

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD

**ORIGINAL APPLICATION NO.702 OF 2012**

DISTRICT : - OSMANABAD.

- 1] Achyutrao S/o Baburao Veer,  
Age : 49 years, Occu: Govt. Service,  
R/o Flat No. 39, Amruta Building,  
Govt. Ayurvedic Residency,  
Osmanabad.
- 2] Babruwan S/o SitaramWankalas  
Age : 55 years, Occu. Govt. Service,  
R/o CoaatGalli, Osmanabad. .. APPLICANTS.

**V E R S U S**

1. The State of Maharashtra  
(Copy of R-1 served on C.P.O.,  
MAT At Aurangabad).
2. The Director,  
AyurdvedDirectorate,  
Govt. Dental College and  
Hospital Building, 4<sup>th</sup> Floor,  
St. George's Campus,  
Fort, Mumbai-1.
3. The Dean,  
Govt. Ayurvedic College,  
Osmanabad,  
Dist. Osmanabad. .. RESPONDENTS

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APPEARANCE : ShriA.D. Gadekar – learned Advocate  
for the Applicants.  
: Mrs. Priya R. Bharaswadkar –  
learned Presenting Officer for the  
respondents.  
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CORAM : **HON'BLE SHRI RAJIV AGARWAR,**  
**VICE CHAIRMAN (A).**  
**AND**  
: **HON'BLE SHRI J.D. KULKARNI,**  
**MEMBER (J)**

**PER : Hon'bleShri J.D. Kulkarni,**  
**Member (J)]**  
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**J U D G M E N T**

**[Delivered on this 13<sup>th</sup> day of December, 2016]**

1. The applicants are claiming directions to the respondents to count their seniority from 1998 on the post of Clerk-cum-Typist i.e. Class-III post and to give the next higher time bound promotional pay scale to the applicants after completion of 12 years services in the pay scale of Rs. 950-1500 from the date of their promotions i.e. 29/6/1998 and 10/8/1998 respectively. Both the applicants came to be appointed in the Health Department

of respondents on Class-IV post in 1988. They acquired eligibility for being promoted to the post of Clerk from 25% quota on 15.4.1991. However, they came to be promoted on the post of Clerk-cum-Typist in the pay scale of Rs. 950-1500 on 29.6.1988 and 10.8.1998 respectively. On 23.12.1998 their promotion to the post of Clerk-cum-Typist was cancelled and, therefore, they approached the Industrial Court at Solapur by filing ULP Nos. 190 and 191 of 1998 and the order of cancellation of promotion was stayed. The said ULP has been disposed of on 19.12.2003.

2. Prior to the promotion an amount of Rs. 30/- per month was deducted from the salary of the applicants for Group Insurance Scheme, but after their promotion an amount of Rs. 60/- is being deducted. The applicants' confidential reports were excellent. Their promotion was subject to approval of the Departmental Promotion Committee (DPC). However, no DPC was held till the year 2008. In the DPC meeting held on 5.2.2008 and 6.2.2008 the promotions granted to the applicants were confirmed.

In the meantime, the applicants' were exempted from passing qualifying examination on attaining the age of 45 years on 28.4.2010.

3. Vide Government Resolution dated 20.7.2001, 1.4.2010 and 4.5.2009, time bound promotional scale was given to the applicants on completion of 12 years of service on one post. In fact, the said time bound promotion should have been granted in the year 1998, since the applicants were continuously working on promoted post since 1998. The applicants have, therefore, filed this Original Application.

4. Respondent Nos. 1 to 3 submitted that as per Government Resolution dated 20.7.2001 and 1.4.2010 the applicants were not eligible for 12 years benefit under the scheme i.e. "Revised Assured Progress Scheme", as they did not complete 12 years of service from the date of regular promotion. The regular promotion was given to them on 18.2.2008 and thereafter they will be entitled to time bound promotion after completion of 12 years. It is however, admitted fact that the applicants were never

demoted after their temporary promotion to the post of Clerk-Cum-Typist in the year 1998. After availability of regular post in promotional quota, their promotions were made absolute vide order dated 18.2.2008.

