

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No.533 of 2024 (D.B.)

1. Narayan S/o. Jayaji Surve,
Aged 32 years, Occupation - Service,
Supply Inspector, R/o. At Chikhli Khurd, Tq. and District Washim.
2. Manoj S/o. Ramesh Katare,
Aged 34 years, Occupation - Service,
Supply Inspector, R/o. At Post Yelikeli,
Tq. Seloo, District Wardha.
3. Abhimanyu S/o Vilas Charhate,
Aged 37 years, Occupation - Service,
Supply Inspector, R/o. At Post Talvel Tq. Chandur Bajar,
District Amravati.
4. Ravindra S/o. Panjabrao Rathod,
Aged 35 years, Occupation - Service,
Supply Inspector, R/o. At Post Tuptakli,
Tq. Digras, District Yavatmal.
5. Anil S/o. Vilasrao Ghuge,
Aged 36 years, Occupation - Service,
Supply Inspector, R/o. At Sukanda, Post Rajura,
Tq. Malegaon, District Washim.

Applicants.

Versus

1. The Hon'ble Chief Secretary,
State of Maharashtra, Mantralaya,
Mumbai-440 032.
2. The Additional Chief Secretary,
General Administration Department,
State of Maharashtra Mantralaya, Mumbai-440 032.
3. The Principal Secretary,
Food and Civil Supply,
State of Maharashtra Hutatma Rajguru Chowk,
Madam Cama Marg, Mantralaya, MUMBAI-400 032.

Respondents.

**S/Shri D.M. Kakani, G.K. Bhusari, Advocates for the applicants.
Shri S.A. Deo, learned C.P.O. for respondents.**

**Coram :- Hon'ble Shri Justice M.G. Giratkar, Vice Chairman and
Hon'ble Shri Nitin Gadre, Member (A).**

Dated :- 09/08/2024.

JUDGMENT

Per : Vice Chairman.

Heard Shri D.M. Kakani, learned counsel for the applicants
and Shri S.A. Deo, learned CPO for the respondents.

2. The case of the applicants in short is as under –

All the applicants were appointed on the post of Supply Inspector, Food and Civil Supply, after due selection process carried out by the Divisional Commissioner, Nagpur. They have been given appointment by the order dated 06/11/2018. All the applicants are eligible for promotion to the post of Inspecting Officer, Group-B. The post of Supply Inspector is in Group-C cadre and the applicants were drawing the salary in Group S-10 Rs.29,200-92,300. In the cadre of Inspecting Officer, Group-B, there are 378 posts available, out of which as per the ratio fixed by the Government in the Recruitment Rules, dated 27th March, 2023, 80% posts of Inspecting Officer are to be filled in as per Clause-8 of the Recruitment Rules by promotion and 20% posts are to be filled in by nomination.

3. It is submitted that the Government of Maharashtra has taken decision as per the order / letter dated 28/12/2017, the respondents have taken decision and the post of Inspecting Officer, Group-B has been declared as a state cadre post and therefore all the procedures for appointing the Inspecting Officer, Group-B, that powers have been transferred to the State Government.

4. As per the submission of learned counsel applicants in the last week of August,2023, the D.P.C. has recommended the names of applicants and others for promotion. It is submitted that as per the G.R. dated 01/08/2019, there is a time limit for promotion of the candidates after the decision of the D.P.C.

5. It is the case of the applicants that some of the candidates namely Ramesh L. Gaikwad and Pranjal H. Patil are given promotion though they are juniors to others. Hence, the applicant approached to this Tribunal for direction to the respondents to promote them before 31/08/2024 or before the list of promotion is lapsed as per the recommendation of the D.P.C. The applicants prayed for the following reliefs –

“(7) (i) Direct the respondents to issue the orders of promotion of the applicants and others on the basis of recommendations of the Departmental Promotion Committee conducted in the last week of August, 2023 and the said recommendation should not be treated as lapse till its implementation in full.

(ii) Direct the Respondents not to implement the recommendations given by the Departmental Promotion Committee headed by the Divisional Commissioner, after the Government decision dated 28th December, 2017,

(iii) By an Interim direction, direct the Respondents to issue the orders of promotion of the applicants and others whose name have been recommended by Departmental Promotion Committee conducted in last week of August, 2023, during the pendency of this Original Application.

(8) It is submitted here that recommendations given by the Departmental Promotion Committee headed by the Additional Chief Secretary, has been accepted by the Food and Civil Supply department, as well as the General Administration Department of the Government of Maharashtra and on the basis of recommendations two promotion orders have been issued by the respondent No.3 promoting two employees from the cadre of Supply Inspector Group-C to the cadre of Inspecting Officer Group-B, by adopting pick and choose method, and therefore, there should not be any hitch to issue the promotion orders of the applicants and all other, those whose names were recommended by the Departmental Promotion Committee and Food Civil Supply department as well as the General Administration Department, immediately within a period of 15 days, because the process of Selection of the inspecting Officer Group-B has also been started by the Maharashtra Public Service Commission. They have declared the results of the preliminary examination and now the final examination will be conducted immediately after 15 days. Considering all these facts, it is necessary to direct the respondents to issue the orders of applicants for promotion, on the basis of recommendations of the departmental Promotion Committee conducted in the last week of August, 2023, in the interest of justice as an entire relief.”

