

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR.

ORIGINAL APPLICATION NO.154/2006.

1. Narsingh Gulabrao Rathod,
Aged about 50 years,
Occ- Asstt. Distt. Malaria Officer,
O/o Distt. Malaria Officer, Yavatmal.
R/o Shivneri Colony, Arni Road,
Yavatmal.

2. Mansingh Mersingh Rathod,
Aged about 49 years,
Occ- Malaria Suervisor,
O/o Distt. Malaria Officer, Yavatmal.
R/o C/o H.M. Rathod,
Deep Nagar, Yavatmal.

Applicants.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Public Health,
Mantralaya, Mumbai-32, Copy to be submitted
to the Presenting Officer, M.A.T., Nagpur.

2. The Secretary,
Department of Public Health,
Mantralaya, Mumbai-32.

3. The Joint Director of Health Services,
(Malaria and Filaria,) Opp. Vishrantwadi,
Police Station, Yerwada, Pune-5.

4. The District Malaria Officer,
Yavatmal.

5. Shri P.R. Swarge,
Aged about 58 years,
Occ-Pensioner,
C/o District Malaria Officer, Amravati.

Respondents.

Shri H.M. Sakhre, Ld. counsel for the applicant.
Smt. M.A. Barabde, Ld. P.O. for the respondent Nos. 1 to 4.
None for respondent No.5.

Coram:- S.S. Hingne, Member (J)

Dated:- 22nd March, 2016.

Order

The applicants- Assistant District Malaria Officer applicant No.1 and Malaria Supervisor, applicant No.2 filed O.A. seeking deemed date of promotion w.e.f. 15.4.1982 and to release the time bound promotion w.e.f. 1.4.1994. The following prayers they made:

- (A) The O.A. may be allowed.
- (B) The respondent Nos. 2 and 3 be directed to issue order regarding the deemed date of promotion to the applicant as a Malaria Supervisor w.e.f. 15.4.1982 with immediate effect and obliged.
- (C) The respondent Nos. 2 and 3 be directed to release arrears on account of sanction of deemed date for the post of Malaria Supervisor w.e.f. 15.4.1982 as per the decision issued by the High Court, Bench at Aurangabad in W.P.No.97/83 and obliged.
- (D) The respondent Nos. 2 and 3 be directed to release the sanction of time bound promotion for the post of Assistant District Malaria Officer w.e.f. 1.4.1994 as per G.R. with immediate effect and obliged.
- (E) The respondent Nos. 2 and 3 be directed to release the arrears on account of time bound promotion for the post

of Assistant District Malaria Officer w.e.f. 1.4.1994 as per G.R. issued on 8th June 1995 with immediate effect and obliged.

(F) Anyother suitable and appropriate relief to which the applicant is found to be entitled may kindly be granted.

2. Heard Shri H.M. Sakhre, the learned counsel for the applicants and Smt. M.A. Barabde, the learned P.O. for respondent Nos. 1 to 4. None for respondent No.5.

3. The learned counsel for the applicants filed notes of argument (P.62). Service record of the applicants is are under:

Sr. No.	Joined on	Time Bound Promotion given.	Promoted as Malaria Supervisor	Promoted as A.D.M.O.
Applicant No.1	8.1.1976	1.1.1995 (1 st) 19.1.2001 (2 nd)	1.6.1997	14.6.2001
Applicant No.2	12.1.1976	1.1.1995	16.11.1999	---

4. It reveals from the application that the applicants are claiming two types of reliefs. One is deemed date of promotion as Malaria Supervisor from 15.4.1982. The applicants have relied on the judgments in W.P. No. 97 and 550 of 1983 decided on 11.9.1990 (P.20 Exh.C). The applicant Nos. 1 and 2 in W.P. No. 97/1983 were appointed in October 1963 and May 1964 and the applicant No.3 was

appointed in February 1965. One of them was graduate and others were Inter Science. The applicant in W.P. No. 550/1983 was Science graduate was appointed in November 1972 and another applicant was appointed in March 1973. They were science graduates. All of them were appointed as Malaria Assistant which is synonymous to the Laboratory Technician. These employees have filed Writ Petitions for promotion. Not the certified copy of this judgment, but typed one is filed. Moreover, the applicants in W.P. No. 97/83 were appointed 10 to 12 years earlier to the applicants. Moreover, they were appointed as Laboratory Technician, whereas the applicants are appointed as Malaria Technician. The applicants have not given their educational qualification. The deemed date of promotion is sought as Malaria Supervisor from 15.4.1982, on the ground that the above employees in the above writ petitions were given promotion with effect from that date. There is no material on record to claim deemed date on the basis of grant of promotion to the said employees, particularly when they were senior to the applicants and were holding different posts and qualifications. Moreover, all the petitioners in W.P. No.550/83 are senior to the applicants. In the absence of any material, the applicants cannot be entitled on the basis of promotion given to said employees.

5. The applicants have also claimed time bound promotion. They also got the said relief from 1.1.1995. Moreover, the

applicant No.1 got two promotions i.e. Malaria Supervisor and as Assistant District Malaria Officers in 2001. As per clause (d) of the G.R. dated 8.6.1995, the employees who are promoted twice are not entitled to get the said benefit. When the first time bound promotion was given to the applicant, he was not promoted. Thereafter twice the applicant No.1 got promotion. Therefore, he cannot claim relief of time bound promotion.

6. The applicants also claimed that they have worked in the cadre of Malaria Technician for about 23 years. The scheme is implemented in the year 1995 and made applicable from 1.10.1994. The applicant, he was given benefit from 1.1.1995. They cannot get the benefit twice before 1.1.1995. Benefit is to be given on completion of 12 years in the same cadre.

7. The applicant No.1 claimed that they should be given time bound promotion in the cadre of Assistant District Malaria Officers from 1.1.1994. However, he is already promoted on that post in 2001. The period to get time bound promotion on that post cannot be counted from 1.1.1994, as alleged (i.e. from the date of G.R.) The applicant No.1 has not completed their 12 years in that cadre. The applicant No.1 retired in 2001.

8. The applicants cannot claim the deemed date from 15.4.1982, as Mr. Swarge (R.5) was given time bound promotion from

that date, because Mr. Swarge was appointed on 17.12.1964. The applicants claim deemed date of promotion w.e.f. 15.4.1982. The other employees got benefit w.e.f. 14.9.1981 whereas the applicants got it w.e.f. 1.1.1995. It makes no difference because under the scheme, relief is to be given only once irrespective of period prior to 1.1.1994. Moreover, the applicants are not completing 12 years in the next cadre after that. As such, it does not affect their rights.

9. The applicant No.2 is completing 12 years in Supervisor cadre after filing the O.A. For that applicant is at liberty to claim time bound promotion in that cadre to the department. Moreover, the concept of giving deemed date effect is unknown in time bound promotion scheme.

10. Viewed from any angle, the applicants cannot get relief as claimed. Case putforth by the applicants is devoid of merit. Consequently, the O.A. is rejected with no order as to costs.

sd/-

(S.S.Hingne)
Member (J)