

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

ORIGINAL APPLICATION NO.285 OF 2017

DISTRICT : NASHIK

Shri Rajaram Kisan Padmane,)
Age 41 years, Working as Nimtandar in the office of)
Deputy Superintendent, Land Records, Chandwad,)
Nashik, R/at Flat No.1, Building No.1, Wing-B,)
Rajmanya C.H.S., Yeshoda Nagar, Peth Road,)
Nashik 422003)..Applicant

Versus

1. The State of Maharashtra,)
Through Secretary,)
Revenue & Forest (Revenue) Department,)
Mantralaya, Mumbai 400032)
2. Commissioner of Settlement and Director of)
Land Records, Opp. Vidhan Bhavan,)
Sadhu Waswani Road, New Administrative Bldg.)
Pune 411 001)
3. Deputy Director of Land Records, Nashik Region,))
Near Old CBS, Opp. Hotel Padma,)
Sharanpur Road, Nashik 422 002)..Respondents

Shri C.T. Chandratre – Advocate for the Applicant

Smt. Archana B.K. – Presenting Officer for the Respondents

CORAM : Smt. Justice Mridula Bhatkar, Chairperson
Smt. Medha Gadgil, Member (A)

DATE : 8th April, 2024

J U D G M E N T

1. The applicant challenges letter dated 29.9.2016 and also GR dated 13.8.2004 and 9.7.2008 issued by the Revenue & Forest Department to the extent of declaring physically disabled persons (Locomotor) (Asthiwyang) ineligible for getting promotion to the post of Maintenance Surveyor, Group-C, Grade-3/ Nimitandar/ Theodolite Surveyor from the quota of 3% reservation for physically disabled persons. He also prays for directions to be given to the respondents that the case of the applicant is to be considered before the DPC for his promotion to the post of Group-C, Grade-3 from the year 2003. Applicant is appointed on 3.3.2000 on the post of Clerk from the reservation quota of physically disabled. On 18.3.2010 he was promoted to the post of Maintenance Surveyor. Since then he is working as Maintenance Surveyor / Nimitandar, Group-C, Grade-3.

2. The applicant who is holding the post of Sheristedar from 15.4.2018 has filed this OA thereby challenging GR dated 13.8.2004 and 9.7.2008 issued by the Revenue & Forest Department as illegal to the extent of declaring Locomotor Disabled Persons (Asthiwyang) as ineligible for promotion to the post of Maintenance Surveyor / Nimitandar / Theodolite Surveyor from the quota of 3% reservation for physically disabled persons. He prays that respondents be directed to place the case of the applicant before the Review DPC for consideration to promote the applicant to the post of Grade-3 from the year 2003 for which DPC was held on 31.3.2003 and thereafter in Grade-2 from the year 2006 for which DPC was held on

24.5.2006 or from any such date on which the roster point was available to promote the applicant.

3. At the outset we made query by our order dated 6.12.2023 on the point of limitation as relief of 2006 is prayed by this OA which is filed on 1.4.2017. Ld. Advocate for the applicant pursuant to our query has filed affidavit dated 9.1.2024. He submitted that he was entitled to further promotion from Group-4 to Group-3 and was also entitled for promotion in May 2006 and in both the GRs dated 13.8.2004 and 9.7.2008 there is no reservation available for Persons With Disabilities (PWD) persons having locomotor disability. He further argued that these GRs are inconsistent with the reservation provisions made in the Public With Disabilities (PWD) Act, 1995. He submitted that the applicant being disabled had no excess to information and documents like DPC proceedings or roster etc., and he was not aware of legal position i.e. about his right to have reservation in the promotion available to PWD persons. The applicant was not aware of the provisions till 2014. It is submitted that in 2014 he became aware of this provision of reservation available for PWD persons and thereafter he procured information on 10.2.2014 under RTI. Thereafter on 26.2.2014 GAD informed him that for enforcement of the provisions of PWD Act he should contact his head office. He made representations to the department on 11.9.2014 and 22.9.2014. He made another representation to the Commissioner for PWD, Maharashtra. On 30.12.2014 his head of office intimated him that his request cannot be considered. On 28.11.2015 he filed appeal to the higher authority and his appeal was rejected on 29.9.2016. Thereafter within one year he filed this OA on 1.4.2017.