6. The O.A. is strongly opposed by the respondents. It is submitted that the D.P.C. has recommended the names for promotion of 253 candidates, however, the General Administration Department (G.A.D.), Mantralaya, Mumbai has approved the promotion of 203 candidates. It is submitted that all these candidates are promoted in Group-B cadre. Hence, there will be huge vacancies in the Group-C cadre and therefore the applicants cannot be promoted. It is submitted that the advertisement for appointment in Group-C posts was published and the process for appointment of Group-C candidates is going on and therefore it is submitted that unless and until all the posts are filled by direct recruited candidates, the applicants cannot be promoted. At last submitted that the O.A. is liable to be dismissed.

7. Heard learned counsel for applicants Shri D.M. Kakani. He has pointed out the G.R. dated 01/08/2019. He has pointed out Clause 1.10 of the said G.R. and submitted that the list of recommended candidates for promotion is valid upto one year. As per his submission, in the month of August,2023 the names of applicants and others candidates were submitted by the D.P.C. and thereafter G.A.D. approved the names of 203 candidates for promotion in Group-B cadre. The learned counsel for the applicants submits that if the applicants and others are not promoted before 31st August,2024 then the list approved by the G.A.D. will lapse and therefore he prayed

that the direction be given to the respondents to promote the applicants along with others as per the approval of G.A.D.

8. The learned CPO Shri S.A. Deo has submitted that if the bulk of candidates like the applicants are promoted, then there will be huge vacancies in the department and day to day work of the respondents will hamper. Hence, the applicants cannot be promoted within a stipulated time.

9. During the course of submission, the learned counsel for the applicants has pointed out the documents filed on record (P-137). As per these documents, it appears that the respondents have taken decision to appoint Group-C candidates. Nearabout 321 candidates are likely to be appointed or they must have been appointed, because, the letter dated 26/07/2024 shows that the concerned were directed to issue appointment order before 12/08/2024 (P-138).

10. Therefore, it appears that the respondents must have filled the vacancies in place of the applicants and others by issuing the appointment orders to the newly recruited candidates.

11. If the respondents failed to promote the applicants and others as per the recommendation of D.P.C. and the names which were approved by the G.A.D. of Government of Maharashtra, then the

list will automatically lapse as per the G.R. dated 01/08/2019. The material portion of the G.R. is reproduced below –

“ 1.10 निवडसूचीची वैधता :- ज्या निवडसूचीस शासनाची मान्यता आवश्यक आहे, त्या प्रकरणात निवडसूचीस शासनाची मान्यता मिळाल्याच्या तारखेपासून १ वर्ष किंवा पुढील निवडसूची वर्षासाठी समितीने निवडसूचीची शिफारस करणे यापैकी जे आधी घडेल त्या कालावधीसाठी संबंधित निवडसूची वैध असेल. तथापि, निवडसूचीला शासनाची मान्यता आवश्यक नाही अशा उर्वरित प्रकरणात विभागीय पदोन्नती समितीची बैठक झाल्याच्या तारखेपासून १ वर्षाकरीता किंवा पुढील निवडसूची वर्षासाठी समितीने निवडसूचीची शिफारस करणे यापैकी जे आधी घडेल त्या कालावधीसाठी संबंधित निवडसूची वैध असेल .”

12. The learned counsel for the applicants has submitted that if this list is not acted upon before the stipulate time as per the G.R. dated 01/08/2019, then the applicants will suffer irreparable loss because there will be huge delay for promoting the applicant in the next D.P.C.

13. It appears that the respondents have appointed Group-C candidates by direct recruitment and as per the documents at page no.137, it appears that the appointment orders are issued to 321 candidates, therefore, now there will not be any vacancy of Group-C cadre.

14. The learned counsel for applicants has pointed out that some of the candidates recommended by the D.P.C. and approved by the G.A.D. were given promotion. We are surprised as to how they are given promotion by the respondents, because, they are not so senior. Some of the candidates are senior to them. Shri Ramesh L. Gaikwad

and Shri Pranjal H. Patil are promoted by the respondents. No any special reason is given by the respondents to promote only two candidates. The applicants are similarly situated candidates. Hence, they are also entitled for the similar relief given by the respondents. The Government of Maharashtra has issued Circular / G.R. dated 28/02/2017. That G.R. was issued after the Judgment of the Supreme Court in the case of the **State of Uttar Pradesh & Ors., Vs. Arvind Kumar Srivastava & Ors.**, in Civil Appeal No.9849/2014, decided on 17th October, 2014. The said Circular /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."

15. The applicants are similarly situated employees. Therefore, they are entitled for the same relief which were granted to Shri Ramesh L. Gaikwad and Shri Pranjal H. Patil.

16. The applicants are waiting for promotion as per the recommendation of the D.P.C. and approved by the G.A.D. The Government of Maharashtra, i.e., the respondents itself have

accepted the recommendation of the D.P.C. Hence, there is no hurdle for the respondents to promote the applicants within the time as per the Clause 1.10 of the G.R. dated 01/08/2019. Hence, we proceed to pass the following order –

ORDER

(i) O.A. is allowed.

(ii) The respondents are directed to promote, the applicants and other similarly situated eligible candidates who were recommended by the D.P.C. and the names of 203 candidates approved by the G.A.D., within a stipulated period as per the conditions laid down in clause no.1.10 of the G.R. dated 01/08/2019 i.e. during the validity period of the select list.

(iii) No order as to costs.

(Nitin Gadre)
Member(A).

(Justice M.G.Giratkar)
Vice Chairman.

Dated :- 09/08/2024.

dnk.

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 and
Member (A).

Judgment signed on : 09/08/2024.