

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.466/2017

DISTRICT: NANDED

Shamsundar s/o. Ramrao Pande,
Age : 62 years, Occu. : Pensioner,
R/o. House No.42, Bhagwant Nagar,
Near Gajanan Maharaj Mandir,
Malegaon Roda, Nanded,
Taluka & District. Nanded.

...APPLICANT

V E R S U S

- 1) The State of Maharashtra,
Through Secretary,
Department of Irrigation,
Mantralaya, Mumbai.
- 2) Superintending Engineer,
Vigilance Unit,
Irrigation Department,
Post Bag No.540,
Behind Old High Court Building,
Snehnagar, Aurangabad-431005.
- 3) Superintending Engineer,
Mechanical Circle,
Yantriki Bhavan,
Nanded-431506.
- 4) Superintending Engineer,
Irrigation Circle,
Sinchan Bhavan, Osmanabad,
Taluka & Dist. Osmanabad.

...RESPONDENTS

APPEARANCE :Shri A.S.Deshmukh Advocate holding
for Shri A.N.Walujkar Advocate for the
Applicant.

:Shri V.R.Bhumkar Presenting Officer for
the respondents.

CORAM : B. P. Patil, Member (J)

DATE : 24th July, 2018

O R D E R
[Delivered on 24th day of July, 2018]

The applicant has challenged the impugned transfer order dated 09-05-2017 issued by the respondent no.3 withdrawing second benefit of time bound promotion granted to him and prayed to quash and set aside the order and to extend the benefits granted earlier to him.

2. Applicant joined employment of respondent no.1 on 18-10-1977 as Junior Clerk. His service record is clean and unblemished. On attaining age of superannuation, he retired on 31-05-2014. Respondent no.1 had introduced a scheme of time bound promotion to the incumbents who do not get promotion due to non-availability of post. The applicant was eligible and qualified for extending

benefits of the said scheme, and therefore, vide order dated 01-10-1994 the benefit had been extended to him under the scheme. After completion of 12 years' service from the date of first time bound promotion, the applicant was eligible and entitled to get second benefit of time bound promotion, and therefore, the said benefit was extended to him w.e.f. 01-10-2006 by the order dated 24-05-2010 issued by the respondent no.3. Thereafter, the applicant worked as Senior Clerk in the office of respondent no.3 till his date of retirement i.e. till 31-05-2014. Till the date of his retirement, he was not granted functional promotion.

3. On 18-04-2013, respondent no.3 had issued communication and recommended name of the applicant for promotion on the post of First Clerk from the post of Senior Clerk. On 28-05-2013, respondent no.3 issued a letter to the respondent no.2 and requested to retain the applicant in his office by changing recommendation of his promotion in the Osmanabad Circle. Because of the said letter, necessary record regarding services of the applicant and the service book has not been forwarded to the office of the respondent no.4. The respondent no.3 orally conveyed the applicant that a request had been made to respondent

no.2 to retain him in the office of respondent no.3. Therefore, neither actual communication regarding applicant's promotion was issued nor he was relieved from the post of Senior Clerk nor his service book was sent to the office of respondent no.4. Therefore, the applicant continued to work as Senior Clerk at Nanded. He was not responsible for withholding official record though his promotion was recommended. No order of promotion was issued and no order of posting and relieving the applicant was passed. After retirement, the applicant was getting pension but on the basis of complaint of some disgruntled element a notice has been issued to him by the respondent no.3 to show cause as to why second benefit of time bound promotion granted to him should not be withdrawn as he did not report to the promotional post and violated conditions stipulated in the Circular dated 15-12-1972. Applicant had submitted his reply to the said notice on 09-01-2015 stating that he was not responsible for his retention at Nanded and the respondent no.4 had not given order of promotion and posting to him. Therefore, he prayed to withdraw the show cause notice issued to him. Thereafter, he was served with the chargesheet along with imputation of charges on 07-11-2015 but no progress was

made in the enquiry though he submitted his reply to the said memo on 25-11-2015. The applicant was drawing pension @ Rs.9855/-.

