

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

ORIGINAL APPLICATION NO. 581 OF 2016

DISTRICT :THANE

Shri Ramling Sidram Bodake,)
Aged 48 Yrs, Working as Food)
Safety Officer, Class-II in the)
Office of Assistant Commissioner)
[Food] and Drugs Administration,)
Having Office at Pen,)
Dist. Raigad, R/O. C-603,)
Devashree Garden,)
R.W. Sawant Road, Near Rutu Park,)
Majiwade, Thane [W].)...**Applicant**

VERSUS

1. The Commissioner,)
Food and Drugs Administration)
Having Office at Bandra- Kurla)
Complex, Bandra [E],)
Mumbai – 400 051.)
2. The State of Maharashtra,)
Through Principal Secretary,)
Medical Education and)
Research Department,)
Having Office at Mantralaya,)
Mumbai – 400 032.)...**Respondents**

Shri A.V. Bandiwadekar, learned Advocate for the Applicant.

Shri K. B. Bhise, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal, Vice-Chairman

DATE : 17.01.2017

PER : Shri Rajiv Agarwal, Vice-Chairman

ORDER

1. Heard Shri A.V. Bandiwadekar, learned Advocate for the Applicant and Shri K. B. Bhise, learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicant seeking directions to the Respondents to consider granting him benefit of Assured Career Progression Scheme w.e.f. 1.8.2004 as the Applicant has been acquitted in the Special Case No.8 of 2009, which was pending against him.

3. Learned Counsel for the Applicant argued that the Applicant joined service as Food Inspector, Group 'C' in 1992. By G.R. dated 23.1.2004, this post was upgraded to that of Food Supervisor, Group 'B'. This G.R. was subsequently cancelled in 2006 and the Applicant continued to work in Group 'C' post. The Applicant completed 12 years of continuous service on 1.8.2004 and was eligible to get first benefit of Assured Career Progression (A.C.P.) Scheme as per G.R. dated 20.7.2001. The Applicant was placed under suspension as a criminal case was filed against him. The same is still pending against him. However, that cannot be a

granted to deny the Time Bound Promotion to the Applicant. Learned Counsel for the Applicant contended that the Departmental Promotion Committee (D.P.C.) in the meeting held on 11.1.2007 had considered the case of the Applicant. On that date, no criminal case was pending against the Applicant. The Applicant was placed under suspension by order dated 23.7.2008. Learned Counsel for the Applicant stated that the Applicant had earlier filed O.A.No.184 of 2010 before this Tribunal challenging his suspension by order dated 23.7.2008. This Tribunal ordered revocation of suspensions order on 28.4.2010. However, no decision to grant him benefit under A.C.P. scheme has yet been taken. D.P.C. in its meeting on 11.1.2007 has decided not to grant Time Bond Promotion to the Applicant as a D.E. under Rule 10 was pending against him and his A.C.R. for 2004-2005 and 2005-2006 were not available. Learned Counsel for the Applicant argued that for the Time Bound Promotion, the same criteria is applied as in the case of regular promotion. It was the duty of D.P.C. to give a recommendation whether the Applicant was eligible for Time Bound Promotion or not. If he was found eligible by D.P.C., it was for the competent authority to take a conscious decision whether to give him Time Bound Promotion or not. D.P.C. has no authority to decide to deny Time Bound Promotion, if a criminal case is pending or D.E. is pending against a Government Servant. Learned Counsel for the Applicant contended that the Respondents may be directed to take decision on the

recommendation of D.P.C. in its meeting held on 19.5.2015 within a given time frame.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that the Applicant is not eligible for promotion as a case involving serious charges of corruption is pending against him. Even in the year 2007, there were a D.E. pending against him and in the year 2008, he was placed under suspension as he was arrested and was in custody for more than 48 hours. Though he has since been reinstated in service, he cannot be considered for promotion, as the criminal case is still pending against him.

5. It is seen that the Applicant is seeking relief that the Respondent No.2 may take a conscious decision on the recommendation of D.P.C. held on 19.5.2015. The minutes of D.P.C. held on 19.5.2015 are appended as annexure 5 to the affidavit-in-reply filed by the Respondent No.1 on 17.10.2016. It is seen that the Applicant was found have obtained ACR grade of 'A' and it was noted that he was eligible to get the first benefit of A.C.P. Scheme with effect from 2.8.2004. On that date no criminal case was pending against him. The matter was referred to the State Government for decision. However no affidavit has been filed by the Respondent No.2 in this matter.

6. This Original Application can, therefore, be disposed of by giving direction to the Respondent No.2 to

take a decision whether to grant first benefit of A.C.P. Scheme to the Applicant from 2.8.2004 when he completed 12 years of service. This should be done within a period of 3 months from the date of this order. There will be no order as to costs.

(RAJIV AGARWAL)
(VICE-CHAIRMAN)

Date : 17.01.2017

Place : Mumbai

Dictation taken by : SBA

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