4. Ld. Advocate for the applicant submitted on the point of ignorance that there is no presumption that every person knows the law. He relied on the judgment of the Hon'ble Supreme Court in **M/s. Motilal Padampat**

Sugar Mills Co. Ltd. Vs. The State of U.P. & Ors. AIR 1979 SC 621. He has further submitted that the applicant has a good case and especially when the State of Maharashtra rectified the GRs dated 13.8.2004 and 9.7.2008 under challenge by providing reservation for Group-3 to Nimitandar / Theodolite Surveyor by GRs dated 31.8.2018 and 29.6.2021 and therefore he submitted that thus the applicant was entitled to get benefit of reservation under the PWD Act since 2003 and 2006.

5. Per contra Ld. PO has relied on the affidavit in reply dated 22.3.2024 filed by Mahesh Trimbakrao Ingle, Deputy Director of Land Records, Nashik and submitted that at the relevant time the Government did not find suitable the post of Nimitandar identified for reserved quota of PWD considering the functions to be carried out. Ld. PO further submitted that the explanation given for delay is not satisfactory.

6. We have considered the averments made in the OA so also in the affidavits in reply filed by the respondents and also the affidavit dated 9.1.2024 filed by the applicant on the point of limitation and delay. The applicant has stated that he became aware about reservation policy under the PWD Act in 2014. This appears to be very vague. However, assuming that whatever he has stated is true and the explanation given by him in para 4 of his affidavit still it is not satisfactory explanation. If at all he has received information from GAD on 26.2.2014 then he is required to approach his head office. He made representation on 11.9.2014 i.e. nearly 6 months after he received the information. No explanation is given about the same. Further he received reply from his office that his representation was rejected on 30.12.2014 and thereafter immediately he did not submit the appeal but he preferred the appeal on 28.11.2015 i.e. 11 months thereafter which was rejected on 29.9.2016. The reason given for delay cannot be justified. Moreover, in the judgment of *M/s. Motilal Padampat Sugar Mills* (supra) that is mainly on the point of waiver and promissory

estoppel and in the said judgment the Hon'ble Supreme Court has made certain observations about presumption of having knowledge of law. The Hon'ble Supreme Court has made a passing reference on the point of presumption of ignorance of law and stated that it is not always true and this cannot be considered as a ratio laid down in *M/s. Motilal Padampat Sugar Mills* (supra). In the present case this is not applicable in view of the chronology of the information received by the applicant and if the steps taken thereafter by the applicant are considered. Undoubtedly, the applicant failed to take steps within time to approach this Tribunal. For the first time he became aware in 2014 about the provisions of the reservation in PWD Act and it was necessary for him to approach this Tribunal immediately when he wanted to seek relief in respect of denial to him of further promotions which have taken place in 2003 and 2006.

7. Ld. Advocate for the applicant has referred to the GRs dated 31.8.2018 and 29.6.2021 wherein reservation to persons having locomotor disability is made available for the post of Group-3 cannot be stretched retrospectively to 2003 and 2006. The applicant on the contrary is given the benefit of the provisions of reservation in the year 2018 when he was promoted to the post of Sheristedar and also from Group-3 to Group-2 post.

8. In view of the aforesaid discussion, we do not find any merit in the Original Application and hence the same is dismissed. No order as to costs.

Sd/-

(Medha Gadgil)
Member (A)
8.4.2024

Sd/-

(Mridula Bhatkar, J.)
Chairperson
8.4.2024

Dictation taken by: S.G. Jawalkar.