

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 607/2019 (D.B.)

Shri Dilip Manoharrao Charde,
Aged 60 years, R/o Shivarpan Nagar, Arjun Apartment,
Nalwadi, Nagpur Road, Wardha.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Home Department,
Mantralaya, Mumbai-32.
- 2) The Director General of Police,
Maharashtra State, Shahid Bhagat Singh Marg,
Mumbai-1.
- 3) The Additional Director General of Police
and Director of Police wireless M.S. Pune
Chavan Nagar, Pashan Road, Pune, Dist. Pune.

Respondents.

Shri D.S.Sawarkar, the Id. counsel for the applicant.

Shri A.M.Ghogre, the Id. P.O. for the respondents.

With

ORIGINAL APPLICATION No. 16/2020 (D.B.)

1. Vinod Wamanrao Gede,
Aged 63 years, Occ. Retired,
R/o Plot No. 54, Mahanubhav Nagar,
Near Palloti School, Gorewada Ring Road,
Nagpur-13.
2. Suresh Balkrishna Wanjari,
Aged 63 years, Occ. Retired,
R/o 19, Dhanvantari Nagar, Ramna Maroti Road,
Near Ohm Automobile,
Nagpur-24.

3. Wasudeo Ukandrao Nathile,
Aged 70 years, Occ. Retired,
R/o 43, Yashodnagar, Phase-II,
Jaitala Road, Nagpur.
 4. Yuwraj Dashrath Manapure,
Aged 65 years, Occ. Retired,
R/o 49, Maheshnagar, Near Anantnagar,
Katol Road, Nagpur.
 5. Shivratan Shrikrishan Trivedi (Dead),
Through his legal Representatives;
 - 5A. Smt. Sushila Wd/o Shivratan Trivedi,
Aged about 68 years,
Occupation : Housewife.
 - 5B. Sanjay S/o Shivratan Trivedi,
Aged about 48 years, Occ.
 - 5C. Sunil S/o Shivratan Trivedi,
Aged about 45 years, Occ.
 - 5D. Smt. Savita W/o Shivkumar Dube,
Aged about 49 years, Occ.
- All R/o Vanktesh Nagar, Aasana Road,
Shegaon, Tah. Shegaon, Distt. Buldana.
6. Hariram Dhekal Harode,
Aged about 70 years, Occ. Retired,
R/o At Post Tarsa, Tal. Mouda,
District Nagpur.
 7. Vilas Rajaram Rewatkar,
Aged 59 years, Occ. Retired,
R/o 9, Rajapeth, Hudkeshwar Road,
Pipla, Nagpur.
 8. Baban Shamrao Ambarkar,
Aged 68 years, Occ. Retired,
R/op 41/A Mire Layout, Near Petrol Pump,
Nandanvan Road, Bhande Plot Chowk, Nagpur.

9. Gajanan Vittalrao Awadhut,
Aged about 58 years, Occ. Retired,
R/o 30, Dhomane Layout,
Ayodhyanagar, Nagpur.
10. Maruti Nattuji Ninave,
Aged about 73 years, Occ. Retired,
R/o 11/2, Satbhavna Nagar,
Near Omkar Nagar, Manewada,
Nagpur.
11. Ranjit Bapuraoji Badar,
Aged 59 years, Occ. Retired,
R/o 21, Sudarshan Nagar,
Hudkeshwar, Naka,
Nagpur.
12. Bhanudas Raibhanji Gulhane,
Aged 72 years, Occ. Retired,
R/o Diraj Tawar, G-1, Tambakhe Layout,
Jagat Mandir Road,
Umarsara, Yavatmal.
13. Smt. Bhumika Wd/o Dipakrao Dupare,
Aged about 68 years, Occ. Household,
- 13A. Abhishek S/o Dipak Dupare,
Aged about 30 years, Occ. Bussiness,
Both R/o 131, Banerjee Layout,
Bhagwan Nagar, Nagpur.
14. Suryakant Vitthalrao Mudholkar,
Aged about 59 years, Occ. Retired,
R/o Behind Rajvilas Theatre, Mahal,
Nagpur.
15. Rajni Ramkrishna Shahare,
W/o Ramkrishna Kashinath Shahare,
Aged about 60 years, Occ. Retired,
R/o 26, Gadgebaba Nagar, Behind
Jyoti School, Hastaniwas
Nagpur.

