

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 108/2022(S.B.)

1. Smt. Krushnatai Wd/o Pralhad Dabhade,
Aged about 54 years,
Occupation: Household,
2. Shrotapanna S/o PralhadDabhade,
Aged about 35 years,
Occupation: Private,
3. Pravin S/o PralhadDabhade,
Aged about 32 years,
Occupation: Private,
4. Mangesh S/o PralhadDabhade,
Aged about 30 years,
Occupation: Private,

All Nos.1 to 4 R/o. Tahsil Road,
Sangrampur, Tah. Sangrampur,
District Buldhana.

Applicants.

Versus

1. The State of Maharashtra,
Through its Secretary,
Revenue Department,
Mantralaya, Mumbai - 32.
2. The Divisional Commissioner,
Amravati Division,
Amravati.

3. The Collector,
Buldhana, District Buldhana.
4. The Tahsildar,
Motala, Tah. Motala,
District-Buldhana.

Respondents

Shri S.S.Bhalerao, Ld. Counsel for the applicants.
Shri M.I.Khan, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.
Dated: - 29th January, 2024.

JUDGMENT

Heard Shri S.S.Bhalerao, learned counsel for the applicants and Shri M.I.Khan, learned P.O. for the Respondents.

2. The learned P.O. has not filed reply, though, P.O. informed the Collector for filing reply. The learned P.O. has filed letter dated 21.11.2023. It is taken on record. It is marked Exhibit-X for identification.

3. Case of the applicants in short is as under-

Applicants are legal heirs of the Pralhad Dabhade. Deceased namely Pralhad Dabhade was working in the office of respondent no.3. He came to be retired on 30.06.2017 on superannuation. He was initially appointed as a Junior Clerk on 07.11.1983. The respondent no.3 granted first time bound

promotion to the deceased Pralhad w.e.f. 01.04.2005, but the benefit was not given to him. The applicant is claiming first time bound promotion w.e.f. 07.11.1995. The applicant preferred appeal before the Divisional Commissioner. The Divisional commissioner has observed that adverse CR was not communicated to the deceased employeetherefore matter was remanded to the Collector for passing necessary order. The Collector, Buldhana has passed the order on 24.12.2020on the same ground stating that the adverse remark from the years 1991 to 2003 were not 'Good' and therefore, he is not entitled for time bound promotion. Hence, the applicants approached to this Tribunal for the following reliefs-

i) quash and set aside the impugned order dated 24.12.2020 (Annexure-A9) issued by the respondent no.3-Collector, Buldhana;

(ii) upon quashing the same direct the respondents to grant the benefits of first benefit of Assured Career Progressive Scheme to the deceased Pralhad Dabhade on 01.04.1995 is considered to be correct and grant the second Assured Career Progressive Scheme on 01.01.2007.

(iii) direct the respondents to release the arrears of the pay fixation of deceased Pralhad Dabhade in favour of the applicants within stipulated time and grant 8% per annum interest thereon;

(ii) grant any other relief, which this Hon'ble Tribunal deems fit and proper under the facts and circumstances of the case.

4. The O.A. was admitted on 09.08.2023. Since then the respondents have not filed reply. Learned P.O. informed the Collector, Buldhana as per letter dated 21.11.2023, but no any response was given by the respondents.

5. During the course of submission, the learned counsel for the applicant has submitted that adverse CRs were not communicated to the deceased employee. The Collector not considered direction given by the Divisional Commissioner. Nothing is on record to show that those adverse CRs were communicated to the deceased employee. In support of his submission pointed out decision of the Hon'ble Supreme Court in the case of **Sukhdeo Singh Vs. Union of India and Others reported in (2013) 9SCC 566**, it is held by the Hon'ble Supreme Court that it is for the authority to communicate adverse CRs to the employee. If the adverse CRs are not communicated then those CRs are to be ignored while granting the benefit of time bound promotion. The material portion in para 8 of the Judgment is reproduced below-

8. In our opinion, the view taken in Dev Dutt that every entry in ACR of a public servant must be communicated to him/her within a reasonable period is legally sound and helps

in achieving threefold objectives. First, the communication of every entry in the ACR to a public servant helps him/her to work harder and achieve more that helps him in improving his work and give better results. Second and equally important, on being made aware of the entry in the ACR, the public servant may feel dissatisfied with the same. Communication of the entry enables him/her to make representation for upgradation of the remarks entered in the ACR. Third, communication of every entry in the ACR brings transparency in recording the remarks relating to a public servant and the system becomes more conforming to the principles of natural justice. We, accordingly, hold that every entry in ACR- poor, fair, average, good or very good-must be communicated to him/her within a reasonable period.

6. The respondents have not communicated any adverse CRs to the deceased employee. Hence, those CRs are to be ignored. The learned counsel for the applicant has pointed out the order dated 21.02.2011, by this order deceased Pralhad was held eligible for time bound promotion w.e.f. 07.11.1995. This order was issued by the Collector, Buldhana. This order is not followed by the Collector and rejected the claim of deceased Pralhad. Nothing is on record to show that any adverse CRs were communicated to the deceased Pralhad. Hence, the deceased Pralhad was entitled to get time bound promotion as prayed. Hence, the following order is passed-

ORDER

1. The O.A. is allowed.
2. The impugned order dated 24.12.2020 passed by respondent no.3 i.e. the Collector, Buldhana is hereby quashed and set aside.
3. The respondents are directed to grant benefit of first time bound promotion (A.C.P.) to the deceased Pralhad Dabhade w.e.f. 07.11.1995 and the respondents are directed to grant further time bound promotion as per rules and pay all consequential benefits to the LRs of the deceased i.e. present applicants.
4. No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman

Dated - 29/01/2024.
rsm.

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 Vice Chairman.
Judgment signed on : 29/01/2024.
Uploaded on : 07/02/2024.