

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 716 of 2010 (D.B.)**

Piraji Shivram Amberao,  
Aged about 54 years, Occ. Service,  
Resident of Shanti Vihar Colony,  
Amravati.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Department of Revenue & Forests,  
Mantralaya, Mumbai-32.
- 2) Settlement Commissioner and Director of Land Records,  
Maharashtra State, Pune.
- 3) Deputy Director of Land Records,  
Amravati Division, Amravati.
- 4) Shamrao Dattatraya Khamkar,  
Aged Major, Occ. Service,  
Superintendent of Land Records,  
Kolhapur.
- 5) Ramdas Sakharam Agwane,  
Aged Major, Occ. Service,  
Superintendent of Land Records,  
Dhule.
- 6) Dadasaheb Sonu Talpe,  
Aged Major, Occ. Service,  
Superintendent of Land Records,  
Ahmadnagar.

**Respondents.**

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**S/Shri A.C. Dharmadhikar, N.A. Gaikwad, Advocates for the applicant.**

**Shri H.K. Pande, learned P.O. for respondent nos.1 to 3.**

**Shri G.K. Bhusari, Advocate for respondent no.4.**

**Shri S.P. Palshikar, Advocates for resp.no.6.**

**None for respondent no.5.**

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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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**ORAL ORDER**

**PER : V.C.(J).**

**(Passed on this 31<sup>st</sup> day of August,2018)**

Heard Shri R.V. Shiralkar, learned counsel holding for Shri A.C. Dharmadhikari, learned counsel for the applicant, Shri H.K. Pande, learned P.O. for respondent nos. 1 to 3, Shri G.K. Bhusari, learned counsel for respondent no.4 and Shri S.P. Palshikar, learned counsel for respondent no.6. None for respondent no.5.

2. The learned counsel for the applicant filed complete copy of the minutes of the meeting. It is taken on record and marked Exh-X for the purposes of identification.

3. In this O.A. the applicant has claimed following reliefs:-

*“(A) Quash and set aside the impugned order dated 18/01/2010 by holding that the term of punishment of the applicant came to an end either in December,2009 considering the earlier date of increment as was in existence in the year,2007 and/ or on 01/07/2010 in view of the recommendations of the VIth Pay Commissioner and in no circumstances can continue to operate from 01/07/2010.*

*(B) Quash and set aside the decision of the respondent authorities not granting the applicant promotion on the post of Deputy Director of Land Records along with respondent nos. 4 to 6 by an order dated 21/09/2010 and direct respondent no.1 to grant promotion and promotional benefits to the applicant on the post of Deputy Director of Land Records with effect from 21/09/2010 when his immediate juniors viz. Respondent nos. 4 to 6 came to be promoted with a further direction that his name be placed at appropriate position in the seniority list and above the names of respondent nos. 4 to 6 in the seniority list of Deputy Director of Land Records with effect from 21/09/2010 as well as grant all other benefits including increment, arrears of pay etc.”*

4. During pendency of the O.A. however, the applicant was promoted to the post of Deputy Director of Land Records w.e.f. 21/09/2010 and therefore he amended the prayer and claimed as under:-

*“(B-1) Direct the respondent no.1 to grant deemed date of promotion to the applicant on the post of Deputy Director of Land Records w.e.f. 21/09/2010 i.e. the date when the respondent nos. 4 to 6 came to be promoted as such.*

*(B-2) Direct the respondent no.1 to grant all the consequential benefits flowing from the deemed date of promotion on the post of Deputy Director of Land Records w.e.f. 21/09/2010 including difference of arrears of salary, increments etc.”*

5. From the admitted facts on record it seems that as per the order dated 18/07/2007 two increments for two years were stopped and on same the date in another departmental enquiry one increment for one year was stopped. No appeal was filed against the said orders.

6. Admittedly in the meantime, the DPC was held on 26/02/2010 and even though the applicant's name was considered in the said DPC, he was not promoted. As against him, the private respondent nos. 4 to 6 who were juniors to the applicant, have been promoted on the post of Deputy Director of Land Records. The learned counsel for the applicant has invited our attention to the applicant's representation dated 06/05/2010 (Annex-A-9,P-45). In the said representation, the applicant has shown willingness that his increments in the promotional post may be deducted. The particular reference to such representation is the last para of representation which reads as under:-

*^g; kckr eh l mHkz dz5 uq kj fuonu nou eh 'kkl ukl fourh dsh vks j jarw R; kckr eyk dlgh dGfo.; kr vkys ukgh- rl p l kkl; izkkl u foHkxkd/Mu i nklurh djhrk ek>; k ukokph f'kQkj l dj.; kr vkysyh vks rsgk eyk i nklurh feG.kd fourh vks br%j gh eh ek>sf0#/n i kjhr f'k{kk mojh dkyko/kh dhjrk i nklurhps i noj mi Hkks.; kl r; kj vks o rl sgeh i = ok 'ki Fki = eh 'kkl ukl ns; kl r; kj vks rsgk ek>k vt kpk l gku k r hi pZl fopkj d#u eyk i nklurh ns; kr ; koh gh fourh\*\**

7. The applicant's request however has not been considered. The respondents have filed reply-affidavit and tried to

justify the non promotion of the applicant on the ground that in the departmental enquiry the applicant was punished and he was undergoing punishment and therefore was rightly rejected.

8. The learned counsel for the applicant has placed on record the complete copy of the minutes of the meeting which is marked Exh-X1. He invited our attention to the recommendation made by the Secretary for the applicant's promotion. The said recommendation is as under :-

*“(A) If any Govt. employee undergoing punishment of stopping of one increment or 2 increments, we are not giving promotion. But in case of permanently stoppage of some increments we are not going to give promotions to the Govt. employee. It requires since it's serious punishment for the Govt. staff. Hence, Revenue Department should consider giving promotions to all employees including B.C. candidates in respect of undergoing punishment or not.  
(B) Rest is its note this department is approved.”*

9) The learned counsel for the applicant submits that the applicant should have been considered for promotion since he was ready to undergo the punishment the stoppage of increments in the promotional post. It is admitted fact that the Government has issued G.R. which entails the delinquent to undergo minor punishment in the promotional post also and merely because an employee undergoing punishment, he shall not be kept away from the promotional post. In the present case the applicant is ready to undergo the punishment of

stoppage of increments in the promotional post and the Secretary has also observed so as seems from the note which is already reproduced earlier. We are therefore satisfied that the applicant should have been considered for the promotional post in the DPC from 2008 itself and should have been promoted as against his juniors. Since the applicant has already been promoted vide order dated 31/05/2012 (Annex-A-12,P53A), the only question remains that to be granted deemed date of promotion to him since 21/09/2010. Since the private respondents who are junior to the applicant have been promoted w.e.f. 21/09/2010, the applicant will also be entitled to get deemed date of promotion. In view thereof, the we pass the following order:-

**ORDER**

The O.A. is partly allowed. The respondent nos. 1 to 3 are directed to promote the applicant w.e.f. 21/09/2010, the date on which the applicant's juniors were promoted. The necessary order should be passed within one month. No order as to costs.

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

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

**Dated :- 31/08/2018.**

dnk.