16. Balakdas Maroti Kotangale,
Aged 64 years, Occ. Retired,
Mangal Pande Ward (Ramabai
Ambedkar Ward), Near Kesalkar floor mill,
Bhandara.
17. Ramdas Chirkutji Yelke,
Aged 66 years, Occ. Retired,
R/o 15, Dwarkapuri Nagar, Bele
Layout, Jamb Road, Wadgaon.
Yavatmal-445001.
18. Prabhakar Vinayakrao Patil,
Aged 66 years, Occ. Retired,
R/o 54, Niwara Housing Society,
Behind Shrikrushna Hall, Godhani Road,
Zingabai Takli, Nagpur.
19. Rameshprasad Ramnarayan Malviya,
Aged about 75 years, Occ. Retired,
R/o 4, Flat No. 304, Shiwahight,
Aadarsha Colony, Trimurtinagar,
Nagpur.
20. Nepalchandra Dashrathji Manapure,
Aged about 68 years, Occ. Retired,
1, Swagatnagar, Opp. Anant Nagar,
Police line Takli, Nagpur – 440 013.

Applicants.

Versus

- 1) State of Maharashtra,
through its Secretary,
Home Department,
Mantralaya, Mumbai.
- 2) Additional Director General of Police and Director Police,
Wireless, Maharashtra State, Chavhan Nagar, Pashan Road,
Pune-440 008.
- 3) Director General of Police,
Having its office Near Regal Theater,
Kulaba, Mumbai.

Respondents.**With**
ORIGINAL APPLICATION No. 452/2020 (D.B.)

1. Avinash Silas Landge,
Aged 68 years, Occ. Retired,
R/o Ekdant Apartment,
C-203, Near Ganesh Nagari Apartment,
Pump Koradi Road, Nagpur.
2. Ramdas S/o Balwant Bhusari,
Aged 62 years, Occ. Retired,
R/o Sanjivani Hospital, Nilajgaon Phata,
Bidkin, Tq. Paithan,
Dist. Aurangabad.

Applicants.**Versus**

- 1) State of Maharashtra,
through its Secretary,
Home Department,
Mantralaya, Mumbai.
- 2) Additional Director General of Police and Director Police,
Wireless, Maharashtra State, Chavhan Nagar, Pashan Road,
Pune-440 008.
- 3) Director General of Police,
Having its office Near Regal Theater,
Kulaba, Mumbai.

Respondents.**With**
ORIGINAL APPLICATION No. 453/2020 (D.B.)

1. Samkay S/o Balaji Salpekar,
Aged 62 years, Occ. Retired,
Near Hanuman Mandir,
Moti Nagar, Gogte Galli,
Amravati.

Applicant.**Versus**

- 1) State of Maharashtra,
through its Secretary,
Home Department,
Mantralaya, Mumbai.
- 2) Additional Director General of Police and Director Police,
Wireless, Maharashtra State, Chavhan Nagar, Pashan Road,
Pune-440 008.
- 3) Director General of Police,
Having its office Near Regal Theater,
Kulaba, Mumbai.

Respondents.

Shri S.P.Palshikar, the Id. counsel for the applicants.

Shri A.M.Ghogre, the Id. P.O. for the respondents.

**Coram :- Shri Shree Bhagwan, Vice-Chairman and
Shri Anand Karanjkar, Member (J).**

Date of Reserving for Judgment : 07th December, 2020.

Date of Pronouncement of Judgment : 14th January, 2021.

JUDGMENT

Per : Vice Chairman.

