

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
NAGPUR BENCH AT NAGPUR.
ORIGINAL APPLICATION NO. 597 of 2015

Ramesh Marotrao Umap,
Aged about 60 years, Occ. Retired,
R/o Behind Karim Nagar,
Tah. Arvi, Distt. Wardha.

APPLICANT

VERSUS

1. State of Maharashtra,
through its Principal Secretary,
Revenue Department,
Mantralaya, Mumbai-32.
2. The Collector, Wardha,
Distt. Wardha.

RESPONDENTS

Shri N.D. Thombre, Counsel for Applicant.

Shri A. P. Potnis, P.O. for Respondents .

CORAM : B. Majumdar : Vice Chairman

DATE : 10th March , 2016

ORDER

The applicant retired as an Awal Karkun. He has filed this O.A. seeking reliefs as follow :-

- i) Quash and set aside the impugned Order dated 25/8/2015 issued by the Respondent No. 2, Collector, Wardha at Annexure-A-10;
- ii) Direct the Respondents to grant benefit of Second Time Bound Promotion to the Applicant as per the provisions of Government Resolution dated 1/4/2010 and 5/7/2010 at Annexure-A-6 and 7 and 1/7/2011 at Annexure-8 from the date of which the Applicant is eligible for the same i.e. 1/11/2007 along with all consequential benefits arising out of which including the arrears ;
- iii) Direct the Respondents to release the said arrears and revise the pensionary benefits of the Applicant accordingly and pay the

same to the Applicant within stipulated period;

- iv) Direct the Respondents to grant interest on the arrears at the rate of 12% per annum from the date on which the Applicant found eligible for the Time Bound Promotion along with the costs of present Original Application ;

2. The applicant was appointed as a Peon on 23/4/1979. He was promoted as a Junior Clerk on 1/1/1983. On completion of 12 years of service, i.e., w.e.f. 1/11/1995, he was granted time bound promotional pay scale of Awal Karkun in terms of the G.R. of 8/6/1995. He was granted regular promotion as Awal Karkun w.e.f. 15/10/2007. Vide G.R. dtd. 20/7/2001 a scheme of Assured Promotion was introduced. The scheme was thereafter reframed vide G.R. dtd. 1/4/2010. The applicant retired on 31/3/2013. On 25/8/2015, the Collector, Wardha (R/2) informed the applicant that as he has received two actual promotions and benefits of first time bound promotion during his service, as per Clause

2 (a) of the G.R. dtd. 1/4/2010 and Clause 4 (a) (2) of the G.R. dtd. 1/7/2011, he is not eligible for the benefits of 2nd time bound promotion. This is also the decision of the Committee under R/2, which is set up for this purpose. The applicant has challenged this communication in the O.A.

3. The applicant submits that he had received only one promotion and the first benefit of a higher post of Awal Karkun from 1/11/1995. On being given regular promotion subsequently as Awal Karkukn, he did not get any financial benefits. Thus, the presumption of R/2 that he has received two promotions is not correct. As per Clause 4(a)(2) of the G.R. dtd. 1/7/2011, if an employee has got two promotions then he will be eligible for one benefit only under the Scheme. However, Clause 4 (b) mentions that if under the Scheme the first benefit is granted and thereafter actual promotion is given on the promotional post, the employee will not get the benefit of pay revision after pay fixation. R/2 has wrongly counted the 2nd promotion to the post of Awwal Karkun as an actual promotion which is totally wrong and against the provisions of

the G.R. dtd. 1/7/2011. For these reasons he has been wrongly denied the benefits of 2nd promotion under the Scheme .

4. Respondent no. 2, Collector, Wardha in his reply, after citing the provisions of Clause 2(a) of the G.R. dtd. 1/4/2010 and Issue No.4(a) of the clarification G.R. of 1/7/2011 states as follow :-

“ It is submitted that, two promotions already granted to the applicant i.e. 1st on 25/10/1983 (from peon to junior clerk) and IInd on 15/06/1999 (12 year time bound promotion) and IIIrd promotion was on 15/10/2007(on the post of Awal Karkun). It is submitted that, as per clause-2 of above GR 01/07/2011 one Senior Grade benefit was already granted to the applicant on 15/06/1999 and the criteria of GR dated 01/04/2010 was also applicable to the applicant and therefore by order dated 31/03/2011 the Second Time Bound promotion was denied to 16 employees including the applicant also.”