4. On 09-05-2017 respondent no.3 issued order withdrawing the benefits of second time bound promotion given to him, and therefore, recovery of more than Rs.2000/- per month started from his pension. It is contention of the applicant that the impugned order issued by the respondent no.3 is illegal. It is his contention that he had not violated provisions of G.R. dated 24-02-2014. It is his contention that he was not responsible for not joining his promotional post. On the contrary, respondent no.3 made correspondence with respondent no.2 to retain him at Nanded. Therefore, his record was not sent to respondent no.4. It is his contention that as no order of promotion and posting had been issued by the respondent no.4 on the basis of recommendation made by the respondent no.2 he cannot be blamed for it. He never refused the promotion, and therefore, second benefit of time bound promotion granted to him cannot be withdrawn. It is his contention that the impugned order is illegal and arbitrary. Therefore,

he prayed to quash and set aside the order and to extend benefit granted earlier by allowing the O.A.

5. Respondent no.2 resisted the contention of the applicant by filing the affidavit in reply. It is his contention that Irrigation Department, Government of Maharashtra had issued authoritative directions regarding service matters in respect of Class-3 and Class-4 services by G.R. dated 21-03-2013. As per the provisions contained in paragraph 1 and 4 of the G.R. dated 21-03-2013, the Superintending Engineer of relevant Circle Office shall issue the detailed posting cum promotional order as appointing authority of Class-3 and Class-4 servants. Regional promotion committee on 27-09-2012 decided to recommend name of the applicant for promotion on the post of First Clerk. Accordingly, promotion recommendation letter was issued on 18-04-2013 and the applicant was recommended to Osmanabad Irrigation Circle and the respondent no.4 was instructed to issue detailed promotion cum posting order as per paragraph 2 of the letter dated 18-04-2013. But the applicant neither assumed his promotional post nor joined recommended Circle Office. It is contended by it that the Circle Office

where the applicant was serving, requested respondent no.2 to change recommendation of promotion of the applicant from the office of respondent no.4 to the office of respondent no.3 without mentioning sufficient reasons for the same. It is contended by it that the applicant had not joined promotional post and therefore he prayed to reject the O.A.

6. Respondent no.3 filed separate affidavit in reply and resisted contention of the applicant. It has admitted the fact that the first time bound promotion was granted to the applicant from 01-10-1994 and after completion of 12 years' service, thereafter, second time bound promotion was granted to him from 01-10-2006 and accordingly his pay fixation order was issued on 24-05-2010 subject to fulfillment of terms and conditions mentioned in Government Resolution dated 01-04-2010. It is averred by it that respondent no.2 passed order dated 18-04-2013 giving directions to the applicant, subject to fulfillment of terms and conditions mentioned in the order and it is binding on the concerned respondents. The applicant was holding charge of the establishment in the office of respondent no.3 at that time. The applicant was promoted

on the post of First Clerk at Sina Kolegaon, Minor Project Division Paranda which is under the control of respondent no.4.

7. The applicant was holding charge of establishment section in the office of respondent no.3 and dealing with the matters in respect of Class-3 and Class-4 employees' promotion at that time. The applicant had not sent service record and service book to the respondent no.4 after receiving promotion order dated 18-04-2013 issued by the respondent no.2 for issuing necessary orders in that regard. As the record had not been sent to the office of respondent no.4 as per order dated 18-04-2013, office of the respondent no.4 had not issued promotion order, and therefore, the applicant was retained in the office of respondent no.3 till the date of his retirement i.e. till 31-05-2014. The applicant, who was having charge of establishment section in the office of respondent no.3 had violated conditions mentioned in the order dated 18-04-2013 and not followed the terms and conditions mentioned in the G.Rs. dated 30-04-1991, 08-06-1995 and 01-04-2010. Applicant was held responsible for the said act in the enquiry conducted by the Enquiry Officer who

submitted his report on 31-07-2015. The applicant had not taken efforts to send his service record along with other relevant record to the respondent no.4 for issuing further promotion order as per order dated 18-04-2013 issued by the respondent no.2, and therefore, chargesheet had been issued to the applicant. It is the contention of the respondent no.3 that the applicant avoided to join new promotional post and he withheld the service record, and therefore, the second benefit of time bound promotion granted to him had been withdrawn. It is their contention that there is no illegality in the order, and therefore, they prayed to reject the O.A.

8. It is further contention of respondent no.3 that letters sent by the respondent to send service record had been received to office of respondent no.3 and the said letters had been handed over to the applicant, who was holding charge of the establishment section in the office of respondent no.3 to comply with it but the applicant had not intentionally complied with the same and withheld the service record. He had not sent record to the respondent no.4 purposely, and therefore, his second benefit of time bound promotion has been withdrawn. It is further

contention of the respondent no.3 that there is no illegality on its part while passing impugned order. Therefore, the respondent no.3 prayed to reject the O.A.

