

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 386 of 2020 (DB)

Sunil Bhimrao Pusnaike,
Aged 52 years, Occ. Service,
R/o Plot No. 18, Karim Nagar,
Jayvijay Chowk, Wagapur,
Dist. Yavatmal.

Applicant.

Versus

1. The State of Maharashtra,

Through its Secretary,

Public Works Department,

Mantralaya, Mumbai-32.

2. The Superintending Engineer,

Public Works Circle,

Yavatmal, District- Yavatmal.

3. The Superintending Engineer,

Public Works Circle, Amravati,

District- Amravati.

With

Respondents.

ORIGINAL APPLICATION No. 387 of 2020 (DB)

Narendra S/o Eknath Dekate,
Aged 57 years, Occ. Service,
R/o Plot No. 9, Veddharni Nagar,
Umarsara, Yavatmal,
Dist. Yavatmal.

Applicant.

Versus

1. The State of Maharashtra,

Through its Secretary,

Public Works Department,

Mantralaya, Mumbai-32.

2. The Superintending Engineer,

Public Works Circle,

Yavatmal, District- Yavatmal.

3. The Superintending Engineer,

Public Works Circle, Amravati,

District- Amravati.

Respondents.

Shri G.G.Bade, Ld. counsel for the applicants.

Shri A.M.Khadatkar, ld. P.O. for the respondents.

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

Date of Reserving for Judgment : 12th August, 2022.

Date of Pronouncement of Judgment: 29th August, 2022.

JUDGMENT

Per :Vice Chairman.

(Delivered on this 29th day of August, 2022)

Heard Shri G.G.Bade, Id. Counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the respondents.

2. In these two O.As. identical points arise for determination. Hence, the same are being decided by this common Judgment.

3. Principal Reliefs claimed by the applicants are as under:-

- (i) Quash and set aside the order dated 24/1/2020 passed by the respondent no.2 whereby he cancelled the promotion of the applicant from fist clerk and reverted him to original post of senior Clerk;
- (ii) By issuance of direction, direct the respondents to grant time bound promotion to the applicant for completion of minimum 12 year in regular service as per Government Resolution 08/06/1995.

4. The applicants have challenged the order dated 24/01/2020 by virtue of which time bound promotion granted in pursuance of the G. R.

dated 08/06/1995, vide order dated 05/01/2011 w.e.f. 21/07/2010, was cancelled.

5. In both the cases the issue involved, is in respect of withdrawal of time bound promotion by the Department, on account of not joining on the promotional post.

6. The applicant in O.A. No. 386/2021 came to be appointed vide order dated 17/07/1998 as Senior Clerk. The Government of Maharashtra floated the Scheme for the purpose of granting time bound promotion on completion of 12 years of service vide G. R. dated 08/06/1995. The applicant in view of the said provision was extended the said benefit vide order dated 05/01/2011, w.e.f. 21/07/2010 and the applicant in Original Application No. 387/2020 (Narendra Eknath Dekate) was extended the benefit of first time bound promotion vide order dated 12/01/2002, w.e.f. 12/06/2001.

7. The applicant in Original Application No. 386/2020 was extended the benefit of promotion from the post of Senior Clerk to First Clerk, vide order dated 18/01/2018 and the applicant in Original Application No. 387/2020 was promoted to the post of First Clerk vide order dated 18/01/2018. In the said order it is clearly mentioned by the respondent Department, that the promotion is temporary. Both the applicants could not join their duties, as they were never relieved from the

post of Senior Clerk. For the said reason, the Department issued letter seeking explanation, from the applicants. The applicants submitted explanation.

8. The respondent Department accordingly issued impugned Letter dated 24/01/2020, by virtue of which the time bound promotion granted in view of G. R. dated 08/06/1995, was withdrawn.

9. The counsel for the applicants, while advancing the arguments, stated that, as the applicants were never relived by the respondent Department, for the purpose of joining at the promotional post, there was no question of denying the promotion from the post of Senior Clerk to First Clerk.

10. The counsel for the applicants relied on the Judgment passed in Original Application No. 59/2016 by the Principal Bench, wherein the same issue was involved. The Learned Principal Bench in Para No. 6 of the said Judgment has observed that, in case the temporary promotion is granted by the Department, which is refused by the employee, then it would not come in the way of such employee, who has already been granted time bound promotion. Therefore, the impugned order cannot be sustained and it deserves to be quashed and set aside.

11. Therefore the following order:-

ORDER

The impugned order dated 24/01/2020 passed in Original Application No. 386/2020 and in Original Application No. 387/2020 are quashed and set aside and the earlier order of granting first time bound promotion is restored. No order as to costs.

(M.A.Lovekar)
Member(J)

aps

Dated – 29/08/2022

(Shree Bhagwan)
Vice Chairman

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : CourtofHon'bleViceChairman&Hon'bleMember (J).

Judgment signed : 29/08/2022.

on and pronounced on

Uploaded on : 30/08/2022.