

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**

**NAGPUR BENCH NAGPUR**

**ORIGINAL APPLICATION NO. 623/2017(S.B.)**

1. Rajkumar So Tulsiram Bhagat,  
aged about 56 years,  
Occupation: Service (Electrician H.C.),  
R/o Flat No. 203, Vidyadeep Tower,  
Nalwadi, Wardha, Tah. & Dist. Wardha. **(Dead)**

1.a) Priya alias Panchashila Wd/o Rajkumar Bhagat,  
aged About 54 years, Occupation: Household,  
R/o bank of India Colony Vidyadib Tower,  
Alodi, Tah, & dist. Wardha. **(Through LR.)**

**Applicant.**

**Versus**

1. The State of Maharashtra,  
through it's 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 and  
Director of Police Wireless,  
Pashan road, Pune-8.

4. The Superintendent of Police,  
Wardha, Tah. & Dist. Wardha.

**Respondents**

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Shri S.N.Gaikwad,Ld. Counsel for the applicant.  
Shri A.M.Khadatkar, Ld. P.O. for the respondents.

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**Coram:- Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.**

**Dated: - 14<sup>th</sup> March, 2024.**

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**JUDGMENT**

Heard Shri S.N.Gaikwad, 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 deceased applicant was appointed on the post of Head Constable (Electrician) on 09.05.1987. He was posted at various places. The respondents have introduced the Scheme of Time Bound Promotion formulated by the State Government. As per the Scheme dated 08.05.1995, the employees who have completed 12 years of service in Group 'C' and 'D' category are entitled to next higher grade pay. The deceased applicant was not granted benefit of Scheme on the ground that he has not passed the departmental examination. Therefore, the deceased applicant approached to this Tribunal claiming that he is exempted from passing the departmental

examination because he has completed 45 years of age. Therefore, he filed the O.A. for the following reliefs-

- i. allow the instant original application with costs;*
- ii. be pleased to direct the respondent No.3 i.e. Additional Director General Of Police, Wireless, Maharashtra State, Pune to grant and provide the entire benefits of Time Bound Promotion Scheme and Assured Progress Scheme as contemplated in Govt. Resolutions dated 08.06.1995 and 01.04.2010 forthwith to the applicant;*
- iii. be pleased to direct the respondent No.3 i.e.. Additional Director General Of Police, Wireless, Maharashtra State, Pune to revise and fix the pay scale of applicant in accordance with the "Time Bound Promotion Scheme and Assured Progress Scheme as stipulated in the Govt. Resolutions dated 08.06.1995 and 01.04.2010 and be further pleased to direct them to release the difference in salary on the basis of said pay scale w.e.f. 09.05.1999 and second benefit from 09.05.2011 forthwith;*
- iv. grant any other relief which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the instant application.*

3. During the pendency of this O.A., Original applicant died. Hence, legal heir i.e. applicant 1(a) has continued this proceedings.

4. Reply is filed by the respondents. It is submitted that as per the Scheme dated 08.06.1995, employees who have completed service of 12 years would be entitled to be granted the benefit of time bound promotion provided that he should pass the departmental examination. The deceased applicant has not passed the departmental examination. Therefore, he is not entitled for the

benefit of time bound promotion as per G.R. dated 08.06.1995. Hence, the O.A. is liable to be dismissed.

5. During the course of submission, the learned counsel for the applicant has filed copy of Judgment in O.A.No.607/2019. It is marked Exhibit - X for identification.

6. The learned counsel for the applicant has submitted that the deceased applicant had completed 45 years of age in the year 2006 and therefore, he is exempted from passing the departmental examination. He has pointed out para nos. 10, 11, 12, 13, 14 and 15 of the Judgment. He has submitted that in view of the Judgment in O.A.No.607/2019 and other connected O.As., deceased applicant is entitled to get the benefit of time bound promotion.

