

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO.577/2016(D.B.)

Shri Dyaneshwar Kisanrao Garkal,
Aged about 46 years, Occu.: Service,
R/o Plot No.B-9, Radha Krishna Nagari,
Lohara, Yavatmal.

Applicant.

Versus

- 1) The State of Maharashtra,
Through its Secretary,
Revenue Department,
Mantralaya, Mumbai-400032.
- 2) The Divisional Commissioner,
Bypass Road Camp, Amravati.
- 3) The Departmental Promotion Committee,
Through its President,
Divisional Commissioner,
Amravati, Bypass Road Camp, Amravati.

Respondents.

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

Coram:-Hon'ble Shri Justice Vinay Joshi, Member (J)&
Hon'ble Shri Nitin Gadre, Member (A).

Dated: - 07th February, 2025.

JUDGMENT

Heard Shri A.P.Sadavarte, learned counsel for the applicant and Shri A.M.Khadatkar, learned P.O. for the respondents
Heard finally with the consent of both parties.

2. The applicant was appointed on 22.11.1999 on the post of Talathi. He was promoted as a Circle Officer in the month of March 2010. On 23.05.2014, Anti Corruption Bureau (ACB) laid a trap against the applicant. In consequence crime was registered against him vide CR No.3097/2014 for the offence punishable under Section 7, 13(1)(d) of The Prevention of Corruption Act, 1988.

3. It is the applicant's case that in the year 2016, he was due for promotion, however, he was not considered. The applicant would submit that case of co-employee Mr.V.H.Pande was considered for promotion in the Departmental Promotion Committee (D.P.C.) held in 2016 despite registration of crime against him vide CR No.26/2008 for the offence punishable under Sections 467, 468, 471, 472, 497, 420 r/w Section 34 of The Indian Penal Code, 1860 (IPC). It is applicant's contention that though on 28.08.2019 another D.P.C. was held, however, his case was not considered by following sealed cover process in terms of G.R. dated 15.12.2017. The applicant would submit that if the sealed cover process was followed in D.P.C. dated

28.08.2019, then after two years i.e. in next D.P.C. held on 10.03.2022 his case would have been considered. In the above scenario, applicant seek directions to grant temporary promotion on the post of Naib Tahsildar.

4. Few facts are not in dispute. The case registered against the applicant under the provisions of P.C. Act is still pending. Employers started to follow sealed cover process after the year 2017 in terms of G.R. dated 15.12.2017. After the said Government Resolution, D.P.C. was conducted on 28.08.2019. However, communication filed by the State Government dated 06.02.2025 discloses that at relevant time promotional post of Naib Tahsildar was not available. Hence, the applicant's case was not considered. Though D.P.C. was conducted on 28.08.2019, however, it was not to the extent of post of Naib Tahsildar meaning thereby there was no D.P.C. for said post, for want of vacancy. There is no dispute that thereafter D.P.C. was conducted on 10.03.2022 in which the applicant's case was considered and the sealed cover process was followed. Apparently, D.P.C. held on 10.03.2022 was the first D.P.C. pertaining to the applicant after introducing sealed cover process.

5. In terms of Clauses 9 and 11 of the G.R. dated 15.12.2017 after lapse of two years from the first D.P.C. the respondent ought to

have reconsidered the applicant's case for Ad-hoc promotion in terms of parameters laid down in Clause 9 r/w Clause 11 by re-evaluating the applicant's eligibility. Admittedly, in next D.P.C. i.e. on 09.05.2024 no such a procedure was followed. In fact, the period of two years from first D.P.C. i.e. 10.03.2022 was over and thus the authorities ought to have followed the process of Ad-hoc promotion by testing applicant's eligibility in terms of Clauses 9 and 11 in next D.P.C. of 09.05.2024. Be that as it may, since two years have been lapsed from the first D.P.C., the applicant's case needs to be considered for Ad-hoc promotion as set out above. In the circumstances, we dispose the application in following terms-

ORDER

1. The O.A. is partly allowed.
2. We hereby direct the respondent to consider the applicant's case for Ad-hoc promotion in terms of guidelines issued in G.R. dated 15.12.2017 in next D.P.C. and take appropriate decision in accordance with Rules.
3. No order as to costs.

(Nitin Gadre)
Member(A)
Dated – 07/02/2025
rsm.

(Justice Vinay Joshi)
Member (J)

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 Member (J)
& Hon'ble Member (A).

Judgment signed on : 07/02/2025.
and pronounced on