5. The applicants have also filed rejoinder affidavit and short affidavit in support of the claim.

6. Heard Shri A.D. Gadekar –learned Advocate for the Applicants and Mrs. Priya R. Bharaswadkar – learned Presenting Officer for the respondents,we have perused application, affidavit, affidavit in reply filed by respondent Nos. 1 to 3. We have also perused the documents placed on record by the respective parties.

7. The only material point is to be considered as to whether the applicants are entitled to claim seniority from 1998 on the post of Clerk-cum-Typist?and if yes, whether they are entitled to time bound promotion considering their date of promotion as 29.6.1998 and 10.8.1998 respectively?.

8. From the admitted facts on record, it seems that there is no dispute that the applicants were promoted on the post of Clerk-Cum-Typist in the pay scale of Rs. 950-1500 w.e.f. 29.6.1998 and 10.8.1998 respectively. It is also admitted fact that the applicants are continuously working on the said post till their promotion was regularized in the year 2008. Even though the applicants' promotion were cancelled on 23.12.1998, the said order of cancellation of promotion was stayed by the Industrial Court and, therefore, the fact remains that the applicants are continuously working as Clerk from the year 1998 and there was absolutely no break in the said promotional post. There seems to be no dispute that when the applicants were working on Class-IV post Group Insurance amount of Rs. 30/- per month was being deducted from their salary; whereas after temporary promotion as Clerk, amount of Rs. 60/- was being deducted. There is no dispute that the applicants' temporary promotion was subject to approval from the DPC meeting. Unfortunately, no DPC meeting was held from the year 1998 till 5.2.2008 and finally the applicants'

temporary promotions were regularized in the meeting dated 5.2.2008 and 6.2.2008 and from 18.2.2008 the applicants' were promoted on regular post. There is absolutely no doubt that the applicants were not responsible in not holding DPC meeting and, therefore, the applicants cannot be blamed for not being promoted on regular post or not getting sanction to their temporary promotion.

9. The applicants in additional affidavit have stated that since 1998 till 2008 they were serving on Class-III post and were getting regular salary applicable to the Class-III post. It is further admitted that the said posts have been regularized in 2008.

10. The learned Advocate for the applicants has placed reliance on the decision taken by the Government of Maharashtra on 7<sup>th</sup> October, 2016, whereby it has been decided to treat temporary uninterrupted service as admissible service for considering the grant of time bound promotion. The copy of the said decision is placed on record at Annexure 'A-9'.

11. In view of the aforesaid decision the applicants are entitled to be considered for time bound promotion or grant of time bound promotion and, therefore, temporary promotion can also be taken into consideration while granting time bound promotion to them.

12. We are, therefore, satisfied that the applicants are entitled to be considered for time bound promotion as per Government Resolution dated 7.10.2016 and their temporary services in promotional cadre i.e. Clerk-cum-Typist from 1998 can be considered for granting them time bound promotion.

13. In view thereof, we pass the following order: -

### **ORDER**

- (i) The present Original Application is partly allowed.
- (ii) The respondents are directed to count the seniority of the applicants on the post of Clerk-cum-Typist i.e. Class-III post from the year

1998 in view of the Government Resolution dated 7.10.2016.

- (iii) The respondents are further directed to consider the cases of the applicants for grant of higher time bound promotional pay scale on completion of their 12 years of service in the pay scale of Rs. 950-1500 from 29.6.1998 and 10.8.1998 respectively and to grant time bound promotion to the applicants, if they are otherwise eligible for such promotion.
- (iv) The cases of the applicants be kept before the DPC meeting and necessary decision shall be taken within a period of three months from the date of this order and the same shall be conveyed to the applicants in writing.

There shall be no order as to costs.

**MEMBER (J)**

**VICE CHAIRMAN (A)**