9. Respondent no.4 has filed affidavit in reply and contended that he received order dated 18-04-2013 on 30-04-2013 and thereafter immediately sent confidential letter dated 02-05-2013 to the Superintending Engineer, Aurangabad Irrigation Circle and Mechanical Circle, Nanded and requested to provide necessary information in respect of the applicant but no response was received, and therefore, he sent another letter dated 29-05-2013 to the Superintending Engineer, Irrigation Circle, Aurangabad and Mechanical Circle, Nanded and requested to furnish necessary information immediately in pursuance of the letter dated 02-05-2013. In spite of correspondence made by him, concerned office has not sent information, and therefore, he was unable to issue detailed posting order to the applicant.

10. The applicant has filed affidavit in rejoinder and resisted contentions of the respondents. It is his contention that he was not responsible for retaining the record. Respondent no.3 himself sent letter dated 28-05-2013 to

the respondent no.2 for changing the place of posting Circle on promotion and no further communication or response has been received to the office of respondent no.3, and therefore, he had been retained there. Therefore, he prayed to allow the O.A.

11. I have heard Shri A.S.Deshmukh Advocate holding for Shri A.N.Walujkar Advocate for the applicant and Shri V.R.Bhumkar Presenting Officer for the respondents. Perused documents placed on record by the parties.

12. Admittedly, the applicant joined services as Junior Clerk in the office of respondent no.1 on 18-10-1977. He retired on 31-05-2014 on attaining age of superannuation. Admittedly, as per policy decision taken by the Government, benefit of second time bound promotion was granted to the applicant w.e.f. 01-10-2006 by the order dated 24-05-2010 issued by the respondent no.3. Admittedly, on 18-04-2013, respondent no.2 issued communication and recommended the applicant for promotion on the post of First Clerk in the Irrigation Circle Office, Osmanabad. Admittedly, said letter had been sent to respondent no.3 and 4. There is no dispute about the

fact that on 02-05-2013 and 29-05-2013 respondent no.4 sent letters to Superintending Engineer, Aurangabad Irrigation Circle, Aurangabad and Mechanical Circle, Nanded and requested them to provide necessary information and documents as regards service of the applicant for issuing promotion and posting order of the applicant in view of order dated 18-04-2013 issued by respondent no.2.

13. Admittedly, on 28-05-2013 respondent no.3 sent letter to the respondent no.2 and requested to retain the applicant at Nanded only. Admittedly, at that time, the applicant was in charge of the establishment section dealing with the promotion of Class-3 and Class-4 employees in the Office of respondent no.3. Admittedly, after receiving correspondence from respondent no.4 the same had been handed over to the applicant for further action. Admittedly, the office of respondent no.3 had not sent necessary information and service record of the applicant to the respondent no.4 till his retirement, and therefore, no detail promotion and posting order had been issued by the respondent no.4. Admittedly, after retirement, respondent no.3 issued notice on 31-12-2014 to

the applicant and called upon him to show cause as to why benefit of second time bound promotion granted to him should not be withdrawn on the ground that he had not reported to duty on promotional post as per Circular dated 15-12-1972 and G.R. dated 30-04-1991. Admittedly, the Enquiry Officer made enquiry in the matter and submitted report. On the basis of said report, chargesheet was served on the applicant and the departmental enquiry is pending. There is no dispute about the fact that considering reply of the applicant, the respondent no.3 issued impugned order withdrawing second benefit of time bound promotion granted to the applicant and started recovery of the amount paid to the applicant.

14. Learned Advocate for the applicant has submitted that regional promotion committee recommended name of the applicant for promotion by letter dated 18-04-2013 and directed the concerned Circle Office to which the name of the applicant was recommended to issue detailed posting order as per rules. He has submitted that after receiving the said letter, Mechanical Circle, Nanded where the applicant was serving had issued letter dated 28-05-2013 to Superintending Engineer, Vigilance Unit, Aurangabad

Circle, Aurangabad for changing Circle of the applicant and for retaining him at Nanded Circle. He has submitted that meanwhile respondent no.3 received a letter from respondent no.4 with a request to send the service record of the applicant. He has submitted that respondent no.3 had not sent record to the respondent no.4 as his proposal dated 28-05-2013 for retaining the applicant at Nanded and changing his Circle was pending. Therefore, respondent no.4 had not issued detailed promotion and posting order of the applicant. He has submitted that in this process applicant had no role to play. No promotion and posting order had been issued by the respondent no.4 till the retirement of the applicant, and therefore, the applicant worked in the Mechanical Division, Nanded Circle, Nanded till his retirement. Therefore, no question of refusing promotional post by the applicant arises.

