

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 678 OF 2017

DISTRICT: - NANDED.

Makarand S/o. Shyamsundar Bhalerao,
Age-37 years, Occu. : service, presently,
Working as Clerk in Tahasil Office,
Himayatnara, Dist. Nanded.

.. APPLICANT.

V E R S U S

1. **The State of Maharashtra,**
Through : Principal Secretary,
Revenue and Forest Department,
Madam Cama Road, Mantralaya,
Mumbai.
2. **The District Collector,**
Nanded.
3. **Resident Deputy Collector &
Member Secretary of Departmental
Promotion Committee,**
Collectorate, Nanded.
4. **Tahasildar,**
Himayatnagar,
Dist. Nanded.

.. RESPONDENTS.

APPEARANCE : Shri. R.N. Chavan, learned Advocate
for the applicant.

: Shri B.S. Deokar – learned Presenting
Officer for the respondents.

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

DATE : **21ST JANUARY, 2019.**

ORDER**[Per : Atul Raj Chadha, Member (A)]**

1. Heard Shri R.N. Chavan, learned Advocate for the applicant and Shri B.S. Deokar, learned Presenting Officer for the respondents.

2. The Applicant has sought following relief: -

“(C) The respondents be directed to give promotion to the applicant as senior clerk (Awal Karkun) with immediate effect and by granting all consequential relief such as deem date, appropriate placement in the seniority list and difference of pay.”

3. Following brief submissions are made by the Applicant.

(a) The Applicant was appointed as clerk by the Respondent No. 2 on 02.07.2007.

(b) The Applicant was awarded with punishment of withholding of one increment for two years without affecting future increments vide order dated 03.09.2016 received on 19.11.2016 (Exhibit 'G').

(c) The Applicant was denied promotion in the DPC meeting dated 23.06.2017 on the ground that the punishment is not over and his juniors were promoted (page-31).

(d) The Applicant has preferred an appeal on 19.11.2016 against the order of award of punishment (Exhibit 'G').

(e) The Applicant requested Respondents on 13.12.2016 that he should be promoted as he is ready to face punishment on the promotional post (Exhibit 'H', page-41)

4. Following grounds are raised by the Applicant in support of his application :-

(a) The decision of Respondent is against the Government Resolution No. 1095/CR 29/15/बारा dated 22.04.1996. The relevant portion of Para 1 of the above resolution reads as under: -

“(१) विभागीय चौकशी प्रलंबित असतानाही, जाणीवपूर्वक निर्णय घेऊन तात्पुरते पदोन्नत करण्यात आलेल्या अधिकारी / कर्मचारी ह्यास चौकशीनंतरच्या निर्णयानुसार वेतनवाढ/वाढी रोखण्याची सौम्य शिक्षा झाल्यास शिक्षा भोगण्यासाठी त्यास निम्न पदावर पदावन्नत करण्याची आवश्यकता नाही. वेतनवाढ / वाढी रोखण्याच्या शिक्षेची अंमलबजावणी पदोन्नतीच्या उच्च पदावरच करण्यात यावी. मात्र त्यासाठी त्यांनी “त्याची उच्च पदावर शिक्षा भोगण्यास” तयारी असल्याची लेखी पूर्वसंमती घेण्यात यावी. जर त्याने लेखी संमती देण्याची नाकारल्यास, त्यास निम्न पदावर पदावन्नत करून, त्या पदावर शिक्षेची अंमलबजावणी केली जावी शिक्षेचा कालावधी पूर्ण होईपर्यन्त त्यास पदोन्नती दिली जाऊ नये.

(२) ज्या प्रकरणी पदोन्नती रोखण्याची शिक्षा देण्यात आली असेल, अशा अपचारी अधिकारी / कर्मचारी ह्यास ताबडतोब मूळ पदावर पदावन्नत करण्यात यावे.”

(b) The decision for not granting promotion is also contrary to the judgment of this Tribunal in O.A. No. 489/2015 and judgment of Hon'ble High Court in Writ Petition No. 2795/2015.

(c) The Applicant has been given differential treatment and the fact that in case of Shri S.M. Gundale has been recommended for promotion in DPC meeting dated 30.07.2017 though the punishment was not over and subject to the condition that he will face the punishment on the promotional post. (Exhibit 'C'- page 18-22).

5. The respondent while opposing the application submits that DPC in its meeting dated 23.06.2017 took a conscious decision for not recommending the name of Applicant, taking into consideration the Government Resolution dated 22.04.1996 as the Applicant was under the punishment of stoppage of one increment for a period of two years without future effect.

6. From the above, it is crystal clear that the decision of DPC in its meeting dated 23.06.2017 was not in accordance with the Government Resolution dated 22.04.1996 and the fact that the Applicant had given representation to the Respondent on 23.12.2016 that he is ready to face punishment on the promotional post.

7. In view of above, the following order: -

ORDER

(a) The present Original Application is allowed without any cost to either of parties.

(b) The Respondents are directed to convene a meeting of DPC within a period of three months to consider the case of Applicant in view of the Government Resolution dated 22.04.1996 and representation of Applicant dated 13.12.2016 and in case he is found selected to award all consequential benefits.

MEMBER (A)

VICE CHAIRMAN

PLACE : AURANGABAD.

DATE : 21ST JANUARY, 2019.

O.A.NO.678-2017(DB-Promotion)-HDD-2019