

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 270 of 2016

Sampat Lahanuji Sambare,
Aged about : 56 Yrs., Occ. – Service,
R/o Plot No. 66, Chatrapati Nagar,
Nagpur.

Applicant.

Versus

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

Respondents

Shri G.N.Khazode, Advocate for the applicant.

Shri M.I.Khan, Id. P.O. for the respondents.

**Coram :- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J).**

JUDGMENT

(Delivered on 23rd June, 2017)

Heard Shri G.N.Khazode, Id. counsel for the applicant
and Shri M.I.Khan, Id. P.O. for the respondents.

2. The applicant Shri Sampat Lahanuji Sambare was appointed as a Talathi on 06/02/1985. He was granted time bound promotional scale on completion of 12 years service w.e.f. 26/10/1999, the said order was passed on 03/09/2005. The second time bound promotional pay scale has been granted to the applicant w.e.f. 01/10/2014 vide order dated 04/03/2015. It is the case of the applicant that, he has completed 24 years' of service on 26/10/2011 and, therefore, the second time bound promotional pay scale should have been granted w.e.f. 26/10/2011 instead of 01/10/2014.

3. The applicant has filed representation on 07/04/2015, but the Respondent no. 3 i.e. the Collector, Nagpur rejected the same vide letter dated 20/04/2015. The applicant preferred an appeal against the letter of rejection of time bound promotional pay-scale. The Respondent no. 2 i.e. Divisional Commissioner, Nagpur, however, rejected the appeal vide communication dated 03/11/2015. The applicant then preferred a review application, but the said review application also came to be rejected on 30/01/2006 and, therefore, the applicant was constrained to file this O.A. The applicant is claiming that the impugned order dated 30/01/2006 arising out of order dated 03/11/2015 passed by Respondent no. 2 in appeal arising out of order dated 20/04/2015 passed by Respondent no. 3 be quashed and set

aside and that the Respondent no. 3 be directed to give benefit of second time bound promotional pay scale to the applicant w.e.f. 26/10/2011.

4. The Respondent no. 2 & Respondent no. 3 resisted the claim. They admitted that the applicant has completed 12 years of service on 06/02/1997 and was granted first time bound promotional pay scale w.e.f. 26/10/1999.

5. According to the respondents, the applicant's case for second time bound promotional pay scale was placed before District Selection Committee on 19/07/2012, but his claim was rejected for want of Annual Confidential Report, however, it was kept open. Again in the meeting dated 03/01/2014, the applicant's case was considered and the applicant was found eligible w.e.f. 01/10/2014.

6. According to the respondents, the meeting dated 19/07/2012 was chaired by the Collector, Nagpur and in the said meeting, the applicant was declared ineligible for want of Annual Confidential Report. In the meeting dated 03/01/2014, the applicant's Confidential Reports were considered. In the year 2006-07, his A.C.R. remark was A, during the year 2007-08 it was B(+), during the year

2008-09 it was B, during the year 2009-10 it was B(-) and during the year 2010-11 it was B(+) and, therefore, the applicant was not eligible.

7. From the admitted facts on record, it will be clear that the applicant has been appointed as Talathi on 06/02/1985 and has completed 12 years of service on 06/02/1997. Admittedly, he was granted benefit of time bound promotion w.e.f. 26/10/1999. In normal course, he should have been granted second time bound promotional pay scale w.e.f. 26/10/2011 however, the same has been granted w.e.f. 01/10/2014.

8. From the documents placed on record and particularly the minutes of meeting, it seems that the applicant's case was kept open in the meeting dated 19/07/2012, it is because the A.C.R.s of the applicant were not made available. The applicant cannot be blamed for such non availability of such A.C.R.s

9. From the meeting dated 03/01/2014, it seems that the applicant's case was not at all considered. However, his case was considered in the meeting dated 14/01/2015 and in the said meeting, the second time bound promotional pay scale was granted w.e.f. 01/10/2014. From the reply affidavit filed by the Respondent no. 2

and Respondent no. 3 it will be clear that the A.C.R.s of the applicant for the year 2006-07 to 2010-11 are considered. The average grading of those C.R.s is sufficient for granting time bound promotion to the applicant. The only negative confidential report is remark B(-) for the year 2009-10 and there is nothing on record to show that the said confidential report was communicated to the applicant.

10. The learned counsel for the applicant has placed reliance on the Judgment reported in 2012 (1) Maharashtra Law Journal at page 881, **Chiman Rao Vs. State of Maharashtra & Ors.** The Hon'ble High Court has observed in the said case that the adverse comments or criticism or the instruction recorded in Confidential Reports should not be used for promotional purposes, if the same are not communicated to the employee. As already stated in the present case, there is nothing on record to show that the adverse remark was communicated to the applicant. In view thereof, the adverse remark against the applicant should not have been considered. As already stated, there is no fault on the part of the applicant for non-availability of his Annual Confidential Report at the time of Departmental Promotional Committee meeting.

11. On a conspectus of discussion in foregoing paras, it is thus crystal clear that the competent authority has not properly considered the objection raised by the applicant. The Respondent No. 2, i.e. Commissioner, Nagpur Division has not applied his mind while rejecting the applicants appeal. The applicant ought to have been given second time bound promotional pay scale w.e.f. 26/10/2011. I therefore, pass the following order:-

ORDER

- 1) The O.A. is allowed.
- 2) The impugned order dated 30/01/2016 arising out of order dated 03/11/2015 issued by Respondent no. 2 in appeal arising out of order dated 20/04/2015 passed by Respondent no. 3 is quashed and set aside.
- 3) The Respondent no. 3 is directed to grant benefit of second time bound promotional pay scale to the applicant w.e.f. 26/10/2011 instead of 01/10/2014.
- 4) The arrears to which the applicant is entitled be paid to him within three months from the date of this order.
- 5) No order as to costs.

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