

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 597/2021(S.B.)**

Manohar Madhukarrao Patane,
Aged about 62 years, Occupation : Retired (PWSI),
R/o 47 Kahalkar Complex, Shahstri lay out,
Subhash Nagar, Nagpur,
Tah. & District Nagpur.

Applicant.

Versus

- 1) The State of Maharashtra
through its Secretary,
Home Department,
Mantralaya, Mumbai-32.
- 2) The Director General of Police, (M.S.)
Hutatma Chowk, Near Regal Cinema,
Mumbai.
- 3) The Additional Director of Police,
Wireless Office, Pashan road, Pune-5.
- 4) The Principal, Unconventional
Operation Training Centre,
Surabardi, Wadhamana, Wadi,
Nagpur.

Respondents

Shri S.N.Gaikwad, Ld. counsel for the applicant.

Shri A.P.Potnis, Ld. P.O. for the respondents.

Coram:-Hon'ble Shri M.A.Lovekar, Member (J).

Dated: - 24th January 2023.

JUDGMENT

Judgment is reserved on 18th January 2023.

Judgment is pronounced on 24th January, 2023.

Heard Shri S.N.Gaikwad, learned counsel for the applicant and Shri A.P.Potnis, learned P.O. for the Respondents.

2. Case of the applicant, in short is as follows.

The applicant was appointed to the post of A.S.I. on 01.08.1985. He became entitled to first time bound promotion on 01.08.1997 on completing service of 12 years. He was promoted as P.S.I. on 06.12.2002 and by order dated 27.01.2003 he was given first time bound promotion w.e.f. 13.11.2001 (Annexure A-2 collectively). He retired on superannuation on 30.06.2017. By order dated 08.07.2014 second time bound promotion was given to the applicant w.e.f. 01.11.2013. As per G.Rs. dated 08.06.1995/20.07.2001 (Annexure A-3) and G.R. dated 01.04.2010 (Annexure A-4) first and second time bound promotions ought to have been given on completion of 12 years and 24 years of service respectively. It was an error to give first time bound promotion on the basis of date of passing departmental examination as was communicated by letter at Annexure A-7. This position is clarified by corrigendum dated 01.02.2020 (Annexure A-8) issued by finance department of Government of Maharashtra. The applicant made a representation

(Annexure A-10) that he be held entitled to first, second and third time bound promotion on 01.08.1997, 01.08.2005 and 01.01.2016, respectively but to no avail. Hence, this O.A.

3. In their reply at pp.49 to 54 respondent no.3 has averred as follows. First time bound promotion was rightly given only after the applicant cleared departmental examination. The O.A. was barred by limitation. After lapse of 12 years from grant of first time bound promotion, second time bound promotion was rightly given. As per G.R. dated 02.03.2019 the applicant was not eligible to get third time bound promotion as he superannuated before expiry of 6 years from grant of second time bound promotion.

4. The basic G.R. which deals with the issue of grant of time bound promotion is dated 08.06.1995 (Annexure A-3). It *inter alia* states-

(ब) या योजनेअंतर्गत वरिष्ठ वेतनश्रेणी मिळण्यासाठी पदोन्नतीसाठी विहित कार्यपध्दती, ज्येष्ठता, पात्रता, अर्हता परीक्षा, विभागीय परीक्षा या बाबींची पूर्तता करणे आवश्यक आहे.

Aforequoted para does not support contention of the applicant that first time bound promotion ought to have been given to him immediately on completion of service of 12 years i.e. on 01.08.1997. By order dated 27.01.2003 first time bound promotion was given to the applicant w.e.f. 13.11.2001 (Annexure A-2) by observing as follows-

उपरोक्त संदर्भ व विषयान्वये खाते निहाय परीक्षा पास झालेल्या व पदोन्नतीस पात्र असलेल्या ज्या कर्मचा-यांना वरिष्ठ वेतनश्रेणी अनुज्ञेय आहे अशा खालील नमूद बिनतारी संदेश विभागातील कर्मचा-यांना त्यांनी एकाच संवर्गात १२ वर्षे नियमित सेवा केल्यामुळे व त्यांना पदोन्नतीची संधी उपलब्ध नसल्याने शासन निर्णयानुसार त्यांचे नावासमोर दर्शविलेल्या दिनांकापासून नमूद वेतनश्रेणीत कालबद्ध पदोन्नती देण्यात येत आहे.

