

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 472/2018 (S.B.)

Dilip S/o Ramdas Bhandakkar,
Aged about 56 years, Occ. Service,
R/o 48/K, 303 "Gokulhari" Apartment,
Ganeshnagar, Nandanvan, Nagpur-24

Applicant.

Versus

1. State of Maharashtra,
Through Secretary,
Water Resources Department,
Mantralaya, Mumbai-32.
2. Superintendent Engineer,
Administrator, Command Area,
Development Authority, Ajni,
Nagpur.
3. The Executive Engineer,
Pench Irrigation Division, Ajni,
Nagpur.

Respondents

Shri M.R.Khan, Ld. counsel for the applicant.
Shri A.M.Khadatkar, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.
Dated: - 25th April, 2023.

JUDGMENT

Heard Shri M.R.Khan, learned counsel for the applicant and Shri A.M.Khadatkar, learned P.O. for the Respondents.

2. Case of the applicant in short is as under-

The applicant is now retired employee. He was working as Civil Engineering Assistant and was posted at Pench Irrigation Sub-Division, Nagpur. The applicant was granted first time bound promotion on the post of Junior Engineer after completion of 12 years continuous service on 13.02.1996. As per the G.R. dated 01.04.2010, the applicant is entitled for second time bound promotion after completion of 24 years from the date of his initial appointment. The respondents have not granted second time bound promotion. Therefore, he approached to this Tribunal for the following reliefs-

(i) issue an appropriate order or directions to the respondent no.2 to implement the letters dated 06/07/2017 and 15/07/2017 (Annexure-A-1) issued by the respondent no.3 and send the proposal of the applicant regarding grant of benefits of assured progressive scheme and grant time bound promotion to the applicant w.e.f. 13/02/2008 for the post of Sub-Divisional Officer, in the interest of justice;

(ii) issue an appropriate order or directions to the respondent no. 3 grant time bound promotion to the

applicant w.e.f. 13/02/2008 for the post of Sub-Divisional Officer in the interest of justice.

(iii) Issue an appropriate order or direction to the respondent no.3 to grant all consequential benefits after granting time bound promotion to the applicant w.e.f. 13/02/2008, in the interest of justice.

(iv) saddle the costs of the proceedings upon the respondents.

3. The O.A. is strongly opposed by the respondent nos.2 and 3. It is submitted in para 5 and 10 as under-

5. It is submitted that, the Respondent No.1 through the General Administration Department issued a Govt. Resolution dated 8th June, 1995 and thereby declare a Time Bound Promotion Scheme effective from 1st October, 1994. It is admitted that, in view of the scheme floated by the Respondents the Applicant also came to be promoted on completion of the time in terms of the order of the Respondent No.3, dated 13.04.1998 w.e.f. 13.02.1996. It is admitted that, in view of this Time Bound Promotion the Applicant was placed in the Pay Scale of Rs.1640-60-2600-EB-75-2900 w.e.f. 13.02.1996. It is true that the Applicant was drawing a Pay Scale of Rs.1200-30-1440-EB-30-1800 before the Time Bound Promotion.

10. It is submitted that, the confidential report of the Applicant is not satisfactory so the Respondents has not decided his claim of the Second Time Bound Promotion. It is further submitted that, C.R. of Applicant of the year 2009-

2010 onwards are not available in this Division for the C.R. is in progress and the Applicant also not submitted the C.R. file with the Sub-Divisional Officer. The Applicant is not entitled for Pay Scale of Sub-Divisional Engineer/Officer Rs.15600-39100 with Grade Pay of Rs.5400 retrospective w.e.f. 13.02.2008 along with all consequential benefits.

4. Learned counsel for the applicant pointed out the Judgment of this Tribunal in O.A.948/2019, decided on 05.04.2023. He has pointed out the Judgment of Hon'ble Supreme Court in the case of **Dev Dutt Vs. Union of India and Others(2008) 8 Supreme Court Cases 725** .

5. Learned P.O. submitted that the C.Rs. of the applicant are not available and therefore second time bound promotion is not granted. The Hon'ble Supreme Court in the case of **Dev Dutt Vs. Union of India and Others (Cited supra)** has held that if the C.Rs. are adverse but not communicated to the employee, then such C.Rs. should have been communicated and after the explanation the concerned authority may decide the same. If the C.Rs. are found eligible for granting promotion to the employee, then the matter should be kept before the D.P.C. and promotion with retrospective effect be given to the employee, if the employee is found eligible.

6. The Hon'ble Supreme Court in para 44 has held as under-

44. We, therefore, direct that the "good" entry be communicated to the appellant within a period of two months from the date of receipt of the copy of this judgment. On being communicated, the appellant may make the representation, if he so chooses, against the said entry within two months thereafter and the said representation will be decided within two months thereafter. If his entry is upgraded the appellant shall be considered for promotion retrospectively by the Departmental Promotion Committee (DPC) within three months thereafter and if the appellant gets selected for promotion retrospectively, he should be given higher pension with arrears of pay and interest @ 8% per annum till the date of payment.

In the similar matter, this Tribunal in O.A.948/2019 directed the respondent to follow the Judgment of the Hon'ble Supreme Court in the case of ***Dev Dutt Vs. Union of India and Others (Cited supra)*** and direction given to the respondents. The operative order is as follows-

- (i) The O.A. is partly allowed.***
- (ii) The respondents are directed to communicate the adverse remarks to the applicant within a period of two months from the date of receipt of copy of this Judgment. On being communicated, the applicant may make representation, if he so chooses, against the said entry within two months thereafter and the said representation will be decided within two months thereafter. If his entry is upgraded, the applicant shall be***

considered for promotion retrospectively by the Departmental Promotion Committee (D.P.C.) within three months thereafter and if the applicant gets selected for promotion retrospectively, he should be given higher pay scale with arrears of pay and interest @ 8% p.a. till the date of payment.

(iii) No order as to costs.

7. Learned counsel for the applicant submits that the Adverse C.Rs. are not communicated. The objection raised by the respondents that C.Rs. are not available and same C.Rs. are adverse that cannot be a ground to deny the second time bound promotion to the applicant. Therefore, the following order is passed.

ORDER

- 1) The O.A. is allowed.
- 2) The respondents are directed to communicate Adverse C.Rs. if any.
- 3) The respondents are directed to get the C.Rs. available for the applicant and if the C.Rs. are found eligible for time bound promotion to the applicant, then his case be kept before the Departmental Promotion Committee within three months thereafter, if the applicant gets selected for time bound promotion

retrospectively, he should be given higher pay scale with arrears of pay and interest @ 8% p.a. till the date of payment.

4) No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman

Dated – 25/04/2023
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 Vice Chairman .
Judgment signed on : 25/04/2023.