7. Heard learned P.O.. As per his submission, the deceased applicant had not passed departmental examination. The deceased applicant had completed 45 years of age in the year 2006. Therefore, he is exempted from passing the departmental examination. The Hon'ble Bombay High Court, Bench at Aurangabad in Writ Petition No.3643/2009 has held that the employees who have attained the age of 45 years, are entitled for exemption from passing the departmental examination and they are entitled to get deemed date of promotion. Relying on the said Judgment, this Tribunal has allowed the O.A.No.607 of 2019 with other connected O.As., decided

on 14.01.2021. The material part of the Judgment in para nos. 10, 11, 12, 13, 14 and 15 are reproduced below-

**10. The Petitioner in Writ Petition No. No.3643/2009 (Mukund S/o Shankarlal Daima) was the Assistant Police Sub Inspector in Radio Mechanic Section of the Police Department and he joined service in the year 1980. The Petitioner cleared Class-IV examination and Class-III examination. Thereafter, he was unable to clear Class-II and Class-I examinations as per the norms fixed by the Department. In this situation, in Para-19 it is held by the Hon'ble High Court as under -**

**11. "(19) In view of aforesaid, it would be appropriate that the petitioner employed in Wireless Section of Police Department is given benefit of promotion to the next level post without insisting upon departmental or Class-I and II examination, on attaining age of 45 years by giving deemed date of promotion. Since it is stated that petitioner is no longer in service having retired on superannuation, as such, he shall be given deemed date of promotion from the date of promotion of his junior, along with all consequential benefits." 12. In our opinion, in view of the above discussion, it is not possible to accept submission canvassed by the learned counsel for the applicants that it was not at all necessary for the applicants to clear the departmental examinations as per the norms fixed by the Police Department, but in view of the law laid down by the Hon'ble Bombay High Court in Writ Petition No.3643/2009, we are of the view that on**

*ground of parity, on completion of age of 45 years, each applicant was entitled for the time bound promotion or the accrued Career Progressive as per the G.Rs. issued by the Government.*

*13. So for far as question of limitation is concerned, we do not see any merit in this contention of the respondents, for the reason that being a model employer, it should not lie in the mouth of the respondents that the applications are barred by limitation. As a matter of fact after the Judgment in Writ Petition No.3643/2009 it was necessary on the part of the respondents to examine the cases of the Police Personnel serving in Radio Mechanic Section of Police Department who had completed the age of 45 years but to whom time bound promotions or accrued Career Progressive benefits were not given and should have sue-motu granted them the reliefs.*

*14. The grievances of the applicants and relief clause are fully covered by the Judgment in Writ Petition No. 3643/2009 of Hon'ble Bombay High Court, Division Bench at Aurangabad.*

*15. In view of above discussion, we are compelled to say that the applicants are entitled for relief in these matters. In the result, we pass the following order -*

**ORDER**

*The respondents are directed to issue time bound promotion / Assured Career Progressive benefit to the applicants from the date they have completed the age of 45 years. The respondents shall fix the salary of the applicants, pay them the arrears and revise their pension. The respondents are directed to*

***comply this order within six months from the date of this order. No order as to costs.***

8. In view of the Judgment cited above, the deceased applicant had completed 45 years of age in 2006. Therefore, he was entitled to get benefit of time bound promotion as per G.R. of 08.06.1995. Hence, the following order is passed.

**ORDER**

1. The O.A. is allowed.
2. The respondents are directed to grant time bound promotion / ACPS as per G.R. dated 08.06.1995.
3. The respondents are directed to re-fix the pay by considering the time bound promotion granted to the deceased applicant and pay the consequential benefits to the legal heirs of the deceased applicant.
4. The respondents are directed to complete the exercise within a period of four months from the date of receipt of this order.
5. No order as to costs.

**(Justice M.G.Giratkar)  
Vice Chairman**

**Dated - 14/03/2024.**

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 : 14/03/2024.  
Uploaded on : 26/03/2024.

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