15. Learned Advocate for the applicant has further submitted that since no actual posting on promotion was given to the applicant by the respondent no.4, applicant cannot be blamed for the same. Therefore, the impugned order issued by the respondent no.3 withdrawing the second benefit of time bound promotion granted to the

applicant is illegal and arbitrary. He has submitted that as per G.R. dated 31-03-2012, it is incumbent upon the respondent no.4 to issue promotional order as he is the competent authority but no such order had been issued. As no promotion order had been issued to the applicant, action taken by the respondent no.3 withdrawing promotional benefits granted to the applicant by way of second time bound promotion, is illegal.

16. Learned Advocate for the applicant has further submitted that the applicant cannot be blamed for not sending service record to the respondent no.4 by the respondent no.3 on the ground that he was in charge of the establishment section dealing with the subject matter of the promotion of Class-3 and Class-4 employees in the office of respondent no.3 at the relevant time. He has submitted that as the respondent no.3 had not directed him to send record, there was no inaction on the part of the applicant, and therefore, the applicant cannot be held responsible for the same.

17. Learned Advocate for the applicant has further submitted that after retirement of the applicant, respondent no.3 issued show cause notice, to which the applicant had

filed reply. Thereafter, departmental enquiry was initiated but there was no progress in the proceedings of departmental enquiry. He has submitted that in case charges were proved against the applicant, the applicant would be held responsible for misconduct as per Maharashtra Civil Services (Discipline & Appeal) Rules, 1979 but on that ground benefit of second time bound promotion cannot be withdrawn. Therefore he prayed to quash the impugned order by allowing the present O.A.

18. Learned P.O. has submitted that the applicant was serving as Senior Clerk in the office of respondent no.3 at relevant time. He was in charge of the establishment section dealing with the matters pertaining to promotions of Class-3 and Class-4 employees in the office of respondent no.3 at the relevant time. He has submitted that the decision of the promotional committee dated 18-04-2013 had been communicated to the respondent nos.3 and 4. He has submitted that as per conditions mentioned therein it was incumbent on the part of the concerned Superintending Engineer of the Circle where name of the promoted employee has been recommended to issue detailed promotional order and the Superintending

Engineer of the Circle where employee is working has to send service record to the Circle Office where name of the employee has been proposed for issuing such orders. He has submitted that the respondent no.3 had to send service record of the applicant to the office of respondent no.4 and thereafter, the respondent no.4 had to issue promotional order and posting order of the applicant. He has submitted that the respondent no.4 sent letter dated 02-05-2013 to the respondent no.3 as well as the respondent no.2 and requested to provide necessary information required for issuing promotional order and posting order of the applicant.

19. Learned P.O. has further argued that since response had not received from the respondent no.3, respondent no.4 issued another letter on 28-05-2013 with a request to provide necessary information and service record for issuing detailed posting order of the applicant. He has submitted that the said letters had been received by the office of respondent no.3 and the same were handed over to the applicant, who was in charge of the establishment section but the applicant had not processed the said letters and had also not sent service record to the office of

respondent no.4 for issuing promotion and posting order as per order of the respondent no.2 dated 18-04-2013. He has submitted that the applicant had intentionally not sent the service record and necessary information to the respondent no.4 and he enjoyed his posting at Nanded and the benefit of the second time bound promotion till his retirement and thereby refused to accept the promotion. Therefore, second benefit of time bound promotion given to the applicant has been withdrawn by the respondent no.3. He has submitted that the letter dated 28-05-2013 sent by the respondent no.3 to Superintending Engineer, Vigilance Unit, Aurangbad Circle, Aurangabad is not much useful to the applicant to substantiate his contention that record had not been sent because proposal regarding change in Circle of the applicant was pending.

20. Learned P.O. has further submitted that the order dated 18-04-2013 itself provides that the concerned Circle Office, where the employee who has been promoted is serving, has to relieve him within 15 days from the date of order and the concerned employee has also to convey his acceptance or refusal of promotion within 15 days. He has submitted that the applicant intentionally avoided to join

new posting at the Circle Office i.e. office of respondent no.4, and therefore, in view of the G.Rs. dated 30-04-1991 and 08-06-1995 second benefit given to him under time bound promotion scheme requires to be withdrawn. Accordingly respondent no.3 had withdrawn benefits given to the applicant by issuing the impugned order. He has submitted that there is no illegality in the impugned order. Therefore, he prayed to reject the O.A.

