

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 665/2022(D.B.)**

Sudhakar Sahadevrao More,  
Aged about 47 years,  
Occupation - Service Agriculture Supervisor,  
at office of Taluka Falrop Vatika Shirla,  
Tq. Patur, District Akola.  
R/o Ravi Nagar, Ring Road,  
Near M.E.C.B. Office,  
Kaulkhed Akola, District Akola.

**Applicant.**

**Versus**

1. The State Of Maharashtra,  
Through its Secretary Agricultural,  
Animal Husbandry,  
Dairy and Fisheries Development,  
Mantralaya Extention, Mumbai -32
2. The Commissioner of Agriculture,  
Maharashtra State, Pune – 01.
3. The Divisional Agricultural Joint Director,  
Amravati Division, Amravati.

**Respondents**

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Shri S.N.Gaikwad, Ld. counsel for the applicant.  
Shri S.A.Sainis, Ld. P.O. for the respondents.

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

**Dated: - 01<sup>st</sup> February, 2024.**

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### **JUDGMENT**

Heard Shri S.N.Gaikwad, learned counsel for the applicant and Shri S.A.Sainis, learned P.O. for the Respondents. The learned counsel for both the parties have consented for final disposal and argued the matter finally.

2. The regular Division Bench is not available. The Hon'ble Chairperson, M.A.T., Principal Bench, Mumbai issued Circular No.MAT/MUM/JUD/469/2023, dated 24/04/2023. As per the direction of Hon'ble Chairperson, if both the parties have consented for final disposal, then regular matter pending before the Division Bench can be disposed off finally.

3. As per the submission of learned counsel for the applicant, this O.A. is covered by the Judgment of Hon'ble Supreme Court and the Judgment of this Tribunal in O.A.No.1126/2022 which was confirmed by the Hon'ble High Court, Bench at Nagpur in Writ Petition No.6943/2023. Therefore, prayed to decide this O.A.. The O.A. is heard and decided finally with the consent of learned counsel for both the parties.

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

The applicant is working as Agriculture Superintendent at the office of Taluka Falrop Vatika Shirla, Tahsil Patur, District Akola. The applicant is a regular, permanent employee of the respondent/Agricultural department. The applicant was appointed in the respondent department in the year 1997. Services of the applicant were meritorious. That the respondent department had issued order of promotion of the applicant by promotion order dated 25.04.2007. The applicant was promoted on the post of Agriculture Supervisor. The applicant is working as Agriculture Supervisor. He has completed 17 years unblemished service. He is entitled for promotion on the post of Agriculture Officer, Grade-B, (Junior). The respondents have issued seniority list. The applicant is senior at Sr.No.156 which the juniors of the applicant are promoted. The respondents have not promoted the applicant on the ground of pendency of departmental enquiry which was initiated in the year 2011. Hence, the applicant approached to this Tribunal for the following reliefs-

***1. That, therefore, this Hon'ble Tribunal may kindly be issues any suitable order for quashing and setting aside the illegal and unlawful action on the part of the Respondents of non inclusion of the name of the applicant in the Selection List published by the Respondent No. 2 i.e. The Commissioner Of***

*Agriculture, Maharashtra State Pune dated 20-04-2022, which is annexed as Annexure A-3 relating to the Agriculture Supervisors who are entitled to be promoted to the higher post of Agriculture Officer, Grade B, Junior.*

*2. That this Hon'ble Tribunal may kindly be issues any suitable order for directing the Respondents to include the name of the applicant in the selection list published by the Respondent No. 2 i.e. The Commissioner Of Agriculture, Maharashtra State Pune dated 20-04-2022, which is annexed as Annexure A-3 relating to the Agriculture Supervisors who are entitled to be promoted to the higher post of Agriculture Officer, Grade B, Junior and it is also necessary to direct the Respondent to include the name at its proper place as per the seniority of the Applicant in the Seniority list published by the respondent department dated 28-01-2019 i.e. over an above the name of Ku.Pratibha Kashinath Sanap (Garje) in the interest of justice and equity.*

*3. It is also most humbly and respectfully prayed that this Hon'ble Tribunal may pass suitable order for directing Respondents not to take any further action on basis of such faulty Selection List i.e. The Commissioner of Agriculture, Maharashtra State Pune dated 20-04-2022, which is annexed as Annexure A-3, by promoting the employees junior to the applicant on basis of such faulty Seniority List.*

