

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 221/2017 (S.B.)

Vijay S/o Haridas Gajghate,
aged about 54 years, Occ.- Circle Inspector,
at Kanholibara, Tah.- Hingna,
Distt.- Nagpur. R/o 127, Saubhagya Nagar,
Hudkeshwar Road, Near ITI, Nagpur-24.

Applicant.

Versus

- 1) State of Maharashtra
through its Secretary,
Revenue Department,
Mantralaya, Mumbai 32.

- 2) Collector Nagpur.

Respondents

Shri P.V.Thakre, Ld. Counsel for the applicant.
Shri V.A.Kulkarni, Ld. P.O. for the respondents.

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

Dated: - 4th August 2023.

JUDGMENT

Judgment is reserved on 21th July, 2023.

Judgment is pronounced on 4th August, 2023.

Heard Shri P.V.Thakre, learned counsel for the applicant and Shri V.A.Kulkarni, learned P.O. for the respondents.

2. Case of the applicant is as follows. The applicant entered service as Talathi on 13.06.1986. He completed regular service of 12 years on 13.06.1998. He passed Revenue Departmental Examination on 26.10.1999 (Annexure A-2). At this point of time he became entitled to get first time bound promotion. Instead, by order dated 03.09.2005 first time bound promotion was granted to him w.e.f. 30.06.2004 (Annexure A-3). He was promoted on 30.10.2010. Till the year 2011 no adverse remark was communicated to him. By representation dated 28.09.2012 (Annexure A-5) the applicant ventilated his grievance about not getting first and second time bound promotions on completion of service of 12 years and 24 years, respectively. By the impugned order dated 23.11.2013 (Annexure A-6) the applicant was informed as follows-

शासन निर्णयातील तरतुदीनुसार आपण महसूल अर्हता परिक्षा दिनांक २६.१०.९९ रोजी उत्तीर्ण केलेली असून आपल्या नावाचा विचार करण्यात दिनांक १.१०.२००१ मध्ये १२ वर्ष पुर्ण झालेल्या तलाठी कर्मचा-यांना कालबद्ध पदोन्नतीचा लाभ देणेबाबत दिनांक १.२.२००३ पदोन्नती समितीसमोर प्रकरण ठेवण्यात आले असता प्रतवारी अभावी प्रकरण अपात्र ठरविण्यात आलेले असून दिनांक १.२.२००३ च्या निवड समितीच्या सभेत

अपात्र ठरविण्यात आलेल्या एकुण ५६ तलाठ्यांचा दिनांक २.९.२००५ च्या सभेत विचार करण्यात आला असता पदोन्नती समितीने पात्र ठरविलेले असून आपणांस दिनांक १.१०.२००४ पासून वरिष्ठ वेतन श्रेणीचा लाभ देण्यात आलेला आहे.

3. From the year 2011 onwards A.C.Rs. were communicated to the applicant (Annexure A-7). By order dated 17.10.2017 (Annexure A-8) second time bound promotion was granted to the applicant w.e.f. 01.10.2017. By order dated 28.02.2020 (Annexure A-10) date of grant of second time bound promotion was modified and preponed to 01.01.2016. Because first time bound promotion was granted belatedly, second time bound promotion was delayed and further the applicant, who retired on superannuation on 31.05.2020, was deprived of benefits of 7th Pay Commission as per G.R. dated 02.03.2019. Hence, this O.A. for following reliefs-

a. Direct the respondents to grant first benefit of time bound promotion scheme w.e.f. 26.10.1999 and the second benefit under the Assured Career Progression Scheme w.e.f. 26.10.2011.

a-i) quash and set aside the order dated 23.11.2013 issued by the Respondent no.2 vide Annexure – A-6 being arbitrary and malafide;

a-ii) direct the respondents to grant 3rd benefit w.e.f.

26/10/2017 in accordance with the G.R. dated 2/3/2019.

4. Stand of respondent no.2 is as follows. Twelve years after the applicant passed Revenue Qualifying Examination his name was considered for grant of first time bound promotion in meeting dated 01.02.2003 and it was found that he had not attained the benchmark (Annexure R-1). However, in meeting dated 02.09.2005 (Annexure R-2) it was found that the applicant had attained the benchmark and accordingly first time bound promotion was granted to him w.e.f. 30.06.2004. For grant of second time bound promotion case of the applicant was considered in meeting dated 19.10.2016 (Annexure R-3) and it was found that he had not attained benchmark as per G.Rs. dated 01.04.2010 and 01.07.2011.

5. In his rejoinder the applicant has reiterated that till the year 2011 no A.C.R. was communicated to him and had first time bound promotion been granted promptly w.e.f. 26.10.1999, second time bound promotion would have been granted w.e.f. 26.10.2011 and the applicant would have received benefit of G.R. dated 02.03.2019 as well.

6. Minutes of meeting dated 01.02.2003 are on record (PP.31 to 33). In meeting dated 01.02.2003 benchmark of "B" was set. Those whose gradation was adverse i.e. below "B" were to be treated as ineligible.

7. At page 34 there are details of A.C.Rs. of the applicant. These are as follows-

व्ही.एच.गजघाटे	उत्तीर्ण २६.१०.९९	९३-९४	१.४.९३ ते ३.९.९३ ९.९.९३ ते ७.१०.९३ ८.१०.९३ ते ३१.३.९४	ब + प्रमाणपत्र ब +	अपात्र (प्रतवारी नाही.)
		९४-९५	१.४.९४ ते ३१.३.९५	ब +	
		९५-९६	१.४.९५ ते ३१.३.९६	ब	
		९६-९७	१.४.९६ ते ३१.७.९६ २३.९.९६ ते ३१.३.९७	ब + ब	
		९७-९८	९.६.९७ ते ३१.३.९८	ब -	

From these details it can be gathered that the applicant was held to be ineligible in meeting dated 01.02.2003 because of "B-" gradation for the year 1997-98. For remaining four years he had attained the benchmark. Contention of the applicant that before 2011 no A.C.R. was communicated to him has not been controverted by the respondents. It follows that A.C.R. of 1997-98, though adverse, was not communicated to the applicant. In 1997-98 G.R. dated 01.02.1996 was holding the field. As per paras 39 and 40 of this G.R. it was necessary to communicate adverse A.C.R.. It is settled legal position that such uncommunicated A.C.R. has to be ignored. Keeping this factual and legal position in view I hold that the applicant was entitled to get first time bound promotion w.e.f. the date of passing Revenue Qualifying Examination i.e. 26.10.1999. Consequently, the impugned

communication dated 23.11.2013 (Annexure A-6) is quashed and set aside. Eligibility / entitlement of the applicant for second, and, if admissible, benefit of G.R. dated 02.03.2019 shall be determined by the respondents within three months from today and based on such determination benefits shall be extended to him within further one month. The O.A. is allowed in these terms with no order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 04/08/2023
rsm.

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

Name of Steno : Raksha Shashikant Mankawde
Court Name : Court of Hon'ble Member (J).
Judgment signed on : 04/08/2023.
and pronounced on : 04/08/2023.