21. On perusal of the record, it reveals that on 18-04-2013, Regional Promotion Committee recommended names of the eligible Government employees including the applicant for the promotion. Applicant was accordingly promoted and he was given promotion in the Osmanabad Circle i.e. office of respondent no.4. Applicant was serving under respondent no.3 at that time. As per the G.R. dated 21-03-2013 the procedure regarding promotion has been prescribed in paragraph 4 of the same (paper book page 84-85) which is as follows:

"4- i nksurhph dk; bkgth%

xV ^d** e/khy depk&; kR; k I ok T; \$Brk o i nksurh
I nHkZrhy dk; bkgd dj.; kdjhrk 'kkl ukusfnukad 26 , fi y] 1960 o
fnukad 29 v kDvksj] 1963 vUo; s ifjeMG dk; ky; kd vf/kdkj

i nku dsys vkgs- R; kuđ kj 'kkl ukusoGkoGh fuf' pr d: u fnyŷ; k /kkj.kkuđ kj ifjeMG Lrjkoy xBhr dj.; kr vkyyŷ; k foHkkxh; i nkkurh I ferhdMsT; k eMG dk; kŷy; krhy i nkkurhP; k dkB; krhy i nsfjDr vkgs- R; k eMG dk; kŷy; kauh ifjeMG I ferhdMs ekx.kh djkoh- ifjeMGkP; k vf/kuLr vl .kk&; k I oZ eMGkph ekx.khi =s o fcmukekoyhpk , df=r fopkj d: u ifjeMGkus I cā/kr I oXkŷhy T; sBrkl ph o I ōkiōsk fu; ekauđ kj ifjeMG I ferhus ifjeMG dk; ŷks= xghr /k: u deŷk&; kph ik=@vik=rk rikl koh- R; kuđ kj r; kj dsyŷ; k fuoM I phP; k vk/kjso eMG dk; kŷy; kdMuu i klr fjDr i nkkR; k ekx.khi =kpk fopkj d: u I cā/kr eMG dk; kŷy; kdMs ik= deŷk&; kph f'kQkjI djkoh- f'kQkjI djroGh tksdeŷkjhT; k eMG dk; kŷy; kr dk; ŷr vkgs R; k eMG dk; ky; ke/; si nkkurhdjhrk fjDr i n ul y] v'kkoGh vU; eMG dk; kŷy; kdMs I nj deŷk&; kph f'kQkjI djrkuk ifjeMGkus I cā/kr deŷk&; kph tkr oŷkrk i ek.ki =] foHkkxh; pks' khckcrph I |fLFkrh o I cā/kr deŷk&; kckcr dkgh U; k; ky; hu i dzj.ks vl Y; kl R; kckcrph ekfgrh R; kP; k eG I ōki ūrdkl g mi yC/k d: u ns; kP; k I puk deŷkjh dk; ŷr vl yŷ; k eMGkl |kO; kr- R; kuarj vU; eMG dk; kŷy; kdMsT; k deŷk&; kph f'kQkjI dj.; kr vkyyh vkgs v'kk deŷk&; kP; k i nkkurhps I foLrj vkn'sk fu; ūrh i kf/kdkjh Eg.kuu I oZ vko'; d ckchph i ūrk d: u I cā/kr eMG dk; kŷy; kP; k v/kh{k d vfHk; ark ; kuh dk<kor- R; keG's i nkkurhP; k dkŷ; krhy deŷk&; kps fu; ūrh i kf/kdkjh ns[khy R; k I cā/kr eMG dk; ŷy; kps v/kh{k d vfHk; ark gs I {ke i kf/kdkjh Eg.kuu jkgrhy-"

22. On perusal of the same, it reveals that the Circle Office where the applicant is serving has to submit necessary information regarding service of the applicant to the concerned office where the applicant has been promoted and on receiving such information concerned office where

the applicant is promoted has to issue promotion and posting order. In the instant case, it was incumbent upon the respondent no.3 to send service record of the applicant to respondent no.4 and on receiving the same respondent no.4 had to issue promotional order to the applicant. Said fact is also reiterated in the communication dated 18-04-2013. In the clause no.3.7 (paper book page 92-93), it has been specifically mentioned as follows:

"3- i nksurhph vkns k fuxfer djrkauk [kkyhy vVh i nksurh vkns kkp , d Hkkx vl rhy-

