

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO.833 OF 2012

DISTRICT : - JALNA.

Kalidas S/o Adinath Bahirat,
Age Major, Occu. Service,
R/o Ghansangwi Taluka Ghansangwi,
District JALNA.

.. APPLICANT.

V E R S U S

01. The State of Maharashtra
Through Secretary Irrigation
Department, Mantralaya,
Mumbai.
02. The Chief Engineer,
Local Sector, Minor Irrigation,
Bungalow No. 12, Jail Road,
Yerwada, Pune 6.
03. The Superintending Engineer,
Minor Irrigation Division
(Local Sector),
Circle at Aurangabad.
04. The Executive Engineer,
Minor Irrigation (Local Sector),
Beed Circle, Beed.

.. RESPONDENTS

APPEARANCE : Shri V.B. Wagh – learned Advocate
for the Applicant.

: Mrs. Priya R. Bharaswadkar –
learned Presenting Officer for the
respondents.

CORAM : **HON'BLE SHRI RAJIV AGARWAR,**
VICE CHAIRMAN (A).
AND
: **HON'BLE SHRI J.D. KULKARNI,**
MEMBER (J)
PER : **HON'BLE SHRI RAJIV AGARWAR,**
VICE CHAIRMAN (A).

J U D G M E N T

[Delivered on this 15th day of December, 2016)

1. Heard Shri V.B. Wagh – learned Advocate for the Applicant and Mrs. Priya R. Bharaswadkar – learned Presenting Officer (P.O.) for the respondents.
2. This Original Application has been filed by the Applicant, who is seeking designation of Sectional Engineer w.e.f. 1.4.1986 and is challenging order dated 22.2.2010 issued by the Respondent No. 1 refusing his request in this regard.
3. Learned Advocate for the Applicant argued that the Applicant was appointed as Junior Engineer (J.E.) on 29.11.1980. By Government Resolution dated 16.4.1984, Junior Engineers were given gazetted status, Class-II.

Junior Engineer having 3 years Diploma in Engineering were to be given Class-II status after 5 years of service while those having 2 years Diploma were to be given that status after 7 years of service. On getting Class-II status, they were to be designated as 'Sectional Engineer'. The Applicant should have been considered for grant of designation of Sectional Engineer from 1.4.1986. However, the Respondent No. 1 issued order on 30.4.2002, giving status of Sectional Engineer to the Applicant from 1.4.1990. The Applicant submitted representation on 20.1.2005 seeking post of Sectional Engineer from 1.4.1986. No reply was received. The Applicant submitted another representation on 6.6.2008. The Respondent No. 2 sought details of the Applicant from the Respondent No. 3, by letter dated 27.4.2009. The Respondent No. 3 submitted all the relevant details by letter dated 30.6.2009. The Respondent No. 1 by letter dated 22.1.2010 informed the Respondent No. 2 that the Applicant's Annual Confidential Reports (ACRs) from 1983-84 to 1986-87 was not up to the mark and he was not entitled to be given designation of Sectional Engineer.

He was given designation as 'Sectional Engineer' from 1.4.1990 as his ACRs from 1987-88 onwards were satisfactory. The Applicant was not aware of this letter dated 21.1.2010 and came to know about it on 15.12.2011, when it was communicated to him. The Applicant had not received any adverse remarks in his ACRs from 29.11.1980 to 1.4.1986 and, as such, any adverse remarks are required to be ignored and the Applicant is entitled to be granted status of Sectional Engineer from 1.4.1986.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that the Applicants ACRs for preceding three years before completion of 5 years of regular service were not up to the mark. The Applicant was, therefore, not upgraded to the post of Sectional Engineer from 1.4.1986. Afterwards, his ACRs reached the benchmark and he was upgraded as Sectional Engineer from 1.4.1990. The Respondent No. 1 has taken decision on 22.2.2010, and the same was communicated to the Applicant by the Executive Engineer, Minor Irrigation

(Local Sector), Jalna. Learned Presenting Officer argued that this Original Application is filed after delay of almost 10 years in 2012 as the Applicant was given up-gradation to the post of Sectional Engineer by order dated 30.4.2002 w.e.f. 1.4.1990. On the ground of delay itself it deserves to be dismissed. On merits also, the Applicant has not made out any case for granting relief to him.

5. It is an admitted fact that the Applicant was given up-gradation as Sectional Engineer by order dated 30.4.2002 w.e.f. 1.4.1990. He however, did not make any representation immediately after that order dated 30.4.2002, that he was entitled to the up-gradation from 1.4.1986. Though he claims in O.A. that he made a representation on 20.1.2005, the copy of the same is not placed on record. He has placed copy of letter from S.D.O., Minor Irrigation (Local Sector), Patoda, to the Respondent No. 4 which mentions that the Applicant has submitted representation on 6.6.2008 (Exhibit 'C' at p. 14 of the paper book). By letter dated 22.2.2010, the same was rejected. The endorsement on the letter (Exhibit 'F'

on p.20 of the paper book), makes it very clear that a copy of the same was sent to the Applicant, and he was working at Ghansangvi Taluka in Jalna District, which is the address given in the present O.A. also. It is difficult to accept the contention of the Applicant that letter dated 22.2.2010 was not communicated to him for more than one and half years. In any case, the fact remains that the Applicant did not protest for 6 years till 2008, after the order of up-gradation to the post of Sectional Engineer was issued on 30.4.2002. After all those years, it is difficult to conclude whether any adverse remarks in his ACRs for the period from 1983-84 to 1986-87 were communicated to him or not. He must have been working under some Deputy Engineer, who might have communicated adverse entries in his ACRs. However, that Deputy Engineer has not been made a party. It is also not clear in which district the Applicant was working during that period. All these facts are noted to highlight the fact that the claim of the Applicant that no adverse remarks in his ACRs for the period from 1983-84 to 1986-87 were communicated to him is not supported by any evidence at

all. After all those years, it is impossible to verify the veracity of the claim of the Applicant in this regard. He has not made the concerned officers viz. Deputy Engineer and Executive Engineer, party in this Original Application. The claim of the Applicant has to be rejected as not substantiated. Letter of the Respondent No. 1 dated 22.2.2010 has already considered the representation of the Applicant and rejected it. We see no reason to interfere in this case.

6. As a result, this Original Application is dismissed with no order as to costs.

MEMBER (J)

VICE CHAIRMAN (A)

O.A.NO.833-2012(hdd)-2016(DB)(Promotion)