5. Shri N.D. Thombre, Id. Counsel for the applicant has relied on the explanation to the Issue No. 4 (b) of the G.R. dated 1/7/2011 which states as follows :-

Issue No.4(b):

अ. क्र.	मुद्दा	स्पष्टीकरण
४.	ब) योजनेचा दुसरा लाभ देतांना, पहिल्या लाभांतर्गत ज्या पदांची वेतनश्रेणी/वेतनसंरचना अनुज्ञेय केली आहे त्याच पदावर पदोन्नती मिळाली असल्यास प्रत्यक्ष पदोन्नत्यांची गणना करतांना मिळालेला पहिला लाभ व पदोन्नती या दोन्हीचीही गणना होईल काय?	नही. फक्त लाभांची गणना होईल. या योजनेअंतर्गत ज्या पदांची वेतनश्रेणी/वेतनसंरचना पहिला लाभ म्हणून मिळाली आहे. त्या पदावर प्रत्यक्ष पदोन्नती झाल्यास वेतननिश्चितीचे लाभ पुन्हा मिळत नाहीत. त्यामुळे सुधारित सेवांतर्गत आश्वासित प्रगती योजनेखाली वरिष्ठ वेतनश्रेणीचा दुसरा लाभ देताना एकूण पदोन्नती संखेची गणना करतांना अशा प्रकारच्या पदोन्नतीची गणना करण्यात येऊ नये.

6. According to him, the applicant's time bound promotional pay scale of Awal Karkun and his regular

promotion to that post are required to be treated as a single benefit under the Scheme of Assured Promotion. His regular promotion took place only once, i.e., when he was promoted as a Jr. Clerk from Peon. Hence he cannot be denied benefits of time bound promotion to the scale higher than that of Awal Karkun on his completion of 12 years' service in that pay scale since 1995, on the ground that he has been given benefits of the Scheme twice.

7. Shri A.P. Potnis, Id. P.O. for the respondents, reiterated the submissions of R/2.

8. I have carefully considered the submissions on both the sides and I have also gone through the documents placed before me.

9. The scheme of Assured Promotion was introduced vide G.R. dtd. 20/7/2001. Subsequently, the G.R. dtd. 1/4/2010 was issued containing a revised version of the Scheme. The para 2(a) of the Scheme as per G.R. dtd. 1/4/2010 reads as follow :-

२. (अ) योजनेचा तपशील :

“ सुधारित सेवांतर्गत आश्वासित प्रगती योजना कमाल वेतन बॅंड पी. बी.-३ (रु. १५६००.३९१००)+ ५४०० पर्यंत ग्रेड वेतन घेण्या-या कर्मचा-यांना लागू राहिल. या योजनेखाली पात्र कर्मचा-यांना त्यांच्या संपूर्ण सेवाकालावधीत कमान दोन वेळा पदोन्नतीच्या पदाची वेतनसंरचना मंजूर करण्यात येईल. तथापि, तीन किंवा त्यापेक्षा जास्त पदोन्नती मिळालेल्या कर्मचा-यांना या योजनेचा लाभ अनुज्ञेय ठरणार नाही. मात्र ज्या कर्मचा-यास दोन प्रत्यक्ष पदोन्नती मिळाल्या आहेत त्या कर्मचा-यास या योजनेखाली फक्त एकच लाभ अनुज्ञेय होईल.”

9. Para 2(b) reads as follows :-

२. (ब) योजनेचा पहिला लाभ :

“ (१) उपरोक्त संदर्भाकीत (२) येथील शासन निर्णयातील अटी व शर्तीच्या अधिन पदोन्नतीच्या संधी उपलब्ध असलेल्या कर्मचा-यांस या योजनेखाली १२ वर्षांच्या नियमित सेवेनंतर पदोन्नतीच्या पदाची वेतनसंरचना मंजूर करण्यात येईल.”

(२) कालबद्ध पदोन्नती/सेवातंगत आश्वासित प्रगती योजनाखाली कर्मचा-यांनी घेतलेला लाभ हा या योजनेखाली त्या कर्मचा-यांचा पहिला लाभ समजण्यात येईल.

(३)-----

(४)-----”.

10. The above clauses of the Scheme lend themselves for the following interpretation :-

- (a) The benefits of the Scheme are applicable to those to who are in the PB-2 and these are subject to a maximum of two benefits in entire career;
- (b) Benefits are not available if three regular promotions are already granted.
- (c) An employee who is otherwise eligible for promotion will get the benefits of time bound promotion after 12 years.

- (d) Only one time bound promotion benefit is available to those who have received two regular promotions.
- (e) If an employee had earlier received the benefits of Time Bound Promotion/Assured Promotion Scheme, this will count as a first benefit under the Scheme.