1½ ---

2½ ---

3½ ----

7½ rl p l af/kr eMGkl fourh dj.; kr ; srs dh] R; kauh i nksurkl gs vkns k feGY; kP; k fnukadki kl u ¼15½ fnol kps vkr dk; ZPr djkos vkf.k i nksurkauh l njhy inkoj 'kkl u iKVcdkks foHkkx] ifji=d dkd- ih, ubl 1072@92388@ vk ¼2½] fnukad 15@12@1972 e/; s varHkkr dsy; k vkns kP; k vVhud kj dk; ZPrhuarj dk; kbj Rojhr : twOgkos R; kpiæk.krsfogr emrhr fu; PrtP; k fBdk.kh gtj >kys ukghr] rj R; kauk i nksurh udks vl s letu 'kkl u fu.kz] l keU; izkkl u foHkkx dz, l vkjOgh 1087@1131@izdz11@89@12] fnukad 30-4-91 e/khy 'kkl u vkns kkuq kj R; kph i nksurh jI dj.; kar ; bzy- rl p R; kph fnukad 8 tu 1995 ud kj ns; kar vkysy dkye/n i nksurhrhy oruJskh jI dj.; kar ; bzy-

8½ ---"

23. Paragraph 3.5 of the said letter provides that the concerned employee has to make statement as regards acceptance or non-acceptance of the promotional post within 15 days from the date of order. On receiving the said letter, respondent no.3 sent letter dated 28-05-2013 to Superintending Engineer, Vigilance Unit, Aurangabad, Irrigation Circle, Aurangabad and requested to change Circle of the applicant and to retain him in the Nanded Circle but no decision has been taken by the higher authorities in that regard. Prior to that on 02-05-2013, respondent no.4 issued letter to respondent no.3 and requested to furnish information and service record of the applicant for issuing promotion and posting order. But no such information had been submitted by the respondent no.3. Therefore, respondent no.4 issued another letter dated 29-05-2013 with the same request. Even then respondent no.3 had not furnished such information to respondent no.4. Therefore, detailed posting and promotional order in favour of the applicant had not been issued by the respondent no.4.

24. It is material to note here that at the relevant time applicant was in charge of the establishment section in the

office of respondent no.3, which was dealing with the subject matters of promotion orders of Class-3 and Class-4 employees. Both the letters were marked to the applicant for further action. This fact has not been disputed by the applicant and this fact has been reiterated by the respondent no.3 by filing short affidavit dated 13-03-2018. Inward register and movement register (paper book page 106-107) show that the letters were marked to the applicant but the applicant had not processed the said letters and not forwarded relevant documents to the respondent no.4. There were no specific order of respondent no.3 for not sending record to the respondent no.4 but the applicant, who was in charge of the establishment section, purposely avoided to send the said documents and information to the respondent no.4 for issuing posting and promotion order. He was interested in serving at Nanded, and therefore, he had intentionally not furnished information to the respondent no.4. This shows that the applicant was not willing to accept promotion, and therefore, he is liable to surrender the benefits of second time bound promotion as per the rules. Therefore, benefit of second time bound promotion given to the applicant

requires to be withdrawn in view of the G.Rs. dated 30-04-1991 and 08-06-1995.

25. It is also material to note here that in view of the G.R. dated 21-03-2013 office of respondent no.3 had to furnish necessary information and to relieve the applicant accordingly to join his new posting on promotion but the respondent no.3 had not taken action in that regard. As applicant had not sent the record to respondent no.4, no further promotion order in favour of the applicant had been issued by respondent no.4. Applicant was responsible for this inaction, and therefore, he is liable to surrender benefits received to him under the time bound promotion scheme.

26. Respondent no.3 issued show cause notice to the applicant before withdrawing benefits of the second time bound promotion given to the applicant on refusal to accept promotional post. The applicant has given his reply to the said notice. After considering his reply, respondent no.3 has passed the impugned order. Fair and proper opportunity was given to the applicant before withdrawing the benefits of second time bound promotion. Therefore, in these circumstances, in my opinion, there is no illegality in

the impugned order. The impugned order has been issued by the respondent no.3 in view of the provisions of G.Rs. dated 30-04-1991 and 08-06-1995. Therefore, no interference is called for in the impugned order. There is no merit in the O.A. Consequently, it deserves to be dismissed.

27. In view of the discussion in the foregoing paragraphs, O.A. is dismissed without any order as to costs.

(B. P. PATIL)
MEMBER (J)

Place : Aurangabad
Date : 24-07-2018.