

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 768 of 2017 (D.B.)**

Maroti S/o Vitthalrao Punwatkar,  
Aged about 45 years, Occ. Service,  
R/o New Plaza, F-1, Ramnagar,  
Bokare Plot, Chandrapur.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
through its Secretary,  
Revenue and Forest Department,  
Mantralaya, Mumbai-32.
- 2) The Divisional Commissioner,  
Nagpur Division, Civil Lines,  
Nagpur.
- 3) Collector,  
Chandrapur, Dist. Chandrapur.

**Respondents.**

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**Shri N.D. Thombre, Advocate for the applicant.**

**Shri M.I. Khan, 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**

**(Delivered on this 27<sup>th</sup> day of April,2018)    PER : V.C. (J)**

Heard Shri N.D. Thombre, learned counsel for the  
applicant and Shri M.I. Khan, learned P.O. for the respondents.

2. The applicant was initially appointed as a Driver and was working on the said post since 07/09/2000. He was qualified as SSC and completed his MS-CIT and also passed Marathi & English Typing @ 30 wpm on 15/12/2012. The applicant made a representation to the respondent no.3, i.e., The Collector, Chandrapur for appointment for the post of Junior Clerk as per G.R. dated 03/06/2011. Vide communication dated 15/07/2013 the applicant was informed that there is provision for direct appointment on the post of Junior Clerk by promotion from Class-IV category, but there is no provision for appointment to the post of Clerk-Typist from the category of Driver.

3. The applicant submitted another application along with necessary documents on 03/06/2011 and vide order dated 07/04/2016 issued by respondent no.3, the applicant was appointed to the post of Clerk-Typist/Godown Keeper/Godown Clerk (Group-C category). The applicant accordingly joined on the said post on 11/04/2016 with District Supply Officer, Chandrapur.

4. The applicant thereafter filed an application on 14/02/2017 to respondent no.3 for granting deemed date of appointment w.e.f. 15/07/2013. Instead of forwarding the applicant's representation to respondent no.2, the respondent no.3 recommended for rejection of applicant's case vide communication dated 18/09/2017 and therefore the applicant has filed this O.A. He

has prayed that the communication dated 18/09/2017 issued by respondent no.3, the Collector, Chandrapur, Dist. Chandrapur to respondent no.2, the Divisional Commissioner, Nagpur (Annex-A-7) be held illegal and as such be quashed and set aside and the respondents be directed to grant deemed date of appointment to the applicant w.e.f. 15/07/2013 and he be placed at the appropriate position in the seniority list of Clerk-Typist/Godown Keeper/Godown Clerk (Group-C category).

5. The respondent no.3 has filed reply-affidavit and has objected the application. It is stated that the applicant's claim for the post of Clerk was rejected on 15/07/2013 and this decision was never challenged by the applicant. Thereafter, the applicant was appointed vide order dated 23/09/2013 to the post of Clerk. He joined on the said post and worked there till 14/02/2017 and thereafter all of a sudden he is claiming deemed date of promotion w.e.f. 15/07/2013. The applicant is therefore estopped from claiming deemed date of promotion.

6. We have perused the record. It is material to note that the applicant firstly applied for grant of post of Clerk as per his representation dated 15/12/2012 (Annex-A-1). In the said representation he has stated that even though he is appointed as a Driver w.e.f. 07/09/2000, he holds all the requisite qualification for

being appointed as a Junior Clerk and therefore he may be absorbed in the post of Clerk. It is material to note that this applicant's representation was rejected vide order dated 15/07/2013 (Annex-A-2) with the following communication –

*^mi jkDr fo"k; kps vuqkxkus vki .kkd dGfo.; kr ; rs dh] vki .k okgu pkyd i dxlrnu  
dfu" B fyihd i dxlr inLFki uk %ue.knd% dj.; kclcr ; k dk; ky; kl vtZl knj dyk-  
i jr q'kk u jkti =kuq kj fyihd Vady[kd inkoj I jGI ok Hkjrthnkjs r l p oxL4 e/ku  
in ktlurthnkjs ins Hkj.; kph rjr q vlgs 'kk u jkti =kr okgu pkyd I dxlrnu fyihd  
Vady[kd I dxlr ue.knd dj.; kph dkskrhgh rjr q ulgh- R; keGs vki .kkd fyihd  
Vady[kd ; k i dxlr inLFki uk nsk ; s ulgh- R; keGs vki yk vtZuLrh/n dj.; kr ; r  
vlgs \*\**

7. It is material to note that the applicant never challenged the order of rejection of his request for absorbing in the post of Junior Clerk. On the contrary, he filed another representation on 01/08/2013 (Annex-A-3). Thereafter vide order dated 07/04/2016 (Annex-A-4) the applicant was appointed as a Clerk. His request for conversion of this post into that of Clerk was accepted and he was appointed as a Clerk. This letter has no reference to the earlier request of the applicant and therefore this seems to be fresh appointment order.

8. Perusal of the order of conversion of applicant's post to that of Clerk-Typist dated 07/04/2016 (Annex-A-4) referred to the G.R. dated 03/06/2011. The copy of the said G.R. is placed on record at P.B. page nos. 31 to 33 (both inclusive) (Annex-A-8). From the said G.R., it seems that while considering the request for

conversion of the post from one cadre to other, the competent authority has to consider various aspects and then such order is to be passed. The applicant's earlier request was rejected in the year,2013, i.e., vide communication dated 15/07/2013, but the applicant never challenged that order. Subsequently his request was considered and he was absorbed on the post of Clerk-Typist as per order dated 07/04/2016 and he had worked there and in the month of February,2017 he has again filed representation for deemed date for the post. Since the applicant has not challenged the earlier order of rejection of his request in 2013 vide communication dated 15/07/2013, he cannot now say that his request shall be considered with retrospective effect. He will be entitled to the post from the date on which his request has been accepted. We, therefore, do not find any merits in the O.A. Hence, the following order :-

**ORDER**

The O.A. is rejected with no order as to costs.

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

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

**Dated :- 27/04/2018.**