantime. Learned Advocate for the applicant submits that the applicant would be entitled for seeking pensionary benefits in the promotional cadre in view of the fact that the juniors to him were granted promotion. He relies on the definition of 'Pay' by rule 9 (36) of the Maharashtra Civil Services (Pension) Rules, 1982, which reads as under :-

“9. Definition :

(36) Pay means the amount drawn monthly by a Government servant as –

(i) the pay (including special dearness pay) which has been sanctioned for a post held by him substantively or in an officiating capacity, or to which he is entitled by reason of his position in a cadre; and

(ii) personal pay, and special pay; and

(iii) any other emoluments which may be specially classed as pay by Government.”

4. Upon hearing both the sides, it is clear that Pay is to be computed, which has been sanctioned for the post held by the employee (i) substantively or in an (ii) officiating capacity or in having (iii) position in the cadre. The employees junior to the

present applicant were only ad-hoc promotees and, as such, none of the three categories was applicable in their cases. For the said reasons, the present applicant is not entitled for any pensionary benefits in the promotional cadre. In view of the said facts, the present O.A. is dismissed without any order as to costs.

(ATUL RAJ CHADHA)
MEMBER (A)

Place : Aurangabad

Date : 5.2.2019

(M.T. JOSHI)
VICE CHAIRMAN