(Delivered on this 14th day of January, 2021)

Heard Shri D.S.Sawarkar, the Id. counsel for the applicant in O.A.
No. 607/2019, Shri S.P.Palshikar, the Id. counsel for the applicants in O.A.
No. 16/2020, O.A. No. 452/2020 & O.A. No. 453/2020 and Shri
A.M.Ghogre, the learned P.O. for the respondents.

2. All the applications are filed by the applicants and they have nexus, therefore, all the applications are heard together and being disposed of by this common order –

3. That, all the applicants were initially appointed as an Assistant Sub Inspector (Radio Mechanic), their respective dates of joining in the services and other details are as under –

Sr. No.	O.A. No.	Name of Applicant	Joined in service	First Appointment	Date/Year of passing Examination	Date of birth	Date of attaining the age of 45 years
1	607/2019	D.M.Charde	29/02/83	Radio Mechanic	-	12/05/58	12/5/03
2	16/2020	V.W.Gede & 19 Ors.	07/07/79	ASI (R.M.)	-	09/09/56	09/09/01
3	452/2020	A.S.Landge & Another	10/01/79	ASI (R.M.)	-	10/05/51	10/05/96
4	453/2020	S.B.Salpekar	24/12/79	Radio Mechanic	-	26/05/57	26/05/01

4. The learned counsel for the applicants has filed on record Chart showing applicant's date of birth, date of appointment, date of passing examination and also post on which they joined in service. It is marked Exh-X for identification and taken on record. The above table is taken from same chart. The learned counsel for the applicants has filed copy of common Judgment in O.A. Nos. 422,431,432,433,434 & 473 of 2016 delivered on 18.09.2019 of this Tribunal only. The learned counsel for the applicants has relied on that Judgment. The

issue involved in these O.As. are squarely covered by that Judgment. Again similar issue has been decided by in Judgment in O.A. Nos. 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 311 & 315/2020 order delivered on 24.12.2020. In view of decision in above O.As. on the ground of parity applicants case is to be decided.

5. It is grievance of all the applicants that they punctually and honestly performed the services till their retirement, but they were not given benefit of the scheme brought in force by the Government to give them time bound promotions as per the G.R. of 1995 and the benefits of the Assured Career Progressive Scheme as per the G.R. dated 20/07/2001 and later G.R. issued in 2010. It is contention of all the applicants that as per these G.Rs. the applicants were entitled to have two time bound promotions, first promotion on completion of 12 years service and the second promotion on completion of next 12 years service from the date of first time bound promotion. As the issues involved in all the applications are identical, therefore, all the applications are heard and decided by this common order.

6. It is contention of the learned counsel for the applicants that benefits of G.Rs. dated 8/6/1995, 20/7/2001 and 1/4/2010 were not given to the applicants for the reason that the applicants were unable to clear the Class-I examination as observed in Para-191 of the Bombay Police Manual. It is submission of the learned counsel for the

applicants that it was not necessary for the applicants to pass the examination mentioned in Para-191 of the Bombay Police Manual and therefore, action of the respondents not giving benefits of the G.Rs. and time bound promotions to the applicants is in violation of law. It is submitted that the direction be given to the respondents to issue time bound promotions to all the applicants in terms of the G.Rs. dated 8/6/1995,20/7/2001 and 1/4/2010.

7. The respondent no. 2 submitted reply-affidavit on behalf of all the respondents and justified the action of the Department. The first contention of the respondents is that there is inordinate delay in approaching this Tribunal, therefore, all the applications are barred by limitation.

8. The second contention of the respondents is that as per the first G.R. dated 8/6/1995 there was a criteria for giving benefit of time bound promotion to the Government servant serving in Class-C and Class-D. According to the respondents for claiming the benefit of the G.R. a Government servant must be otherwise eligible for the promotion. It is submitted that as the applicants did not clear the Class I examination as per the norms of the Police Wireless Department, consequently the applicants were not entitled for the benefit of the G.R. dated 8/6/1995 and the subsequent G.Rs. It is submission of the respondents that the applicants have cleared the

Class-I examination on the respective dates and year as mentioned in the reply. It is contention of the respondents that before clearing the examination, the applicants were not entitled for time bound promotions or accrued Career Progressive. In view of this, it is submitted that all the applications are liable to be dismissed.

