MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO. 263/2022(S.B.)

Suresh s/o Gopinathji Thakre,
Aged about 59 years, Occu. : Retired,
R/o Flat No.2-H, Second Floor,
Building No.15, Nirmal Nagari,
Umred Road, Nagpur – 440 009.

Applicant.

Versus

1) State of Maharashtra
through its Principal Secretary,
Women and Child Development ,
3rd Floor, New Administrative Building,
Near Mantralaya, Mumbai-400 032.

2) Commissioner,
Women and Child Development
Queens Garden, Near Old Circuit
House, Pune- 01.

Respondents

Shri R.M.Fating,Ld. counsel for the applicant.
Shri S.A.Sainis, Ld. P.O. for the respondents.

Coram:-Hon'ble Shri M.A.Lovekar, Member (J).
Dated: - 24th January 2023.

JUDGMENT

Judgment is reserved on 17th January, 2023.

Judgment is pronounced on 24th January, 2023.

Heard Shri R.M.Fating, learned counsel for the applicant and Shri S.A.Sainis, learned P.O. for the Respondents.

2. Pleadings which are necessary to decide this O.A. may be stated thus. By G.R. dated 13.05.2005 (Annexure A-2) the applicant was appointed to the post of Child Development Project officer. He joined on 25.05.2005 at Nagpur. He completed probation period satisfactorily. He cleared departmental examination as well(Annexure A-5). He was exempted from passing Hindi and Marathi examination (Annexure A-6). By order dated 06.09.2011 (Annexure A-7) he was placed under suspension. However, order of suspension was revoked by order dated 05.12.2011 (Annexure A-8) and he was reinstated. As per G.R. dated 01.04.2010 he became entitled to benefit of Modified Assured Career Progression Scheme [M.A.C.P.S. for short]. Accordingly, he applied vide Annexure A-10 before respondent no.2 to grant the same. He obtained certificate (Annexure A-11) from respondent no.2 that no departmental inquiry on that day was either contemplated or pending against him. He retired on superannuation on 30.04.2020 (Annexure A-12). Similarly placed employees were extended the benefit of M.A.C.P.S. but not the applicant. He made a representation which went unheeded against which he filed an application on 15.07.2021 before the Hon'ble Lokayukta which also remained undecided. To his application under the R.T.I. Act he received information (Annexure A-16)

that the D.P.C. had not extended benefit of the M.A.C.P.S. to him for want of availability of relevant A.C.R.s. and also because initiation of departmental inquiry against him was contemplated. The relevant A.C.R.s. were submitted to the authorities (Annexure A-17). As per G.R. dated 01.12.1996 (Annexure A-18) it was responsibility of the respondents to maintain A.C.R.s. Hence this O.A. for grant of benefit of M.A.C.P.S. w.e.f. 01.01.2016.

3. In their reply respondents 1 and 2 have averred that A.C.R.s. of the applicant for the years 2009-2010 to 2016-2017 were not available (Annexures R-3 and R-4) with respondent no.2. They have further averred that the application filed by the applicant before the Hon'ble Lokayukta is still pending. According to these respondents, the applicant ought to have informed them that A.C.R.s. were not available.

4. The D.P.C. declined to extend the benefit of the M.A.C.P.S. to the applicant by observing in minutes of its meeting as under –

> **श्री.एस.जी.ठाकरे यांचे गोपनीय अभिलेख उपलब्ध नसल्याने व त्यांचेविरुध्द विभागीय चौकशी प्रस्तावीत करण्याची कार्यवाही सुरु असल्याने त्यांना अपात्र ठरविण्यात आले आहे. यानुसार प्रस्तावातील २४ अधिका-यांपैकी २२ अधिका-यांना पात्र ठरवून त्यांच्या बाबतीत पुढील आदेश निर्गमित करण्याचे बैठकीमध्ये सर्वानुमते ठरले. उपस्थितांचे आभार मानून बैठक समाप्त करण्यात आली.**

