

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

ORIGINAL APPLICATION NO.858 OF 2021

DISTRICT : PUNE

Vijay Tukaram Patil)
Age 47 years, occ. service, R/o Plot No.560, Sector 21,)
Yamuna Nagar, Nigdi, Pune)..Applicant

Versus

1. The State of Maharashtra,)
Through Chief Secretary, Mantralaya, Mumbai)
2. Additional Chief Secretary,)
Water Supply & Sanitation Department,)
7th Floor, G.T. Hospital Building,)
Near Crawford Market, L.T. Marg, Mumbai-1)
3. Director/Commissioner,)
Ground Water Survey & Development Agency,)
K.B. Joshi Marg, Bhujal Bhavan, Shivajinagar,)
Pune-5)
4. Divisional Deputy Director, Pune Region,)
Ground Water Survey & Development Agency,)
K.B. Joshi Marg, Bhujal Bhavan, Shivajinagar,)
Pune-5)..Respondents

Smt. S.N. Vaidya – Advocate for the Applicant

Shri A.J. Chougule – Presenting Officer for the Respondents

CORAM : Smt. Medha Gadgil, Member (A)

RESERVED ON : 7th March, 2024

PRONOUNCED ON: 19th March, 2024

J U D G M E N T

1. The applicant has challenged the order dated 25.8.2021 whereby his claim for deemed date of promotion for the post of Senior Clerk w.e.f. 1.6.2007 has been rejected.

2. The applicant as appointed on the post of Peon on compassionate ground on 30.5.1992. He was promoted the post of Junior Clerk on 6.6.2007 and to the post of Senior Clerk on 13.12.2016. A proposal for granting him deemed date to the post of Senior Clerk was forwarded to the higher authorities on 22.11.2019. On 20.2.2020 respondent no.3 granted him deemed date w.e.f. 1.6.2013 as Senior Clerk. Deemed date of Junior Clerk was granted w.e.f. 4.6.1995.

3. Ld. Advocate for the applicant states that the applicant was promoted to the post of Junior Clerk vide order dated 6.6.2007 after 15 years of his service as a Peon. He further states that though he was possessing eligibility for the post of Junior Clerk, neither promotion was given to him for 15 years nor he was given grade pay according to Time Bound Promotion even though there were vacancies for the post of Junior Clerk in the department. Ld. Advocate for the applicant pointed out that the applicant was given promotion to the post of Senior Clerk on 13.12.2016. Ld. Advocate for the applicant relied on GR dated 6.6.2002 which states that the reasons for not granting deemed date should be

specified. Ld. Advocate for the applicant submits that the Divisional Deputy Director, Ground Water Survey & Development Agency sent a reminder to respondent no.3 to consider the matter of the applicant. Ld. Advocate for the applicant relied on the GR dated 30.6.2003 according to which no post of Junior Clerk and Senior Clerk were to be treated extra. Ld. Advocate further pointed out that on 25.6.2004 Junior Clerks from other divisions of Aurangabad and Raigad were transferred on request to Pune. Ld. Advocate further pointed out that there is no record of applicant's post being declared as surplus and therefore prays for deemed date.

4. Ld. PO opposes the contentions raised by the Ld. Advocate for the applicant and relies on the affidavit in reply dated 13.12.2021 filed by Vijay Krushnadas Pakhmode, Regional Dy. Director, Ground Water Survey & Development Agency, Pune. He pointed out that as per rules the applicant was promoted from the post of Peon to Junior Clerk in the promotion quota of Junior Clerk. Prior to his promotion to the post of Junior Clerk on 6.6.2007, he was not a senior in the cadre of Peon and there was no vacant post in the promotion quota of Junior Clerk. He further pointed out that the applicant was granted higher grade pay scale i.e. Rs.2660-60-2910-65-3300-70-4000 since 3.6.2004 vide letter dated 1.3.2005 under the Assured Career Progression Scheme. He states that as per the revised staffing pattern of GDSA GR dated 30.6.2023 was issued and some posts of Junior Clerk and Senior Clerk were reduced (Junior Clerk-8 and Senior Clerk-5). Hence, there was no vacant post of Junior Clerk in the promotion quota till promotion of the applicant in the year 2007. He also pointed out that applicant has not mentioned name of any person, who is junior to him and was granted promotion before him. It is also stated that the deemed date of promotion is given against one to one by GAD circular dated 6.6.2002. The applicant was already granted deemed date of Junior Clerk since 4.6.1995 and deemed date of Senior

Clerk since 1.6.2013 in the revised seniority list. He also pointed out that in the year 2003-04 no promotion quota of Junior Clerk from Class-IV to Class-III was available. Hence, the Ld. PO submits that the OA may be dismissed.

5. Heard both the sides. The matter is very simple and relates to granting of deemed date of promotion to the applicant. It is seen on record that the applicant was given promotion to the post of Junior Clerk on 6.6.2007. Moreover, he was also granted higher grade pay scale i.e. Rs.2660-60-2910-65-3300-70-4000 since 3.6.2004 vide letter dated 1.3.2005 under the Assured Career Progression Scheme. There was no vacant post in the promotional quota till promotion of the applicant in the year 2007. The applicant is correctly granted deemed date of 4.6.1995 to the post of Junior Clerk. It is seen that no person junior to the applicant was granted promotion before him. In this context it will be proper to look at the GAD circular dated 6.6.2002 wherein the procedure for giving deemed date has been outlined. It is clearly stated at Annexure-1 of the circular that:

“४. मानवीव दिनांक हा एकास-एक तत्वावर देण्यात यावा.”

6. The applicant has already been granted deemed date of Junior Clerk since 4.6.1995 and of Senior Clerk since 1.6.2013. In the affidavit dated 13.12.2021 it is clearly stated that in the revised staffing patten issued by the GR dated 30.6.2003 some Junior Clerks and Senior Clerks from the office of Commissioner, GSDA, Pune were transferred to other offices on vacant post on administrative ground due to reduced number of Junior Clerk and Senior Clerks post. Copy of the staffing patten dated 1.1.2004 has also been annexed by the respondents. Thus there is no question of granting deemed date of promotion to the applicant to the post of Senior Clerk from 2007 as he was promoted to the post of Junior Clerk on

7.6.2007. Hence, I find no merit in the OA and the same deserves to be dismissed.

7. The Original Application is dismissed. No order as to costs.

**Sd/-
(Medha Gadgil)
Member (A)
19.3.2024**

Dictation taken by: S.G. Jawalkar.

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