

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 443 / 2021 (S.B.)**

Amol Madhukar Sherekar,
Aged about 45 years, Occupation:-Service,
R/o 27 Deshpande Layout, Behind Gondbaba Mandir,
Dasttor Nagar, M.I.D.C. Road, Amravati,
Tah. & Dist. - Amravati (M.S.)

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai- 32.
- 2) The Settlement Commissioner & Director
of Land Record (M.S.), 2nd Floor,
New Administrative Building,
Infront of Vidhanbhawan,
Pune.
- 3) The Deputy Director of Land Record,
Amravati Region,
Near Divisional Commissioner Office,
Amravati, Tah. & Dist. Amravati.

Respondents

Shri S.N.Gaikwad, Id. Advocate for the applicant.

Shri M.I.Khan, Id. P.O. for the Respondents.

Coram :- Hon'ble Shri M.A.Lovekar, Member (J).

JUDGMENT

Judgment is reserved on 10th Oct., 2022.

Judgment is pronounced on 21st Oct., 2022.

Heard Shri S.N.Gaikwad, ld. counsel for the applicant and Shri M.I.Khan, ld. P.O. for the Respondents.

2. Case of the applicant is as follows. When the applicant was working as a Surveyor at Shegaon an offence was registered against him and others. However, the Hon'ble Bombay High Court discharged him by order dated 27.03.2018. With covering letter dated 11.10.2018 (A-1) the applicant submitted a copy of the Judgment before respondent no. 3. By letter dated 11.07.2019 (A-2) information about pending Judicial/ Departmental proceeding was called so as to consider cases of eligible employees for promotion. On 15.07.2019 D.P.C. was held minutes of which are at A-3. In the D.P.C. the applicant was found to be eligible for being considered for the promotional post. However, by erroneously observing that a criminal case was pending against him, sealed envelope procedure was adopted. By communication dated 16.07.2019 (A-4) the applicant informed R-3 that he had already submitted a copy of order of his discharge to the concerned before D.P.C. was held. On 17.07.2019 order of promotion (A-5) was issued. The applicant was not promoted. By communication dated 31.07.2019 respondent no. 3 called information as to whether the Government had challenged the order discharging the applicant (A-6). Reply (A-7) was received that there was no recommendation to challenge the order of discharge. By order dated 07.09.2019 (A-8) the applicant was promoted as Senior Clerk. On 07.10.2019, being aggrieved by the delay in getting promotion, he preferred appeal (A-9). By communication dated 24.08.2020 (A-10) respondent no. 2 directed respondent no. 3 as follows:-

“श्री. शेरेकर यांनी त्यांना ५० दिवसांचे विलंबाने पदोन्नती आदेश पारीत झालेले झालेल्या आर्थिक व ज्येष्ठतेमध्ये झालेल्या परिणामाचे अनुषंगाने आवश्यक तर आपले कार्यालयाकडे महाराष्ट्र नागरी सेवा (ज्येष्ठतेचे विनियमन) नियमावली १९८२ मधील तरतुदीनुसार ज्येष्ठतेसाठी अथवा शासन परिपत्रक दिनांक ०६.०६.२००२ मधील

तरतूदीनुसार मानीव दिनांकासाठी अर्ज सादर करून दाद मागणे उचित होईल असे इकडील मत आहे. सदर बाबत आपलेस्तरावरून श्री शेरेकर यांना कळविणेत यावे.

त्सेच श्री शेरेकर यांनी त्यांचे दिनांक ०७.१०.२०१९ रोजीचे अर्जात नमुद केल्याप्रमाणे विभागीय पदोन्नती समितीला चुकीची/ अपुर्ण माहिती पुरविली गेली असल्यास त्याबाबत चौकशी करून जवाबदारी निश्चित करण्यात यावी. व केलेल्या कार्यवाहीबाबत या कार्यालयास अहवाल सादर करणेत यावा.”

However, nothing was done. Against this inaction the applicant made representations (A-11 collectively) but to no avail. Hence, this O.A. for grant of deemed date of promotion, and seeking direction to respondent no. 3 to inquire into and fix the responsibility for supplying wrong information to the office in respect of criminal case against the applicant.

3. In their reply at pages 50 to 62 respondents 2 & 3 have contended that on 17.07.2019 the applicant ought to have been promoted, he was eventually promoted by order dated 07.09.2019 and the mistake/ negligence was not deliberate. They have also averred as follows:-

“However, though there may be some delay in approval of promotion, but the seniority of the applicant has been considered on record and granted w.e.f. due date of promotion i.e. with effect from 17.07.2019 and he has been held senior with effect from 17.07.2019 itself. However, the benefits of seniority i.e. the salary and other benefits had only been made applicable since from 07.09.2019 i.e. from the date of joining of promotional post by way of order of Dy. Director of Lands Record, Amravati Division, Amravati, for which, the provisions of law are specific.”

4. In view of admitted position as above the O.A. deserves to be allowed by granting deemed date of promotion and issuing necessary direction to respondent no. 3. Hence, the order:-

O R D E R

The O.A. is allowed in following terms:-

1. The applicant would deem to have been promoted to the post of Senior Clerk w.e.f. 17.07.2019. He is held entitled to get pay/salary of promotional post w.e.f. 17.07.2019. He shall be duly placed in seniority list in consonance with this determination.
2. The difference in pay/salary shall be paid to him within two months from today.
3. Respondent no. 3 shall conduct inquiry as directed by respondent no. 2 by last para of communication dated 24.08.2020 (A-10) and submit report to respondent no. 2 **within three months from today.**
4. No order as to costs.

(Shri M.A.Lovekar)
Member (J)

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

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 21/10/2022.
and pronounced on

Uploaded on : 25/10/2022.