*4. That any other relief may kindly be granted in favour of the Applicant in the interest of justice and equity, including the cost on the Respondents.*

**10. INTERIM RELIEF IF ANY PRAYED FOR:-**

*1. That by way of interim relief, during the pendency of this Application, Hon'ble Tribunal may kindly be issue any suitable order for directing the Respondent Department to maintain status quo regarding the service of the applicant and not to take any further action on basis of such faulty Selection List i.e. The Commissioner of Agriculture, Maharashtra State Pune dated 20-04-2022, which is annexed as Annexure A-3 by promoting the employees junior to the applicant at the cost of the applicant, on basis of such faulty Selection List in the interest of justice and equity.*

*2. That it is also prayed that this Hon'ble Tribunal may kindly issue specific order to prohibit the Respondents from taking any adverse action against the applicant on basis of the faulty Selection List i.e. The Commissioner of Agriculture, Maharashtra State Pune dated 20-04-2022, which is annexed as Annexure A-3 during the pendency of this application in the interest of justice and equity.*

*3. That this Hon'ble Court may issue appropriate order for granting interim relief as prayed by the applicant in the interest of justice and equity.*

***3 (a) be pleased to direct the respondent No. 1 temporarily promote the applicant on the post of Agriculture Officer Group-B;***

***4. That any other relief may kindly be granted in favour of the Applicant in the interest of justice and equity, including the cost on the Respondents.***

5. The O.A. is strongly opposed by the respondents. It is submitted that the Departmental Promotional Committee held on 10.12.2021 has considered the eligibility of the applicant for grant of promotion on the post of Agriculture Supervisor and Agriculture Assistant, Amravati Division as per the seniority. The applicant's case has been considered as per the provision of G.R. dated 07.05.2021, 15.12.2017 and 30.08.2018. The applicant is facing departmental enquiry, the decision of Promotional Committee has been kept in a sealed cover. It is submitted that because of the pendency of departmental enquiry applicant cannot be promoted. Hence, the O.A. is liable to be dismissed.

6. During the course of submission, the learned counsel for the applicant has submitted that though the procedure is prescribed in the G.R.. As per the procedure, if any employee is facing criminal case / departmental enquiry his result should be kept in a sealed envelope and it is to be opened in the next D.P.C.

meeting. The learned counsel for the applicant has submitted that the departmental enquiry was initiated in the year 2011 till the date final result is not given by the Disciplinary Authority. The learned counsel for the applicant has submitted that respondents should have promoted the applicant subject to the decision of the departmental enquiry. In support of his submission pointed out the decision of the Hon'ble Supreme Court in the case of **Union of India Vs. Anil Kumar Sarkar (2013) 4 SCC, 161** and the Judgment in the case of **Union of India Vs. K.V.Jankiraman** reported in SCC 124. The learned counsel for the applicant has pointed out the Judgment of this Tribunal in O.A.No.1156/2022 which was confirmed by the Hon'ble High Court in Writ Petition No.6943/2023 decided on 30.01.2024.

7. Heard Shri S.A.Sainis, learned P.O. for the respondents. As per his submission, the applicant cannot be promoted because of the pendency of the departmental enquiry.

8. The Hon'ble Supreme Court in the case of **Union of India Vs. Anil Kumar Sarkar (2013) 4 SCC, 161** and in the case of **Union of India Vs. K.V.Jankiraman** held that the employee who is eligible for promotion shall be promoted, during the pendency of criminal case/departmental enquiry, subject to the decision of criminal case or departmental enquiry. The Hon'ble Bombay High Court, Bench at

Aurangabad in Writ Petition No.1672/2022 decided on 21.09.2023 has also held that the promotion cannot be withheld because of the pendency of criminal case / departmental enquiry. Hence, the following order-

**ORDER**

1. The O.A. is allowed.
2. Respondents are directed to promote the applicant (if he is eligible) on the post of Agriculture Officer, Group-B (Junior) from the date on which his juniors are promoted subject to the decision of departmental enquiry.
3. However, the applicant shall not be entitled to claim any arrears.
4. The respondents are directed to modify the seniority list by incorporating the name of applicant in it.
5. The respondents are directed to comply the order within a period of two months from the date of receipt of this order.
6. No order as to costs.

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

**Dated - 01/02/2024**



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 : 01/02/2024.  
Uploaded on : 07/02/2024.