

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 937 of 2018 (D.B.)

Prashant Pundlikrao Bhende,
Aged about 41 years, Occ. Service,
R/o Sant Tukdoji Ward, Hinganghat,
Tahsil Hinganghat, District Wardha.

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary,
Revenue Department, Mantralaya,
Mumbai-32.
- 2) The Collector, Wardha.
- 3) The Sub Divisional Officer,
Hinganghat, Tahsil Hinganghat,
District Wardha.

Respondents.

S/Shri D.M. Kakani, G.K. Bhusari, Advocates for the applicant.

Shri S.A. Sainis, learned P.O. for respondents.

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

Dated :- 30/06/2022.

JUDGMENT

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

Heard Shri G.K. Bhusari, learned counsel for the applicant
and Shri S.A. Sainis, learned P.O. for the respondents.

2. The applicant has filed the present O.A. for the following reliefs –

“(i) Quash and set aside the provisional Seniority list of 1/1/2018 published by the respondent no.2 on 28/04/2018 itself and direct the respondent to give proper placement to the applicant in the seniority list of 2018;

(ii) Quash and set aside the final seniority list published by respondent no.3 on 18/8/2018 itself and direct the respondent to give proper placement to the applicant in the seniority list of 2018;

(iii) Direct the respondent authority to apply the Govt. G.R. dated 8th June,1995 in respect of time bound promotion scheme after completion of his 12 years of service with effect from 12/1/2011 onwards and pay the arrears thereof; ”

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

The applicant was selected and appointed on the post of Talathi on 12/1/1999. He was posted at Washi. On 17/5/2002, the applicant was arrested by the Anti Corruption Bureau for the offence punishable under Sections 7,13 (1) (d) r/w 13 (2) of the Prevention of Corruption Act,1988. The offence was registered against him. On 24/5/2002, the applicant was placed under suspension by respondent no.3. On 01/12/2004,the departmental inquiry was started. The Inquiry Officer submitted his report on 6/2/2008 and he is exonerated from all the charges. The applicant was convicted by the Sessions Court, Wardha and awarded punishment for 7 years and 5 months.

4. The applicant preferred appeal before the High Court. The appeal was allowed and the applicant came to be acquitted from the said offences. Thereafter respondents department has revoked the suspension and suspension period treated as a duty period. The applicant was paid all the arrears of salary and all consequential benefits.

5. The applicant has completed 12 years of continuous service on 12/1/2011, therefore, he applied to the respondents for benefit of time bound promotion as per the G.R. It is submitted that the respondents have not granted benefit of time bound promotion after completion of 12 years regular service, therefore, he approached to this Tribunal for direction to the respondents to give the benefit as per the G.R. of 1995 after completion of 12 years service.

6. The O.A. is strongly opposed by the respondents. It is contended that the applicant has not fulfilled the conditions of the G.R. He had not passed departmental examination and therefore he is not eligible for promotion. Hence, the O.A. is liable to be dismissed.

7. Heard learned counsel for the applicant Shri G.K. Bhusari. He has submitted that eventhough he has not passed departmental examination, then also he is entitled to get the benefit of G.R. for time bound promotion / ACP after completion of 12 years continuous service. In support of his submission, he has pointed out decision of

Maharashtra Administrative Tribunal, Principal Bench at Mumbai in O.A.No.166/2016, dated 15/12/2015.

8. The learned counsel has submitted that in view of the Judgment of this Tribunal, the applicant is entitled to get benefit of G.R. after completion of 12 years regular service.

9. The learned P.O. Shri S.A. Sainis strongly objected for relief on the ground that the applicant has not passed the departmental examination, therefore, he is not eligible to get the benefit of G.R. after completion of 12 years service. Hence, the O.A. is liable to be dismissed.

10. There is no dispute that the applicant has not passed departmental examination, therefore, he was not granted benefit of G.R. after completion of 12 years service. The Judgment relied by the applicant shows that if the applicant / employee is otherwise eligible, then the benefit should be given. The para-7 of the Judgement is reproduced as under –

“7. The Applicant is hereby held eligible to be considered for the said benefit from the date of completion of 12 years of service from initial appointment and not from the date of grant of exemption from passing the said examination. The Respondents shall, however, make sure that the Applicant was otherwise entitled to the said benefits. The Applicant shall be entitled to all consequential benefits arising out of this particular Judgment. The Respondents shall make compliance in every respect including arrears, if any, payable within eight weeks from today.

The Original Application is accordingly allowed in these terms with no order as to costs.”

11. In view of the above cited Judgment, the following order is passed –

ORDER

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

(ii) The respondents are directed to consider the claim of the applicant to get the benefit of G.R. dated 8/6/1995 after completion of 12 years of service from the date of his initial appointment, if he is otherwise eligible to the said benefit.

(iii) No order as to costs.

(Justice M.G. Giratkar)
Vice-Chairman

(Shree Bhagwan)
Vice- Chairman

Dated :- 30/06/2022.

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 : 30/06/2022.

Uploaded on : 04/07/2022.

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