

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO.129/2024(D.B.)**

Chandrashekhar S/o Purushottam Dhude,  
Aged about 51 years, Occ: Service,  
R/o Plot No. 55/96, Urvashi Nagar, Katora Road,  
Near Kitkule Hospital Amravati.

**Applicant.**

**Versus**

- 1) The State of Maharashtra through its Secretary,  
Revenue & Forest Department, First floor,  
Madam Kama Road, Hutatma Rajguru Square,  
Mantralaya, Mumbai-400032.
- 2) The District Promotion Committee,  
Through its President,  
Near Mahatma Gandhi Statue,  
Civil Lines Tahsil & District Wardha.
- 3) The Collector District Wardha,  
Near Mahatma Gandhi Statue,  
Civil Lines Tahsil & District Wardha.  
Tahsil and District Buldana.

**Respondents.**

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Shri A.Chaware, Ld. Counsel for the applicant.  
Smt.S.R.Khobragade, Ld. P.O. for the respondents.

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

**Dated:-** 07<sup>th</sup> February, 2025.

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**JUDGMENT**

Heard Shri A.Chaware, learned counsel for the applicant and Smt.S.R.Khobragade, learned P.O. for the respondents. Heard finally with the consent of both parties.

2. The applicant was appointed on the post of Talathi on 06.04.1999 on the establishment of respondent no.3 i.e. the Collector, Wardha. In the year 2017, Crime No.1315/2017 was registered against the applicant for the offence punishable under Sections 420, 468, 471 r/w Section 34 of The Indian Penal Code, 1860 (IPC). The Police have completed investigation and filed charge sheet. It is informed that yet criminal case is subjudice. It is the applicant's contention that though he became eligible for the promotional post of Circle Officer in the year 2021 his case was not considered. The applicant would submit that his juniors have been promoted and thus he is entitled for promotion with deeming effect as per his junior.

3. Undisputedly, crime was registered against the applicant under aforesaid provision, final report was submitted on 09.06.2019

and the criminal case is pending. By way of G.R. dated 15.12.2017, the State has formulated modalities as to how temporary promotion is to be granted to the employees despite pendency of Departmental enquiry / criminal case. The applicant has relied on the said Government Resolution stating that the provisions contained therein have not been followed.

4. The applicant would submit that in the year 2021, he came in the promotional zone of consideration, but he was not considered. Neither the applicant is able to state as to when D.P.C. was conducted in the year 2021 nor learned P.O. has instructions about holding of D.P.C. in the year 2021. In terms of Clause 9 of the G.R. dated 15.12.2017 temporary promotion is to be granted to the employees after two years from the date of initial D.P.C.. However, at present there is no material before us to hold that the applicant though became eligible in the year 2021 no D.P.C. was held in the said year. It reveals from the available record that thereafter D.P.C. was held on 07.11.2023 in which the applicant's case was considered and sealed cover process was followed. The next D.P.C. was held on 18.12.2024 in which the applicant's case was not considered as criminal case was pending.

5. The learned counsel for the applicant would submit that since criminal case is pending for the period more than two years, he is entitled for temporary promotion that too with deemed date of promotion, as per his junior. To substantiate said contention the applicant has relied on the decision of the Hon'ble Supreme Court in the case of **Union of India Vs. K.V.Jankiraman and Others reported in AIR (1991) SCC 109 decided on 27.08.1991** and **Union of India and Others Vs. Anil Kumar Sarkar(2013) 4 SCC 161 decided on 15.03.2013.**

6. In the wake of said position, we have gone through the mechanism provided in G.R. dated 17.12.2017 to address the issue of temporary promotion when departmental enquiry / criminal prosecution is pending for years together. In the decision of the Hon'ble Supreme Court in the case of **Union of India Etc. Vs. K.V. Jankiraman Etc.,1991 (4) SCC 109**, the issue pertains to what is the date from which it is to be treated that proceeding has been commenced and pending against employee, secondly what is the course to be adopted when the employee is held guilty in the proceeding and thirdly what benefits are to be extended on his exoneration. In said decision, there is no adjudication pertaining to the issue which is posed to be answered. The Hon'ble Supreme

Court in the case of **Union of India and Others Vs. Anil Kumar Sarkar(2013) 4 SCC 161** equally held to follow sealed cover process and what would be the date and from which stage the process is to be filed.

7. Clause 1 of the G.R. explains as to when the proceeding is stated to have been commenced. In other words after serving of charge sheet of departmental enquiry and filing of final report in criminal case. In those cases it is to be held that the proceeding has commenced and sealed cover process is to be followed. Clause 4 of the G.R. speaks that after six months from the following sealed cover process, the authority has to take review pertaining to pendency of the departmental / criminal action. Clause 6 provides that after six months, if the employee is reinstated or proceeding has not commenced by filing charge sheet, the sealed cover is to be opened and decision is to be taken accordingly. Clause 9 of the G.R. speaks that after two years from the initial date of D.P.C. even if the proceeding is pending meaning thereby departmental action or criminal case is pending, the employee can be temporarily promoted by evaluating on certain parameters which are set out in Clause 9 and by following further directions laid under Clause 11 of the G.R.. Perusal of Clause 11 which is a sort of proviso to Clause 9 speaks that

after two years even if the proceeding is pending if the authority is of the opinion that the employee is eligible for temporary promotion, without opening sealed cover again his entitlement shall be tested and if he is found suitable, then temporary promotion shall be granted.

8. These clauses are exhaustive in nature which has specified the procedure to be followed when the departmental or criminal action is pending. Further, Clauses of G.R. of 2017 deals with the situation after conclusion of departmental enquiry or criminal case, which are not relevant for the purpose of this case.

9. In view of the detailed provisions of G.R., the applicant is entitled for temporary promotion after two years from first D.P.C. if he qualifies on other criteria. As noted above, there is no material before us as to whether in the year 2021, the D.P.C. was held when applicant became eligible for promotional post. It reveals that on 07.11.2023 D.P.C. was held in which first time sealed cover process was followed. As per Rules, after two years from first D.P.C. the employee is eligibility for temporary promotion. The State Government is also not in a position to state whether prior to 07.11.2023 from the year 2021 any D.P.C. was held. Considering peculiarity of facts about pendency of criminal prosecution for longer

period, for want of specific record, it would be in the interest of justice to direct the authorities to consider the applicant's case for temporary promotion in next coming D.P.C.. Obviously, after conclusion of criminal prosecution the rest issues would be dealt as per G.R. of the year 2017. In view of above following order.

**ORDER**

1. The O.A. is partly allowed.
2. We hereby direct the respondent to consider the applicant's case for temporary promotion in next coming D.P.C. in terms of guidelines contained in Clauses 9, 11 and other provision of G.R. dated 15.12.2017.
3. No order as to costs.

**(Nitin Gadre)**  
**Member(A)**

**(Justice Vinay Joshi)**  
**Member (J)**

Dated – 07/02/2025  
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 Member (J)  
& Hon'ble Member (A).

Judgment signed on : 07/02/2025.

and pronounced on