9. The learned counsel for the applicants has placed reliance on the Judgment delivered by the Hon'ble Bombay High Court, Division Bench at Aurangabad in Writ Petition No.3643/2009, on 21/11/2017. Before the Hon'ble High Court the issue was that whether the Assistant Police Sub Inspector in Radio Mechanic of Police Department was entitled for the relief of time bound promotion on completion of age 45 years without clearing the departmental examination. In that proceeding contentions were raised by the Petitioner that the G.R. was issued by the GAD, Government of Maharashtra and direction was given by the Government in the year 1977 to exempt the persons who have crossed 45 years of age from passing the departmental examinations and directions were issued to the Departments of State to carry out suitable amendments in the Service Rules applicable to the respective Departments. Before the Hon'ble High Court it was demonstrated that in spite of this direction, the various Departments of the Government (including Radio Mechanic section of the Police Department) did not take any interest

in framing the rules to give exemption to the Government servants from passing the departmental examination on completion of age of 45 years.

10. The Petitioner in Writ Petition No. No.3643/2009 (Mukund S/o Shankarlal Daima) was the Assistant Police Sub Inspector in Radio Mechanic Section of the Police Department and he joined service in the year 1980. The Petitioner cleared Class-IV examination and Class-III examination. Thereafter, he was unable to clear Class-II and Class-I examinations as per the norms fixed by the Department. In this situation, in Para-19 it is held by the Hon'ble High Court as under –

11. *“(19) In view of aforesaid, it would be appropriate that the petitioner employed in Wireless Section of Police Department is given benefit of promotion to the next level post without insisting upon departmental or Class-I and II examination, on attaining age of 45 years by giving deemed date of promotion. Since it is stated that petitioner is no longer in service having retired on superannuation, as such, he shall be given deemed date of promotion from the date of promotion of his junior, along with all consequential benefits.”*

12. In our opinion, in view of the above discussion, it is not possible to accept submission canvassed by the learned counsel for the applicants that it was not at all necessary for the applicants to

clear the departmental examinations as per the norms fixed by the Police Department, but in view of the law laid down by the Hon'ble Bombay High Court in Writ Petition No.3643/2009, we are of the view that on ground of parity, on completion of age of 45 years, each applicant was entitled for the time bound promotion or the accrued Career Progressive as per the G.Rs. issued by the Government.

13. So for far as question of limitation is concerned, we do not see any merit in this contention of the respondents, for the reason that being a model employer, it should not lie in the mouth of the respondents that the applications are barred by limitation. As a matter of fact after the Judgment in Writ Petition No.3643/2009 it was necessary on the part of the respondents to examine the cases of the Police Personnel serving in Radio Mechanic Section of Police Department who had completed the age of 45 years but to whom time bound promotions or accrued Career Progressive benefits were not given and should have sue-motu granted them the reliefs.

14. The grievances of the applicants and relief clause are fully covered by the Judgment in Writ Petition No. 3643/2009 of Hon'ble Bombay High Court, Division Bench at Aurangabad.

15. In view of above discussion, we are compelled to say that the applicants are entitled for relief in these matters. In the result, we pass the following order -

ORDER

The respondents are directed to issue time bound promotion / Assured Career Progressive benefit to the applicants from the date they have completed the age of 45 years. The respondents shall fix the salary of the applicants, pay them the arrears and revise their pension. The respondents are directed to comply this order within six months from the date of this order. No order as to costs.

(Anand Karanjkar)
Member(J).

(Shree Bhagwan)
Vice-Chairman.

***Dated** :- 14/01/2021.
aps.

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

Name of Steno : A.P.Srivastava

Court Name : Court of Hon'ble V.C. and Member (J).

Judgment signed on : 14/01/2021.

Uploaded on : 15/01/2021.