5. The applicant has relied on the Judgment of Principal Bench of this Tribunal dated 15.12.2016 delivered in O.A.No.166/2016 wherein it is held –

“13. It is, therefore, very clear that the principle is that for Time Bound Promotion, the period is to be counted from the date of initial appointment and even if the concerned employee did not clear the examinations within the time and attempts, etc. that might give rise to any other consequence with regard to his service conditions, but as far as Time Bound Promotion is concerned, that would be no circumstance against him.”

In this Judgment the Tribunal quoted following observations in **The State of Maharashtra and Others Vs. Uttam V. Pawar (Judgment dated 20.10.2000 in Writ Petition No.5494/2000)**-

“4. From a bare reading of the aforesaid Government Resolution, it is clear that the Resolution has come into force with effect from 8th June, 1995 and all ‘C’ and ‘D’ category employees who were to complete 12 years of

service would be entitled to higher pay scale in their normal channel of promotion. It is also clear from the said Government Resolution that in order to become eligible for higher pay scale under the scheme, the procedure to be followed is seniority, fitness, qualifying departmental examination and the person who has been directly recruited or promoted to the post shall be entitled to have the scale only once after completion of 12 years of service."

(Emphasis supplied)

6. The applicant has also relied on corrigendum dated 01.02.2020 (Annexure A-8). It refers to various judgments passed by this Tribunal as well as Hon'ble Bombay High Court. The corrigendum reads as under-

सुधारीत स्पष्टीकरण

अ) अर्हता परीक्षा किंवा विभागीय परीक्षा विहित संधीत / मुदतीत उत्तीर्ण न झाल्यामुळे ज्येष्ठता गमावली असेल अशा कर्मचा-याने १२ वर्षांच्या नियमित सेवा कालावधीत सदर परीक्षा उत्तीर्ण केल्यास त्याला नियमित सेवेची १२ वर्षे पूर्ण झाल्यानंतरच्या लगतच्या तारखेस

अथवा

ब) १२ वर्षांच्या नियमित सेवेनंतर, विभागीय / अर्हता परीक्षा उत्तीर्ण झाल्याच्या तारखेस उपरोक्त (अ) अथवा (ब) यापैकी कोणत्याही प्रकारात मोडणा-या कर्मचारी / अधिकारी यांना विभागीय पदोन्नती समितीच्या बैठकीतील पात्रतेनुसार, (त्याच्या सुधारीत

ज्येष्ठता सूचीतील स्थानात बदल न करता) कालबद्ध पदोन्नती योजनेअंतर्गत / सेवांतर्गत आश्रासित प्रगती योजनेअंतर्गत वरिष्ठ वेतनश्रेणी देण्यात यावी.

The corrigendum specifically lays down as follows-

शासन निर्णय, सामान्य प्रशासन विभाग दि.२०.०३.१९९७, शासन निर्णय, वित्त विभाग दि.१५.१०.२००९ तसेच शासन शुध्दीपत्रक, वित्त विभाग दि.२१.०५.२०१० मधील तरतूदीनुसार, या पूर्वी ज्या कर्मचा-यांना कालबद्ध पदोन्नतीचा अथवा सेवा अंतर्गत आश्रासित प्रगती योजनेचा लाभ मंजूर झाला आहे, अशाच कर्मचा-यांना, या शुध्दीपत्रकातील सुधारणेचा लाभ अनुज्ञेय राहिल.

Claim of the applicant for grant of first time bound promotion is based on G.R. dated 08.06.1995. I have already quoted para 2(b) of said G.R.

7. It is not in dispute that the applicant cleared departmental examination in the year 2001. A conjoint consideration of G.R. dated 08.06.1995 and facts of the case leads me to conclude that first and second time bound promotions were given to the applicant in accordance with relevant guidelines and hence he will not be entitled to relief. In support of this conclusion reliance may be placed on **"The Commissioner, Animal Husbandry, Maharashtra Vs. Smt.Anusaya Laxman Thombare"** Judgment of the Hon'ble Bombay High Court dated 07.12.2016 delivered in a batch of Writ Petitions. In this case after considering G.R. dated 08.06.1995 it is held-

14. Clause 2 would indicate that those employees who are otherwise not eligible to the higher posts, would be

treated differently on the basis of the Annexure annexed to the said GR. However, clause 2(c) would indicate that only those candidates would be eligible for the benefits of the time bound promotion scheme, if they are otherwise eligible. Clause H indicates that the eligible employee, who has been given the promotional scale under this scheme without actually being promoted, would be considered subsequently for actual promotion (functional promotion) as and when the vacancy arises.

8. For the reasons discussed hereinabove the O.A. is dismissed with no order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 24/01/2023

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 Member (J) .
Judgment signed on : 24/01/2023.
and pronounced on