

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 181 of 2022 (D.B.)

Dhirendrasingh S/o Govindsingh Bilwal,
aged about 39 years, Occ. Service As Assistant Police Inspector,
R/o Manihar Layout, near Sai Bal Udyan,
Jamb Road, Yavatmal, Tq. & Dist. Yavatmal.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Additional Chief Secretary,
Home Department,
Mantralaya, Mumbai-32.
- 2) The Director General of Police,
Having its Office near Regal Theater,
Kolaba, Mumbai.

Respondents.

Shri S.P. Palshikar, Advocate for the applicant.

Shri A.P. Potnis, learned P.O. for respondents.

**Coram :- Hon'ble Shri Shree Bhagwan,
Vice-Chairman and
Hon'ble Shri Justice M.G. Giratkar,
Vice-Chairman.**

Dated :- 29/06/2022.

JUDGMENT

Per : Shri Justice M.G. Giratkar, Vice-Chairman.

Heard Shri S.P. Palshikar, learned counsel for the
applicant and Shri A.P. Potnis, learned P.O. for the respondents.

2. The case of the applicant in short is as under –

The applicant was appointed as a Constable on 12/06/2006. Thereafter the applicant was recruited as a Police Sub Inspector through MPSC on 01/09/2009. In the year 2016, he was promoted as Assistant Police Inspector (A.P.I.), but later on granted deemed of the said post as of 10/10/2013. The applicant was transferred to Yavatmal in the year 2019 and at present he is working as Assistant Police Inspector (A.P.I.). The applicant is entitled for next promotion i.e. the post of Police Inspector. On 16/3/2017, Crime No.53/2017 for the offence punishable under the Prevention of Corruption Act, 1988 was registered against the applicant. On 17/3/2017, the applicant was suspended, but order of suspension was given effect from 16/03/2017. On 31/10/2017, this Tribunal partly allowed the O.A. No.454/2017 wherein the order of suspension was challenged. On 18/11/2017, the Competent Authority has passed an order and decided that after filing charge sheet in criminal case, revocation of suspension of applicant will be considered. This Tribunal in O.A. 916/2017 was pleased to quash and set aside the order of suspension on 16/3/2018 and directed the authority concerned to reinstate the applicant.

3. The applicant was reinstated and posted at Buldhana on Control Room on 18/6/2018. Since the applicant was suspended a departmental inquiry was initiated against him which has been

concluded. On 17/2/2018, show cause notice was issued to the applicant as to why increment for three years should not be withheld. On 28/3/2019, the authority concerned has passed an order as proposed in show cause notice. On 23/7/2020 the order of punishment was maintained by the Special Inspector General of Police, Amravati Range, Amravati. Thereafter appeal has been preferred which is as on date pending before respondent no.2.

4. It is submitted that the applicant's batch mates were promoted as Police Inspector on 23/2/2001, ignoring the legitimate claim of the applicant only because of pendency of appeal and ongoing criminal case. On 2/2/2022, the respondent no.2 has issued an order of promotion of police personnel who was junior to the applicant. At last prayed to allow the O.A. and direct the respondents to promote the applicant on the post of Police Inspector and give deemed date of promotion.

5. The respondents have filed their reply. The respondent no.2 submitted in para nos. 4 to 7 as under –

“ (4) It is submitted that as per the statutory provisions the bench mark for becoming 'fit' for promotion to the post of P.I., on the basis of grading of A.C.R., it has to be 20 points. However, the applicant cannot achieve the said grading on the basis of his A.C.Rs. for the year 2013-14,2014-15,2015-16,2016-17,2018-19. On the basis of the above, points, the applicant was

found 'unfit' for promotion to the post of P.I. and hence, was not promoted to the post of P.I.

(5) It is submitted that subsequently, the eligibility and fitness of the applicant also came to be examined on the D.P.C. for year 2020-21 (held on 6/12/2021). The following factual position about his service record was placed before the said D.P.C.

(6) It is submitted that the applicant is facing criminal prosecution in Mehkar P.Stn. (District Buldhana) C.R.No.53 of 2017 u/s 7,15 of Prevention of Corruption Act,1988 and the same sub-judice. In which, charge sheet has been filed.

(7) The applicant has been inflicted with a punishment of stoppage of increment for a period of three years in the regular departmental enquiry vide order dated 28/3/2019. The implementation of the said punishment has been started w.e.f. 1/7/2019 and it will come to an end on 30/6/2022."

6. In para-14, it is submitted by the respondents that *"averments raised by the applicant are denied, as in fact, since charge sheet has been sent against him in the A.C.B. case against, which shows that the action placing the applicant under suspension was fully justified. Hence, passing the order by the Tribunal in O.A., as has been canvassed by the applicant in this para, cannot be said that the applicant was given clean chit in the A.C.B. case registered against him. Apart from that as to how the eligibility and fitness of the applicant was examined twice and as to how the applicant was found 'unfit' in the DPC for the year 2019-2020 and his case has been kept*

in 'sealed covered' by the DPC for the year 2020-21 and hence cannot be promoted'.

7. During the course of argument, the learned counsel for the applicant Shri S.P. Palshikar submits that sealed cover shall be opened and result be declared.

8. The punishment imposed on the applicant comes to an end on 30/6/2022 that aspect shall be considered by the respondents. In view of the submission, following order is passed –

ORDER

(i) The O.A. is partly allowed.

(ii) The respondents are directed to open the sealed cover and pass appropriate order in respect of the promotion of the applicant by taking into account that punishment imposed on the applicant comes to an end on 30/6/2022. If the applicant is eligible for promotion, the respondents shall give deemed date of promotion in accordance with the law / rules.

(iii) No order as to costs.

(Justice M.G. Giratkar)
Vice-Chairman

(Shree Bhagwan)
Vice- Chairman.

Dated :- 29/06/2022.

dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 29/06/2022.

Uploaded on : 30/06/2022.

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