5. G.R. dated 01.02.1996 (Annexure A-18) contains elaborate guidelines about writing and preserving A.C.R.s.. G.R. dated 17.12.2011 (Annexure II) *inter alia* states –

> **१०. वरीलप्रमाणे प्रतिवेदन व पुनर्विलोकनाचे २ कॅम्प आयोजित केल्यानंतर देखील जे प्रतिवेदन अधिकारी व पुनर्विलोकन अधिकारी त्यांच्याकडील गोपनीय अहवालाचे प्रतिवेदन /पुनर्विलोकनाचे काम पूर्ण करणार नाहीत, अशा अधिका-यांना दरवर्षी दिनांक १ जुलै रोजी देय होणारी वेतनवाढ असे काम पूर्ण करण्याच्या दिनांकापर्यंत मंजूर (Release) करण्यात येऊ नये.**

6. Heading of G.R. dated 19.07.2012 (Annexure III) reads thus –

> **मंत्रालयात दि.२१.०६.२०१२ रोजी लागलेल्या आगीत नष्ट झालेल्या गोपनीय अहवाल नस्तीची पुनर्बांधणी करणेबाबत. अधिकारी/कर्मचारी यांच्या पदोन्नती, सेवा पुनर्विलोकन व अन्य सेवाविषयक प्रयोजनासाठी पुनर्बांधणी केलेला गोपनीय अभिलेख ग्राहय धरण्याबाबत.**

Relevant part of this G.R. is as under –

> **(८) वरील १ ते ७ नुसार प्रयत्न केल्यानंतर देखील ज्या अधिकारी/कर्मचारी यांच्या मागील ५ वर्षातील गोपनीय अहवालाबाबत कोणतीही नोंद उपलब्ध होणार नाही, अशा अधिकारी /कर्मचारी यांच्या पदोन्नतीच्या प्रकरणात अडचणी येऊ नयेत म्हणून त्यांच्या बाबतीत त्या विनिर्दिष्ट वर्षाबाबत सोबतच्या नमुना - २ नुसार प्रमाणपत्र तयार करुन ते सध्याच्या उपसचिव/सहसचिव दर्जाच्या आस्थापना अधिकारी यांच्या स्वाक्षरीने गोपनीय अहवाल नस्तीमध्ये अंतर्भूत करण्यात यावे.**

Relevant part of form no.2 reads as under –

> **श्री/श्रीमती ..... यांची मूळ गोपनीय अहवाल नस्ती दिनांक २१ जून, २०१२ रोजी मंत्रालयात लागलेल्या आगीत जळून**

नष्ट झाली. त्यांच्या ..... या वर्षातील कामगिरी बाबतचे सर्वसाधारण मुल्यमापनाबाबत नोंद घेण्यासाठी कोणताही अभिलेख उपलब्ध होऊ शकत नसल्यामुळे त्यांची ..... या वर्षातील कामगिरी खालीलप्रमाणे प्रमाणित करण्यात येत आहे.

अधिकारी /कर्मचारी यांचे नाव :-

पदनाम :-

कालावधी :-

अंतिम प्रतवारी :- त्यांच्या सेवा कालावधीत सर्वप्रकारच्या पदोन्नत्या व अन्य सेवाविषयक बाबींसाठी प्रतिकूल ठरणार नाही, अशी समजण्यात यावी.

7. Aforediscussed circumstances show that the benefit of M.A.C.P.S. could not have been denied to the applicant. For non-availability of A.C.R.s. the applicant was obviously not responsible. Admittedly, on the date of meeting of the D.P.C. no departmental inquiry was pending against the applicant. Hence, the order.

ORDER

The O.A. is allowed in the following terms-

Respondent no.1 is directed to extend benefit of Modified Assured Career Progression Scheme to the applicant w.e.f. the date on which similarly placed employees were extended the same. This compliance shall be made within 60 days from today. No order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 24/01/2023

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 and pronounced on	:	24/01/2023.