

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No.371 of 2022 (S.B.)**

Mohansingh S/o Dashrathsingh Chavan,
Aged about: 65 years, Occ. Retired,
R/o Sane Guruji Nagar, Ward No.2, Wardha.

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary, Revenue and Forest Department,
Mantralaya, Mumbai-32.
- 2) The Collector, Wardha.
- 3) The Sub-Divisional Officer, Wardha.
- 4) The Tahsildar, Wardha.

Respondents.

Shri P.D. Meghe, Ms. Aarti Singh, Advs. for the applicant.

Shri V.A. Kulkarni, learned P.O. for respondents.

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

Dated :- 03/03/2025.

JUDGMENT

Heard Shri P.D. Meghe, learned counsel for applicant and
Shri V.A. Kulkarni, learned P.O. for respondents.

2. The case of the applicant in short is as under -

The applicant was appointed on the post of Talathi on
05/03/1990. The applicant was promoted as a Circle Officer as per
order dated 02/09/1997. The applicant has joined on the said post on

19/09/1997. The Caste Certificate of applicant was invalidated by the Caste Scrutiny Committee. Therefore, he along with Shri K.L. Bhandopiya were reverted from the post of Circle Inspector to the post of Talathi.

3. It is the case of applicant Shri K.L. Bhandopiya, was appointed in the year 1989 on the post of Talathi and he was promoted on the post of Circle Officer. His Caste Certificate was invalidated by the Caste Scrutiny Committee, therefore, he alongwith the applicant were reverted from the post of Circle Officer to the post of Talathi. The respondents have granted deemed date of promotion to Shri K.L. Bhandopiya w.e.f. 23-03-2011, but respondents have not granted the benefit of deemed date of promotion to the applicant. Hence, applicant has approached to this Tribunal for the following reliefs –

“ (8) (a) Direct the respondents to grant promotional pay scale of post of Circle Officer to applicant w.e.f. 23/03/2011 as granted to Shri Bhandopiya.

(b) Further, direct the respondents to fix pay of the applicant in pay scale of post of Circle Officer w.e.f. 23/03/2011 and release his difference of arrears of salary from 23/03/2011 till 31/12/2015, the date on which applicant stood retired.

(c) Further, direct the respondents to fix the pension of the applicant in the promotional pay scale of post of Circle Officer and release the entire arrears of difference of pension from 01/01/2016 and also

direct respondents to pay difference of gratuity based upon the promotional pay scale.”

4. The O.A. is strongly opposed by the respondents. It is submitted that the applicant was retired and therefore he was not considered for time bound promotion. It is further submitted that there is a delay of 11 years and therefore the O.A. is barred by limitation.

5. During the course of submission, the learned counsel for applicant has pointed out the Judgment of the Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.5557/2012 in the case of ***Sau. Kalpana W/o Dadarao Mohod Vs. State of Maharashtra & Ors., decided on 22/11/2012.*** The Hon'ble High Court has held that the claim of deemed date of promotion is a continuous cause of action, therefore, there is no question of any limitation. Hence, the objection raised by the respondents is not valid and therefore it is rejected.

6. In respect of claim of applicant of deemed date of promotion, there is no dispute that Shri K.L. Bhandopiya was similarly situated employee as like the applicant, he was also reverted from the post of Circle Officer to the post of Talathi, because of invalidation of Caste Certificate by the Caste Scrutiny Committee. The Caste Certificate of applicant was also invalidated, therefore, the applicant and Shri K.L. Bhandopiya were reverted from the post of Circle Officer

to the post of Talathi. Shri K.L. Bhandopiya was granted deemed date of promotion as per the recommendation of the Departmental Promotion Committee (DPC). The recommendation of the DPC is reproduced below –

