

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI
ORIGINAL APPLICATION NO.19 OF 2025**

DISTRICT : SATARA

Shri Ayub Gani Shaikh,)
Age 48 years, Peon in the office of)
Deputy Superintendent of Land Records,)
Karad, District Satara)
R/o A/P Pimpalereshi, Patan, District Satara)..Applicant

Versus

The Deputy Director of Land Records,)
Pune Region, New Administrative Building,)
Room No.105, First Floor, Opp. Vidhan Bhavan,)
Pune 411 001)..Respondent

Shri B.A. Bandiwadekar – Advocate for the Applicant

Smt. K.S. Gaikwad – Presenting Officer for the Respondent

CORAM : Smt. Justice Mridula Bhatkar, Chairperson
Shri A.M. Kulkarni, Member (A)
RESERVED ON : 20th March, 2025
PRONOUNCED ON: 4th April, 2025
PER : Shri A.M. Kulkarni, Member (A)

J U D G M E N T

1. In the above OA the applicant prays for following reliefs:

a) A suitable order / direction to set aside the impugned order dated 6.11.2024 passed by the Respondent [EXHIBIT-A) under which he rejected the request of the Petitioner for being allowed to join the promotional post of Daptarband / Naik in view of the initial refusal of the Petitioner on the promotional post dated 15.10.2024 as a consequence of the cancellation of the promotion as per the provisions of the G.R. dated 12.9.2016 and accordingly the Petitioner be granted all the consequential service benefits, as if the impugned order had not been passed.

b) By suitable order / direction, this Hon'ble Tribunal may be pleased to set aside the impugned order dated 15.10.2024 passed by the Respondent under which he cancelled the benefits of the revised Time Bound Promotion, namely, the first and second benefits which came to be granted to the Petitioner with effect from 29.4.2011 and 29.4.2019 respectively as per the orders dated 30.4.2013 and 22.9.2020 respectively in view of the Clause 8 of the G.R. dated 12.9.2016 and accordingly the Petitioner be granted all the consequential service benefits.”

2. Brief facts of the case:

(a) The applicant joined the government service as Peon on temporary basis on 28.4.1999. He was made permanent w.e.f. 30.4.2002 after which he came to be granted annual increments.

(b) The first benefit of Assured Career Progression Scheme (ACPS) accrued to the applicant on 29.4.2011 on completion of 12 years of regular service and the second benefit of ACPS accrued to him on 29.4.2019 on completion of 24 years of regular service. The order of second benefit of ACPS was issued on 22.9.2020. This order at clause 4 of the terms and conditions mentions that if the applicant refuses to accept the promotion whenever the same is granted to him, the benefits of ACPS will be withdrawn and the amount paid will be recovered.

(c) By order dated 10.10.2024 the applicant was promoted to the post of Daptarband and posted at the office of Dy. Superintendent of Land Record, Dahiwadi, District Satara.

(d) The applicant refused the promotion by letter 15.10.2024 to the respondent in view of his family difficulties. On the same day i.e. 15.10.2024, the respondents accepted this letter of refusal and issued orders to the same effect. The order dated 15.10.2024 also mentions that the applicant will not be eligible for promotion for next two years and withdrew the benefits of both the ACPS granted to him earlier.

(e) On 21.10.2024 the applicant submitted letter to the respondent withdrawing the refusal to accept promotion. He also requested to allow him to join on promotion and not to withdraw the benefits of both the ACPS. The applicant has submitted one more representation dated 31.10.2024.

(f) By impugned order dated 6.11.2024 the applicant is informed that promotion orders issued earlier have been cancelled on 15.10.2024 itself and refused to entertain the application for reconsideration of promotion.

3. Ld. Advocate for the applicant drew our attention to MCS (Regulation of Seniority) Rules, 2021 and especially Rule 2(m)(i) and (iii) which reads as under:

“2. Definitions.-

(m) ‘prescribed time-limit’ means a period fixed for joining in Government service as stated below,-

(i) within the period of thirty days of issuance of appointment order of direct recruitment or issuance of promotional order of promotee by competent authority, as the case may be; or

(iii) if a promote Government Servant, applied to the Competent Authority for getting extension for joining, within the thirty days of date of issuance of promotion order, then the Competent Authority may grant an extended time limit up to one month, and he joins within such extended period of one month.”

