

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 259/2020(S.B.)

Manohar s/o Gopalrao Layse,
Aged about 53 years, Occu.: Service,
R/o House No. L-63, Mhada Colony,
Kaulkhed, Akola-444 004.

Applicant.

Versus

1. State of Maharashtra,
Through its Secretary,
Dept. of Animal Husbandry,
Dairy Development and Fisheries,
Mantralaya, Mumbai- 32.
2. Dairy Development Commissioner,
Administrative Building,
Khan Abdul Gaffar Khan Marg,
Worli Sea Face, Mumbai -18.
3. Regional Dairy Development Officer,
Amravati Region, Amravati- 444 606.
4. Dairy Manager,
Government Milk Scheme,
Akola- 444 001.

Respondents

Shri A.R.Kalele, Ld. Counsel for the applicant.
Shri A.M.Khadatkar, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.
Dated: - 15th March, 2024.

JUDGMENT

Heard Shri A.R.Kalele, learned counsel for the applicant and Shri A.M.Khadatkar, learned P.O. for the respondents.

2. Case of the applicant in short is as under-

The applicant was appointed in the year 1988 in the Government Milk Scheme, Akola on daily wages. The applicant was thereafter posted as Boiler Attendant (Second Class) in the year 1994. The applicant was regularly appointed in the year 1994. The applicant was given first benefit of ACPS / time bound promotion but respondents have not paid second time bound promotion as per the G.R. dated 01.04.2010. Therefore, applicant has approached to this Tribunal for the following reliefs-

1) issue an appropriate writ, order or direction declaring the action of respondents is not granting higher pay scale and fixation thereof to the applicant, is illegal, arbitrary, contrary and violative of Articles 14 and 16 of the Constitution of India and further contrary to the Government Resolution issued in the matter of time bound promotion benefits;

II) issue an appropriate writ, order or direction and thereby require the respondents to grant higher scale (upon completion of 24 years of service);

III) issue an appropriate writ, order or direction and thereby require the respondents to fix the pay of the applicant in the scale of 38600-122800 and further require the respondents to pay him accordingly with arrears along with interest;

IV) grant any other or further relief including costs as may be deemed fit in the circumstances of the case.

3. The respondents have filed reply and submitted that the promotional post of Junior Engineer is abolished at Akola. Therefore, applicant cannot claim promotional pay of the post of Junior Engineer.

4. During the course of submission, it is submitted by the side of applicant that other similarly situated employees of Nagpur and Mumbai are getting promotional pay after completion of 12 years – 24 years service. Therefore, applicant is also entitled for the same relief.

5. The learned P.O. has submitted that said post of Junior Engineer is available at Nagpur and Mumbai. The said post is not available at Akola. Therefore, applicant is not entitled for the same.

6. There is no dispute that the applicant was transferred from Nagpur to Akola. Had he not been transferred from Nagpur then he should have definitely be granted promotional pay because the post is available at Nagpur. The G.R. is silent as to whether

promotional pay is to be granted if the post is available or not. As per the G.R., promotional pay is to be paid after completion of 12-24 years of service if the employee could not get promotion for want of post etc. In the present case, there is no post available at Akola and therefore applicant was not promoted. Hence, as per the G.Rs. of 1995 and 01.04.2010, applicant is entitled for the second time bound promotion. The material portion of the G.R. is reproduced below-

क) योजनेचा दुसरा लाभ:

(१) पहिल्या लाभानंतर १२ वर्षांची नियमित सेवा पूर्ण केलेल्या कर्मचा-यास पदोन्नतीच्या पदाची वेतनसंरचना दुसरा लाभ म्हणून मंजूर करण्यात येईल. तथापि, या योजनेतील पहिला लाभ म्हणून ज्या पदाची वेतनसंरचना मंजूर करण्यात आली आहे त्या पदाला विवक्षित सेवाकालावधीनंतर, त्या पदांच्या कर्तव्ये व जबाबदा-यांत वाढ न होता, अकार्यात्मक वा तत्सम उच्च वेतनसंरचना मंजूर करण्यात येत असेल तर ती अकार्यात्मक वा तत्सम उच्च वेतनसंरचना दुसरा लाभ म्हणून मंजूर करण्यात येईल.

6. In view of the above cited G.R., the applicant is entitled for promotional pay / ACPS. Hence, the following order-

ORDER

1. The O.A. is allowed.
2. The respondents are directed to pay second time bound promotion of ACPS as per G.R. dated 01.04.2010 and pay all

consequential benefits to the applicant within a period of four months after the receipt of this order.

3. No order as to costs.

(Justice M.G.Giratkar)
Vice Chairman

Dated - 15/03/2024.
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 : 15/03/2024.
Uploaded on : 26/03/2024.
