

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****REVIEW APPLICATION NO.07/2023 In O.A.No.597/2021 (S.B.)**

Manohar Madhukarrao Patane,
Aged about 62 years, Occupation : Retired (PWSI),
R/o 47 Kahalkar Complex, Shahstri lay out,
Subhash Nagar, Nagpur,
Tah. & Dist. Nagpur.

Applicant.

Versus

- 1) The State of Maharashtra
through its Secretary,
Home Department,
Mantralaya, Mumbai-32.
- 2) The Director General of Police, (M.S.),
Hutatma Chowk, Near Regal Cinema,
Mumbai.
- 3) The Additional Director of Police,
(Wireless Office), Pashan Road, Pune-5.
- 4) The Principal, Unconventional
Operation Training Centre,
Surabardi, Wadhaman, Wadi,
Nagpur.

Respondents

Shri S.N.Gaikwad, Ld. counsel for the applicant.

Shri A.P.Potnis, Ld. P.O. for the respondents.

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

Dated: - 15th March 2023.

JUDGMENT

Judgment is reserved on 10th March, 2023.

Judgment is pronounced on 15th March, 2023.

Heard Shri S.N.Gaikwad, learned counsel for the applicant and Shri A.P.Potnis, learned P.O. for the Respondents.

2. The judgment under review was delivered on 24.01.2023 in O.A.No.597/2021.

3. The Original Applicant seeks review on following grounds-

1] The applicant had relied on a judgment of this Tribunal in O.A.No.166/2016 which squarely covered his case. This ruling was shown to the learned P.O. Thereafter, by consent the O.A. was closed for judgment. Learned Advocate for the applicant was thus under the impression that no further arguments were required to be advanced. Therefore, order of dismissal of O.A. came as a shock.

2] This Tribunal relied on a judgment of the Hon'ble Bombay High Court dated 07.12.2016 which was not cited by the applicant.

3] Judgment dated 07.12.2016 was not applicable to the facts of the case.

4] There was no dispute regarding eligibility of the applicant to get first time bound promotion after service of 12 years as would become clear from Clause (c) of G.R. dated 08.06.1995. In the case of the applicant date of passing departmental examination was immaterial.

5] Aforedrawn conclusion was further bolstered by G.Rs. dated 20.03.1997, 15.10.2009 and 21.05.2010.

6] Corrigendum dated 01.02.2020 which re-considers G.Rs. dated 15.10.2009 and 21.05.2010 clarifies that the employee will get the benefit of time bound promotion on completion of 12 years. By this corrigendum position under G.R. dated 08.06.1995 was restored.

7] Circular issued by respondent no.3 on 01.01.2021 (Annexure AA-6) in respect of grant of time bound promotion was not considered by this Tribunal. It lays down-

तरी सर्व घटक प्रमुखांना सुचित करण्यात येते की, शासन निर्णय प्रशासन विभाग, दिनांक २०/०३/१९९७ शासन निर्णय वित्त विभाग दि.१५/१०/२००९ तसेच शासन शुध्दीपत्रक वित्त विभाग दि.२१/०५/२०१० मधील तरतुदीनुसार यापूर्वी पोलीस बिनतारी संदेश विभागातील ज्या कर्मचा-यांना कालबद्ध पदोन्नतीचा अथवा सेवांतर्गत आश्वासित प्रगती योजनेचा लाभ मंजूर झाला आहे, त्यांना संदर्भाकित

दिनांक ०१/०२/२०२० चे शुध्दीपत्रकाप्रमाणे फेरवेतननिश्चिती करून देय फरकाची रक्कम अदा करणेबाबत योग्य ती कार्यवाही करावी.

8] In O.A.No.444 of 2021 respondent no.3 had filed a reply contents of which support case of the applicant. This was not considered while delivering the judgment under review.

9] All these circumstances would show that in the judgment under review there is an error apparent on the face of the record which can be easily pinpointed without a detailed scrutiny. Hence, the O.A. be restored for fresh adjudication on merits, and in accordance with law.

4. So far as ground no.1 is concerned, it may be observed that simply by placing on record a judgment of this Tribunal which according to him fully covered his case, the applicant presumed that he would succeed. Such presumption was unfounded. It was for the Tribunal to consider whether the judgment cited by the applicant was applicable to the facts of the case. There is a suggestion in the pleading of the applicant that because his case was covered by the judgment cited by him the need to make further submissions was obviated. This was an impression carried in his mind by the learned Advocate for the applicant. It is not his case that he was prevented from advancing all his submissions.

5. So far as ground no.2 is concerned, there is no merit in it. Judgments are to be delivered in accordance with law and law, needless to say, includes binding precedents. The question whether or not this precedent was applicable cannot be again gone into by this Tribunal while exercising clearly circumscribed powers of review since such reconsideration would necessitate a detailed scrutiny of the judgment under review. Sustainability of rest of the grounds raised by the applicant cannot be assessed in this proceeding for review for it would entail elaborate re-appreciation of what is held by the judgment under review. While passing the judgment under review reasons have been recorded. Under these circumstances remedy of review is misconceived. This remedy cannot be equated with remedy of appeal. The review application is therefore, dismissed with no order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 15/03/2022

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 : 15/03/2023.
and pronounced on