

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 367 of 2008 (D.B.)**

Shri Laxmikant S/o Gajanan Joshi,  
Aged about 65 years,  
Occupation : Retired,  
Resident of Plot no.20,  
Nitin Apartment, Wanjari Nagar, Nagpur.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through the Secretary,  
Sales Tax, Mantralaya, Mumbai-400 032.
- 2) The Commissioner of Sales Tax  
Maharashtra State,  
Vikrikar Bhavan, Mazgaon,  
Mumbai.
- 3) The Additional Commissioner of Sales Tax,  
Nagpur Division, Nagpur.
- 4) The Secretary,  
Awar Sachiv, Finance Department,  
Mantralaya, Mumbai.

**Respondents.**

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**S/Shri R.R. & R.Y. Rajkarne, A.P. Dhobe, Ritesh Washwani Advocates  
for the applicant.**

**Shri P.N. Warjurkar, learned P.O. for the respondents.**

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**Coram :- Hon'ble Shri J.D. Kulkarni,  
Vice-Chairman (J) and  
Hon'ble Shri Shree Bhagwan, Member(A).**

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**JUDGMENT****PER : V.C. (J).****(Delivered on this 13<sup>th</sup> day of July,2018)**

None for the applicant. Heard Shri P.N. Warjurkar, learned P.O. for the respondents.

2. The applicant got retired from the office of respondent no.3, i.e., the Additional Commissioner of Sales Tax, Nagpur Division, Nagpur. Earlier the applicant has filed O.A.No.244/2006 for getting promotion which was accrued to the applicant during the period from 30/01/1986 to 31/07/2000. But in spite of directions, the respondent no.3 only released the payment of gratuity and regular pension, but did not give benefit of promotion to the applicant.

3. From the pleadings, it seems that the applicant while serving as Sales Tax Inspector was kept under suspension w.e.f. 30/01/1986 to 22/11/1993 as Criminal Case no.21/1987 was filed against him. The said case came to be decided on 03/08/2002 and the applicant was acquitted. Because of the pendency of the criminal proceedings, the applicant was not considered for promotions in the service life. Vide letter dated 9/12/2003 the respondent no.2 directed to release and regularize the payment and also to pay gratuity and other regular retiral benefits to the applicant including deemed date promotion. But in spite such directions, only payment of gratuity and

regular pension was released by respondent no.3, but benefits of promotion was not given. According to applicant, had he been in regular service, he could get promotion of Senior Grade Inspector from January, 1986 and thereafter promotion of Sales Tax Officer in the year 1991-92 itself since he was senior. The applicant made several representations including application to the Lok Ayukta and also issued registered notice, but no action was taken. The applicant therefore filed O.A.No.244/2006. In the said O.A. the respondent nos. 2 and 3 made a submission that the proposal for promotion was under consideration. Vide order dated 23/01/2007 the respondents were directed to consider the claim of the applicant for promotion to the post in-question within a period of 4 months, but the claim for the promotion was not decided. The applicant has claimed that the direction be issued to the respondents to give promotional benefits including interest on the amount for which the applicant is entitled for getting promotional benefits for the period from 30/01/1986 to 31/07/2000.

4. The respondent nos. 1 to 3 have resisted the claim by filing reply-affidavit. It is stated that the applicant has got retired on 31/07/2000 and he was not actually promoted to the post of Sales Tax Officer, Class-II. However by relaxing the provisions of Rule-32 of the Maharashtra Civil Services (Conditions of Service) Rules,1981, the applicant was granted deemed date for the said post from

18/06/1993. This was however for purposes of pensionary benefits only. The applicant's claim for monetary benefits was rejected. It is further stated that the applicant was kept under suspension w.e.f. 30/01/1986 to 22/11/1993 as a case under the Prevention of Corruption Act was pending against him, but he was acquitted on 31/08/2002. The applicant's suspension period was regularised as duty period for all purposes as per the letter dated 09/12/2003. It is further stated that the earlier O.A. filed by the applicant bearing no.244/2006 before this Tribunal was also for same relief and the Tribunal's vide order dated 23/10/2007 directed the respondents to consider the claim of the applicant for promotion within a period of four months and accordingly the applicant was given the deemed date of promotion to the post of Senior Sales Tax Inspector w.e.f. 09/01/1986 along with all promotional and monetary benefits vide order dated 21/03/2003, but the Government (Finance Department) vide order dated 29/02/2008 approved the deemed date of promotion only and clarified that the deemed date is granted only for pension purposes and not for other monetary benefits. A rectification order was accordingly issued on 01/03/2008. On 01/02/2008, the Government issued order granting deemed date for Sales Tax Officer, Class-II w.e.f. 18/06/1993 to the applicant. This was also for the purposes of pension only and not for other monetary benefits. It is stated that the applicant was not actually promoted to the post of

Senior Sales Tax Inspector and to the post of Sales Tax Officer, Class-II. After consulting with the General Administration Department and service branch of Finance Department, the Government clarified that the deemed date is approved only for pensionary benefits and not for other monetary benefits and therefore the order was corrected.

5. We have perused the documents placed along with the O.A., so also the pleadings since the learned counsel for the applicant did not appear in spite repeated chances. We have also perused the various orders placed on record. We are satisfied that the case for the promotion as claimed by the applicant was considered by the Competent Authority in view of the order passed by this Tribunal in O.A.No. 244/2006 on 23/01/2007. It seems that the Competent Authority recommended the applicant's promotion to the posts of Sales Tax Inspector and Sales Tax Officer, Class-II along with the monetary benefits. The applicant is claiming benefit for both these promotional posts for which he might have been promoted in between 30/01/1986 to 22/11/1993. The applicant however was not promoted on those posts during this service period and therefore he has not actually worked on those posts. The Government therefore thought it proper to grant benefit of deemed date of promotion to the applicant for the purposes of pension only and the monetary benefits for the said promotions were rejected. We

do not find any illegality in such order, since the applicant has not actually worked on the promotional posts, no monetary benefits can be given to him for such promotions.

6. We, therefore, do not find any illegality in rejection of monetary benefits to the applicant on account of fortuitous promotion granted to him. The State was not responsible for not granting promotions to the applicant during the period from 30/01/1986 to 22/11/1993 since the applicant was facing criminal trial during this period under the Prevention of Corruption Act and therefore though the applicant has been acquitted in the criminal case after such a long period, it was not justified to grant him monetary benefits of the promotional posts by granting deemed date of promotion. In view of the aforesaid discussion, we find that there is no merits in the O.A. Hence, the following order :-

**ORDER**

The O.A. stands dismissed with no order as to costs.

**(Shree Bhagwan)**  
Member(A).

**(J.D. Kulkarni)**  
Vice-Chairman (J).

**Dated :- 13/07/2018.**

dnk.