11. In case of the applicant I find that he has received two regular promotions, i.e., Peon to Junior Clerk and Junior Clerk to Awal Karkun. Prior to grant of a regular promotion from Jr. Clerk to Awal Karkun, he had received time bound promotional pay scale of the post as per G.R. of 8/6/1995. Hence the question arises whether in terms of the Clause 2(a) of the G.R. dtd. 1/4/2010, he is entitled to the second benefit of the Assured Promotion Scheme.

12. To address various issues that may arise while interpreting the provisions of the Scheme, the Govt. had issued a clarification G.R. on 1/7/2011. The clarifications No. 3 and

4 are relevant in the present case and these are reproduced below :-

अ.क	मुद्दा	स्पष्टीकरण
३.	योजनेच्या पहिल्या लाभांतर्गत ज्या पदाचे लाभ अनुज्ञेय केले आहेत त्याच पदावर नियमित/तात्पुरती पदोन्नती मिळाल्यानंतर या योजनेअंतर्गत दुसरा लाभ अनुज्ञेय करण्यासाठी १२ वर्षांची गणना कोणत्या दिनांकापासून करण्यात यावी ?	पहिल्या लाभानंतर १२ वर्षांची नियमित सेवा पूर्ण केलेल्या कर्मचा-यांना पात्रतेनुसार योजनेचा दुसरा लाभ अनुज्ञेय होईल हे योजनेसंबंधीच्या शासन निर्णयांमध्ये स्पष्ट केलेले आहे. योजनेअंतर्गत पहिला लाभ मिळाल्यानंतर कर्मचारी त्या पहिल्या लाभाच्या पदावर नियमित/तात्पुरत्या स्वरूपात पदोन्नत झालेला असला तरीही त्यास पात्रतेनुसार पहिल्या लाभापासून १२ वर्षांच्या सेवेनंतर दुसरा लाभ अनुज्ञेय होईल.
४.	अ)सेवा कालावधीतील पदोन्नतीची संख्या व लाभाची अनुज्ञेयता कशी राहिल ?	(१) नियमित/तात्पुरत्या स्वरूपात प्रत्यक्ष एक पदोन्नती मिळालेल्या अथवा एकही पदोन्नती न मिळालेल्या पात्र कर्मचा-यांना योजनेअंतर्गत दोन वेळेस वरिष्ठ वेतनश्रेणी/वेतन संरचना अनुज्ञेय होईल. (२) नियमित/तात्पुरत्या स्वरूपात दोन पदोन्नत्या मिळालेल्या कर्मचा-यांना या योजनेअंतर्गत एकदा वरिष्ठ वेतनसंरचनेचा लाभ अनुज्ञेय होईल.

	<p>ब) योजनेचा दुसरा लाभ देतांना, पहिल्या लाभांतर्गत ज्या पदाची वेतनश्रेणी/वेतनसंरचना अनुज्ञेय केली आहे त्याच पदावर पदोन्नती मिळाली असल्यास प्रत्यक्ष पदोन्नत्यांची गणना करतांना मिळालेला पहिला लाभ व पदोन्नती या दोन्हीचीही गणना होईल काय?</p>	<p>(३) नियमित/तात्पुरत्या स्वरूपात तीन किंवा त्यापेक्षा जास्त पदोन्नत्या मिळालेल्या कर्मचा-यांना या योजनेचे लाभ अनुज्ञेय ठरणार नाहीत.</p> <p>नाही. फक्त लाभाची गणना होईल. या योजनेअंतर्गत ज्या पदाची वेतनश्रेणी/वेतनसंरचना पहिला लाभ म्हणून मिळाली आहे. त्या पदावर प्रत्यक्ष पदोन्नती झाल्यास वेतननिश्चितीचे लाभ पुन्हा मिळत नाही. त्यामुळे सुधारित सेवांतर्गत आश्वासित प्रगती योजनेखाली वरिष्ठ वेतनश्रेणीचा दुसरा लाभ देतांना एकूण पदोन्नती संख्येची गणना करतांना अशा प्रकारच्या पदोन्नतीची गणना करण्यात येऊ नये.</p>
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13. From the above it is clear that while as per clarification no. 4, the 2nd benefit will be available 12 years after availing of the 1st benefit, if an employee like the applicant has received 2 regular or temporary promotions, he will be entitled to the benefits of the scheme only once in his entire career. This is also in consonant with the last sentence of para 2 (a) of the G.R. dtd. 1/4/2010. Hence I am unable to find any fault with the impugned order

dtd. 25/8/2015. The O.A. is therefore without any merit and stands rejected.

sd/-

(B.Majumdar)
Vice-Chairman.

Skt.