

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 59/2021(D.B.)

Suresh S/o Gulabrao Malvi,
Aged 58 years, Occ. Retired Senior Clerk,
R/o C/o S.S. Patne, Ambika Nagar,
Near Nagar Palika 16th Number School,
Amravati - 444606.

Applicant.

Versus

- 1) State of Maharashtra,
Through its Secretary,
Finance Department,
Mantralaya, Mumbai-32.
- 2) The Joint Director,
Accounts and Treasuries,
Nagpur.
- 3) Treasury Officer, Wardha.

Respondents

Shri P.V.Thakre, Ld. Counsel for the applicant.
Shri H.K.Pande, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri Shree Bhagwan, Vice-Chairman and
Hon'ble Shri M.A.Lovekar, Member (J).

Dated: - 13th July 2022.

JUDGMENT**Per :Member (I).****Judgment is reserved on 8th July, 2022.****Judgment is pronounced on 13th July, 2022.**

Heard Shri P.V.Thakre, learned counsel for the applicant and Shri H.K.Pande, learned P.O. for the respondents.

2. In this O.A. the principal reliefs claimed by the applicant are as under-

i) **Quash and set aside the impugned order dated 17/05/2012 issued by the respondent No.3 (Annexure-A7);**

ii) **Direct the respondents to grant the first benefit of time bound promotion scheme w.e.f. 05/05/1998 and also the second benefit under the Revised Assured Career Progression Scheme after the completion of 24 years of service;**

3. Since delay was caused in approaching this Tribunal while claiming aforesaid reliefs, the applicant filed C.A.No.49/2019 for condonation of delay. It was allowed by order dated 21.01.2021.

4. Case of the applicant is as follows.

The applicant joined the respondent department as Junior Clerk on 30.04.1986. By order dated 27.01.1999 (Annexure A-1) he was granted the first benefit of time bound promotion scheme w.e.f. 05.05.1998. By order dated 29.07.2009 (Annexure A-2) the applicant was granted temporary promotion to the post of Senior Clerk. Due to health issues he declined it. Therefore, by order dated 31.08.2009 (Annexure A-3) the benefit extended by order dated 27.01.1999 was withdrawn. By order dated 19.07.2010 (Annexure A-4) the applicant was again granted temporary promotion to the post of Senior Clerk. He joined on the promotional post on 02.08.2010. On 03.08.2010 he applied for voluntary retirement (Annexure A-5). By order dated 29.10.2010 (Annexure A-6) his request for voluntary retirement was granted. He submitted representation for granting him the first and the second benefit under the scheme but it was rejected by order dated 17.05.2010 (Annexure A-7) which is impugned in this application.

5. Reply of respondents 2 and 3 is at pp.19 to 22. Their stand in the reply is as per the following reasons given in the impugned order-

आपण अर्जाद्वारे कोषागारात केलेली सेवा २४ वर्ष ६ महिने त्या अनुषंगाने २४ वर्षानंतर सुधारीत आश्वासित प्रगती योजनेअंतर्गत दुसरा लाभ मंजूर करणेबाबत विनंती केली आहे. परंतु संदर्भ क्र.३ व ४ शासन निर्णयामधील अटी व शर्तीची पूर्तता होत नसल्याने, जसे

१) पहिल्या लाभानंतर नियमित १२ वर्षांची सेवा झाल्यानंतर दुसरा लाभ अनुज्ञेय आहे. परंतु आपणास दिलेला पहिला लाभ प्रथम पदोन्नती नाकारल्यामुळे उपरोक्त नुसार काढून घेण्यात आला. व आपली वरीष्ठ लिपीक या पदावरील सेवा नियमित १२ वर्ष झाली नाही. त्यामुळे दुसरा लाभ अनुज्ञेय करता येत नाही. २) शासन निर्णयातील अटी व शर्तीनुसार वरिष्ठ लिपीक या पदाकरीता असलेली अर्हता परिक्षा उत्तीर्ण होणे आवश्यक आहे. आपणांस संदर्भ क्र.९ अन्वये दिलेल्या पदोन्नतीच्या आदेशात वरिष्ठ लिपीक पदाकरीता असलेली अर्हता परिक्षा (महाराष्ट्र लेखा लिपीक) विहित मुदतीच्या आत उत्तीर्ण करणे आवश्यक होते. परंतु आपण स्वेच्छा निवृत्ती स्विकारून शासन सेवेतून दिनांक ३१/१०/२०१० रोजी निवृत्त झालात. त्यामुळे शासन निर्णयातील अटी व शर्तीची पूर्तता होत नसल्याने दुसरा लाभ अनुज्ञेय करता येणार नाही.

6. The point in issue i.e. whether grant of benefit already extended under the scheme can be withdrawn on account of refusal of the employee to accept temporary promotion, is already decided by this Tribunal (Principal Seat) in O.A.No.59/2016, by judgment dated 14.12.2016. In this case it is held that refusal to accept temporary promotion would not entail the consequences urged by the respondents i.e. denial of the first and the second benefit under the scheme. In this judgment G.Rs. dated 08.06.1995 and 01.04.2010 have been considered.

7. For the reasons discussed hereinabove the application deserves to be, and the same is hereby allowed in terms of prayer clauses i & ii quoted above, with no order as to costs.

(M.A.Lovekar)
Member (J)

(Shree Bhagwan)
Vice Chairman

Dated – 13/07/2022

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 &
Court of Hon'ble Member (J) .
Judgment signed on : 13/07/2022.
and pronounced on
Uploaded on : 13/07/2022.