“श्री के.एस. भंडोपिया तलाठी हे उ.वि.अ. वर्धा यांचे आदेश दि.3.10.1989 अन्वये, अनुसूचीत जमाती प्रवर्गातून दिनांक 5.10.1989 पासून, तहसिल समुद्रपूर येथे रुजू झाले त्यानुसार त्यांना मा. जिल्हाधिकारी वर्धा कार्यालयाचे आदेश क्रं कक्ष-ब/आस्था- 3/कावि-1115/95 दि. 1 जुलै, 1995 पासून मंडळ अधिकारी पदावर पदोन्नती देण्यात आली होती. परंतु त्यांचे अ. ज. जात वैधता प्रमाणपत्र अवैध ठरल्याने, मा. जिल्हाधिकारी वर्धा यांचे पत्र क्रं. कक्ष- ब/आस्था-3/संनोक्र.2/कावि-899/11 दि. 18/3/2011 व उ.वि.अ.वर्धा यांचे ओदश क्रं. कलि/आस्था/अविअ/कावि-1211/11 दिनांक 22/03/2011 अन्वये, तलाठी म्हणून पदावनत करण्यात येवून खुल्या प्रवर्गत नियुक्ती करण्यात आली असून, सदर तलाठ्याची सेवाजेष्ठता दिनांक 15/6/1995 ही निश्चीत करण्यात यावी व बिंदू नामावली मध्ये खुल्या प्रवर्गाची नोंद घेण्यात यावी असे आदेशीत करण्यात आले. करीता त्यानुसार श्री भंडोपिया यांना दि. 15/06/2007 ला सदर पदावर 12 वर्षे पूर्ण होत असून, तेव्हा पासून सदर लाभ मंजूर करण्यात यावा. परंतु, श्री भंडोपिया यांना यापूर्वी दि. 1 जुलै, 1995 पासून मंडळ अधिकारी पदावर पदोन्नती देण्यात आली होती व उ.वि.अ. वर्धा यांचे आदेश क्रं.कलि/आस्था/अविअ/कावि-1211/11 दिनांक 22/03/2011 अन्वये तलाठी म्हणून पदावनत करण्यात आलेले असल्याने व त्यांनी मंडळ अधिकारी पदावर सेवा केलेली असल्याने, त्यानुसार त्यांना वेतन व लाभ देण्यात आलेले असून, त्यांचे कडून कोणत्याही प्रकारची वसूल करण्यात आलेली नाही. करीता श्री भंडोपिया यांना सदर आश्वासित प्रगति योजनेचा नाम जरी दि. 15/06/2007 पासून मंजूर केला तरी प्रत्यक्ष

वेतन व भत्त्याचा लाभ दिनांक 23/03/2011 पासून देण्यात यावा. असे या कार्यालयाचे मत आहे. ”

7. There is no dispute by the side of respondents that Shri K.L. Bhandopiya was given benefit of time bound promotion w.e.f. 23/03/2011.

8. The applicant is on the same footing as like Shri K.L. Bhandopiya. After the Judgment of the Hon'ble Supreme Court in the case of ***State of Uttar Pradesh & Ors. Vs. Arvind Kumar Srivastava reported in 2015 (1) SCC,347***, the Government itself has issued the G.R. dated 28/02/2017. As per the said G.R., when benefit is granted to one of the employee, then same is to be granted to other similarly situated employee. The said G.R. is reproduced below-

“CIRCULAR

1. The Hon'ble Maharashtra Administrative Tribunal, Mumbai, vide order dated 14.12.2016 in O.A. Nos. 59, 61 and 90 of 2016, has expressed displeasure over rejection of the claim of the applicants therein, for grant of Time Bound Promotion on the ground that the applicants had declined to accept temporary promotions, though in similar matters Hon'ble Tribunal has allowed the OAs and order of the Tribunal has attained finality -

2. The Hon'ble Tribunal, in Para 8 of aforesaid Judgment, has observed as under:-

"If a principle of general applicability is capable of being culled out from a particular pronouncement of this Tribunal, then similarly placed employees, though not before the Tribunal should be given the benefit

thereof without actually moving this Tribunal for relief. If on the other hand, the relief is person specific, then of course, this direction will not apply."

Therefore, the Hon'ble Tribunal has directed the undersigned to inform all the concerned departments regarding applicability of general judicial principle as explained in Para 8 of the aforesaid Judgment.

3. The Hon'ble Supreme Court in the case of **State of Uttar Pradesh & Ors Vs. Arvind Kumar Srivastava reported in 2015 (1) SCC 347** has laid down similar principle, thus:

"Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently".

4. In view of the above, all the departments are hereby directed to take action according to the above directions given by the Hon'ble Maharashtra Administrative Tribunal, reiterating the legal position expounded by the Hon'ble Supreme Court.

5. The aforesaid directions be also brought to the notice of the offices under the administrative control of the departments."

9. The applicant is similarly situated employee like Shri K.L. Bhandopiya, therefore, the respondents should have granted benefit

to the applicant as granted to Shri K.L. Bhandopiya Hence, the following order -

ORDER

(i) The O.A. is allowed.

(ii) The respondents are directed to grant time bound promotion to the applicant w.e.f. 23/03/2011 and pay the consequential benefits to the applicant within a period of four months from the date of receipt of this order.

(iii) No order as to costs.

Dated :- 03/03/2025.

dnk.

(Justice M.G. Giratkar)
Vice Chairman.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 03/03/2025.

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