4. Ld. Advocate for the applicant submitted that the applicant had informed in writing to the respondents about his intention to join on promotion at the place of posting shown in the order dated 10.10.2024 within the prescribed time limit of 30 days from the date of issuance of promotion order. He further submitted that applicant being Group-D employee, had no knowledge of the rules and procedure involved in the issue. As such the applicant should not be faulted for being unmindful of the terms and conditions especially one at Sr. No.4 in the order dated 22.9.2020 relating to his benefit of second ACPS. This condition at Sr. No.4 is reproduced below:

“४) नियमित पदोन्नती नाकारलेल्या तसेच नियमित पदोन्नतीस अपात्र ठरलेल्या कर्मचा-यांना या योजनेचा लाभ देय नाही. या योजनेंतर्गत लाभ मंजूर केल्यानंतर संबंधित कर्मचारी प्रत्यक्ष पदोन्नतीस अपात्र ठरल्यास वा नियमित पदोन्नती नाकारलेल्या

कर्मचा-यांना देण्यात आलेला लाभ काढून घेणेत येईल. अशा लाभाची वसुली करण्यात येईल. सदर वसुलीची संपूर्ण जबाबदारी संबंधित अधिका-याठी राहिल.”

5. The applicant had refused the promotion and consequent transfer on 15.10.2024. However, on that date itself i.e. 15.10.2024 this refusal came to be accepted by the respondent and in the order dated 15.10.2024 the respondent informed that the benefits given to the applicant vide both the ACPS have been withdrawn. Ld. Advocate for the applicant further submitted that realizing that these two ACPS have been withdrawn immediately on 21.10.2024, he submitted application to the respondent withdrawing his willingness to join on promotion and requested him to allow him to do so. He followed it up another application dated 31.10.2024 with a request to cancel the order dated 15.10.2024. He submitted that given the heavy financial loss that the applicant will suffer due to withdrawal of both the ACPS benefits, the applicant's request for allowing him to join on promotion should be considered.

6. Ld. PO submitted that since earlier the applicant had rejected promotion post on 15.10.2024 itself the respondents issued order dated 15.10.2024 accepting this refusal by the applicant and issued order of cancellation of promotion on 15.10.2024 itself. She further submitted that the provisions of MCS (Regulation of Seniority) Rules, 2021 cannot be applied in this situation as the applicant was estopped from allowing him to join promotion because of refusal and the acceptance of the same by the respondents. Even otherwise the period of 30 days as mentioned in Rule 2(m)(i) of MCS (Regulation of Seniority) Rules, 2021 will be applicable from the date of the promotion order i.e. 10.10.2024 but the clock will stop on 15.10.2024 when the applicant submitted his refusal in writing. Moreover, she submitted that the applicant had met the respondent in his office before submitting the letter of refusal. This means that he had

thought of all the consequences of his decision having joined the service in 1990. Ld. PO submitted that the applicant was expected to know the rules and procedure as well as terms and conditions and especially clause 4 of the ACPS order dated 22.9.2020 and clause 9 of the promotion order dated 10.10.2024. The applicant cannot claim ignorance of the rules and procedure after having served for more than 20 years. She relied on affidavit in reply dated 18.2.2025 filed by Pravin Babanrao Pawar, Dy. Superintendent of Land Records, Karad, Satara.

7. We have heard both the sides and also perused the documents relied upon by them.

8. Having carefully considered the submissions and the documents on record, we are of the view that position of the Government rules is settled since GR dated 8.6.1995 vis-à-vis withdrawal of the ACPS benefits awarded to those government employees who have refused promotion. Even for the sake of argument if it is considered that applicant was unaware of the rules and procedures, he cannot be said to be unaware of the terms and conditions of the order of second ACPS dated 22.9.2020. Moreover, the GR dated 8.6.1995 is not challenged by the applicant.

9. He was initially not ready to go on transfer to Dahiwadi, Satara which is 80 kms. away from Karad where he is staying along with his family. He mentioned number of reasons including ill health of his wife and mother while justifying the refusal. However, once the order of accepting the refusal and cancelling his promotion were issued along with withdrawal of ACPS benefits, he became ready to accept the promotion and also transfer to Dahiwadi. It is to be noted that the order of promotion was issued on 10.10.2024 and he refused the same on 15.10.2024. As such his refusal is after thinking over the promotion order for almost one week, during which time he is expected to have weighed the

pros and cons of accepting/refusing the promotion. He has also taken another six days to inform his willingness to go on promotion.

10. As is the norm the Government employee normally takes over at the place of promotion and then represents for change of his place of posting etc. In the present case, the applicant has not done that.

11. In the light of these discussions and the submissions, we are not inclined to interfere in the impugned order. The OA therefore deserves to be dismissed.

12. The Original Application is dismissed. No order as to costs.

Sd/-

(A.M. Kulkarni)
Member (A)
4.4.2025

Sd/-

(Mridula Bhatkar, J.)
Chairperson
4.4.2025

Dictation taken by: S.G. Jawalkar.