

MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO.608/2019(S.B.)

Pradeep S/o Parashram Virulkar,
Aged 59 years, Occu.: Retired,
R/o. Viraj Park, Building No.24,
Flat No.17, Wardha Road Nagpur.

Applicant.

Versus

- 1) The State of Maharashtra,
Through its Secretary,
Irrigation Department,
Mantralaya, Mumbai – 32.
- 2) The Superintending Engineer,
Water Resource Department,
Amravati, Dist. Amravati.
- 3) Executive Engineer,
Irrigation Department, Buldana,
District – Buldana.

Respondents

Shri A.P.Tathod, Ld. Counsel for the applicant.
Shri M.I.Khan, Ld. P.O. for the respondents.

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

Dated: - 11th April 2023

JUDGMENT

Judgment is reserved on 29th March, 2023.

Judgment is pronounced on 11th April, 2023.

Heard Shri A.P.Tathod, learned counsel for the applicant and Shri M.I.Khan, learned P.O. for the respondents.

2. Case of the applicant is as follows.

In the year 1980 the applicant was appointed as Technical Assistant (Annexure A-1). His services were regularised by order dated 18.05.1989 (Annexure A-2). In O.A.No.344/2014, by judgment dated 05.12.2014 (Annexure A-3), this Tribunal held that Technical Assistants were entitled to get pay scale of Junior Engineer after serving for 12 years. It was also held that Civil Engineering Assistants were entitled to get exemption from passing the departmental examination on completing 45 years of age, for grant of pay scale of Junior Engineer. The applicant completed 45 years of age in the year 2004. Thus, he became entitled at this juncture to get exemption from passing the departmental examination for grant of pay scale of Junior Engineer. These benefits were denied to the applicant. He retired on superannuation on 31.01.2017. However, his pension case was finalized on the basis of pay scale of Technical Assistant. In judgment dated

09.11.2011 (Annexure A-4) the Hon'ble Bombay High Court held that the decision of General Administration Department would be binding on all other departments of the State Government, including Public Works Department. By G.R. dated 16.09.2016 (Annexure A-5) Water Resources Department granted exemption from passing the departmental examination to those employees who had crossed the age of 45 years. Hence, this O.A. for following reliefs-

- i) Hold and declare that the action on the part of (the respondents) in not granting the pay-scale of Junior Engineer to the applicant is totally illegal, arbitrary and unjust.***
- ii) To hold and declare that the applicant is entitled for exemption from passing the departmental examination on the ground that he had already completed age of 45 years during his service tenure in the year 2004 itself;***
- iii) To direct the respondents to grant pay scale of Junior Engineer to the applicant along with all benefits with interest;***
- iv) Grant any other relief, which this Hon'ble Tribunal deems fit and proper under the facts and circumstances of the case and in the interest of justice.***

3. In their reply respondents 1 and 3 have averred as follows. Vide order dated 02.06.2008 the applicant was promoted to the post of Civil Engineering Assistant. After his retirement he made a representation that he ought to have been given one more promotion. Respondent no.3 forwarded said representation to respondent no.2. Respondent no.2 did not consider it for want of Caste Validity Certificate.

4. In his rejoinder the applicant has averred as follows. On 07.03.2013 he had submitted an affidavit (document no.1) that he had not availed benefit of reservation at the time of his appointment. As per Circular dated 18.06.1998 (document no.2) Technical Assistants, on completing service of 12 years, were entitled to get pay scale of Junior Engineer. As per Circular dated 17.06.2017 (document no.3) issued by the Superintending Engineer there is no need of Caste Validity Certificate while granting pay scale of Junior Engineer. In Judgments dated 11.10.2013 and 29.08.2013 the Bombay High Court has held that Technical Assistants / Mistry / Karkoon, etc. are entitled to benefits of pay scale in the cadre of Junior Engineer on completion of service of 12 years and the benefit of said pay scale is to be extended to the employees who have completed 45 years of age, without requiring them to pass the departmental examination.

5. The respondents have relied on G.R. dated 01.07.2011. In this G.R. various issues which were raised, were answered. The relevant issue in this case is issue no.13. Said issue and answer thereto are as follows-

प्रश्न - सेवांतर्गत आशवासित प्रगती योजनेसाठी जात वैधता प्रमाणपत्र आवश्यक आहे का ?

उत्तर - या योजनेअंतर्गत पदोन्नतीच्या पदाची वेतनसंरचना अनुज्ञेय होत असल्याने सर्वसाधारण पदोन्नतीसाठीच्या आवश्यकता पूर्ण करणे अपेक्षित आहे. त्यामुळे मागासवर्गीय उमेदवारांच्या बाबतीत जात वैधता प्रमाणपत्र आवश्यक राहिल.

This G.R. will not help the respondents in view of contents of affidavit of the applicant i.e. document no.1.

6. Keeping in view the facts of the case and legal position laid down in the above referred rulings, I pass the following order.

ORDER

The O.A. is allowed in the following terms-

The applicant is held entitled to get pay scale of Junior Engineer on completion of 45 years of age as at this point of time he became entitled to get exemption from passing the departmental examination and had also completed service of 12 years. The benefits flowing from this determination shall be

extended to the applicant within two months from today. Issue of interest is kept open.

No order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 11/04/2023
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 Member (J).
Judgment signed on : 11/04/2023.
and pronounced on