

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION 1074 OF 2016**

DISTRICT : RATNAGIRI

Shri Rajaram Pundalik Mankar,)
Retd as Peon from the office of)
Sub-Registrar, Dapoli, Dist-Ratnagiri)
R/o: A/P Palgadh, Tal-Dapoli,)
Dist-Ratnagiri.)
Add for service of notice :)
As above.)...**Applicant**

Versus

1. The Joint District Registrar)
Class-I [Lower Grade])
And Collector of Stamps, Ratnagiri)
Having office at K.C Jain Nagar)
Parasmani Bldg, Ratnagiri.)
2. The State of Maharashtra,)
Through Principal Secretary,)
[Special Assistance and)
Rehabilitation], Revenue & Forest)
Department, having office at)
Mantralaya, Mumbai 400 032.)...**Respondents**

Shri A.V Bandiwadekar, learned advocate for the Applicant.

Shri K.B. Bhise, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

DATE : 16.09.2016

ORDER

1. Heard Shri A.V Bandiwadekar, learned advocate for the Applicant and Shri K.B. Bhise, learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicant challenging the communication dated 4.9.2015 from the Respondent no. 1 informing him that re-fixation of his pay by order dated 28.10.2004 was correct and that he was not eligible to get pay for the month of June 2009, as he had reached the age of superannuation on 1.6.2009.

3. Learned Counsel for the Applicant argued that the Applicant retired from Government service in a Group 'D' post in June 2009. He has been agitating that withdrawal of Time Bound Promotion benefits by order dated 28.10.2004 of the Respondent no. 1 was illegal and

it has caused hardships to him. The Applicant has claimed that this Original Application is within limitation, in view of the events narrated in the synopsis of this Original Application. This has been denied by the Respondents in para 6 of the affidavit in reply dated 21.3.2016. It is seen that at Exhibit-H (page 30 of the Paper Book), there is a letter from the Deputy Inspector General of Registration, Konkan Division, Thane addressed to the Respondent no. 1, which refers to the complaint of the Applicant dated 14.10.2013. A hearing was kept in the office of the Deputy Inspector General of Registration on 10.1.2014. However, the Respondent no. 1 did not attend. The Respondent no. 1 was directed to verify the office records with a view to ascertain the facts in the complaint of the Applicant. The impugned communication, refers to various letters from D.I.G, Registration, Lok Ayukta etc. It is clear that the issues raised by the Applicant were under consideration of the Respondents and this Original Application cannot be called time barred.

4. The Applicant was working as a Peon in the Office of the Respondent no. 1. He was appointed to that post on 1.5.1969. He was granted Time Bound Promotion w.e.f 1.10.1994, vide order dated 24.4.1998. His pay was fixed in the pay scale of Rs. 2610-4000 on granting him benefit of Time Bound Promotion. The Applicant was granted promotion to the post of 'Daftarband' by order

dated 30.9.2004, which he declined by letter dated 7.10.2004. Benefit of Time Bound Promotion was withdrawn due to his refusal to accept promotion and his pay was fixed in the pay scale of the post of Peon by order dated 28.10.2004. However, by order dated 13.4.2007, the order dated 28.10.2004 was cancelled and the benefit of Time Bound Promotion to the Applicant was restored. The Applicant in this Original Application is seeking the following reliefs viz:

- (i) He is entitled to yearly increments from 1.10.2004 to 1.4.2007
- (ii) He was retired by order dated 19.6.2009 on 30.6.2009 by the Respondent no. 1. However, he has not been paid salary for that period, i.e. for the month of June, 2009.

5. Learned Counsel for the Applicant stated that the date of birth of the Applicant as per entry in the Service Book is 1.6.1949. However, on 19.6.2009, the Respondent no. 1 issued an order that the Applicant will be retired from service on 30.6.2009. The Applicant accordingly worked for the full month of June 2009, but he has not been paid salary for that period. This is stated in para 6.6 of the Original Application. At Exhibit 'E', is the order dated 19.6.2009 issued by the Respondent no. 1. The Respondents in the affidavit in reply dated 21.3.2016 have not denied that order dated

19.6.2009 was issued by the Respondent no. 1. Legally the Applicant should have retired on 1.6.2009. However, the Respondent no. 1 himself ordered his retirement on 30.6.2009 by order dated 19.6.2009. The existence of this order dated 19.6.2009 is a conclusive evidence that the Applicant was working till 30.6.2009. The question is whether he is eligible to get salary for that period, i.e. for the month of June, 2009. The Applicant was working in a Class-IV post. He is educated upto 8th class. There is nothing on record to suggest that he was informed that he will retire on 1.6.2009. Considering all these facts, he should be held eligible to get salary for the month of June, 2009, minus the pension he had received for that month.

6. Now coming to the other issue regarding increments from 1.10.2004 to 1.4.2007, the Applicant has made a number of allegations as to how the seniority list was manipulated and how he was promoted, though a S.C candidate was available while it was mentioned in the promotion order that he was temporarily promoted as a 'Daftarband' till a candidate from S.C category was available. As the Applicant declined promotion, benefits of Time Bound Promotion were withdrawn by the Respondent no. 1 by order dated 28.10.2004. The Applicant has admitted in para 6.5 of the Original Application that order dated 28.10.2004 was cancelled by

order dated 23.4.2007, which is at Exhibit 'D' (page 22 of the Paper Book). This order reads:-

“ज्या अर्थी श्री. आर.पी.मानकर, शिपाई दुय्यम निबंधक कार्यालय दापोली यांना मा. जिल्हा निबंधक रत्नागिरी यांचे संदर्भ क्र.१चे आदेशान्वये पदोत्रतीने दिनांक ०१/१०/१४ पासून वरिष्ठ वेतन श्रेणी रु. ७५५-१२-९५५ द.रो १५-१०३०-२०-११५० देण्यांत आलेली आहे.

आणि ज्या अर्थी श्री. मानकर यांनी संदर्भ क्र.२ चे आदेशान्वये त्यांना देण्यात आलेली तात्पुरती पदोत्रती नाकारल्यामुळे संदर्भ क्र.३ चे आदेशान्वये शिपाई या कनिष्ठ वेतन श्रेणीत केलेले फेर वेतन निश्चिती आदेश रद्द समजणेत यावेत.

त्या अर्थी श्री. मानकर यांना कालबद्ध पदोत्रती साखळीतील वरिष्ठ वेतन श्रेणीतील पूर्वी म्हणजे दिनांक २४/०४/९८ चे आदेश कायम समजून त्या प्रमाणे वेतन अदा करणे बाबत या आदेशान्वये मंजरी देण्यांत येत आहे.”

It is, therefore, not necessary to consider the facts mentioned by the Applicant in this Original Application regarding circumstances leading to his promotion and his decision not to accept the same. His Time Bound Promotion granted by order dated 24.4.1998 was restored by this order dated 23.4.2007. The Applicant has stated as follows in para 6.16:-

“6.16 That in the circumstances stated above, the Petitioner became entitled to claim the revision of his pay and allowance in the light of the order dated 23.4.2007 from 1.10.2004 till the petitioner retired from the Government service on 30.6.2009 and

thereafter revision in pension and accordingly the Respondents are required to be directed to do so within a particular period of time together with the grant of compensatory interest thereon @ 12% p.a till realization from due date.”

In reply, in the affidavit in reply dated 21.3.2016, the Respondents have stated as below in paras 22 and 22.1:-

“22. With reference to para 6.16, I say that the statement made in this para stated by Petitioner incorrectly. The Applicant refused to accept this temporary promotion for the post of ‘Daftarbandh’. Therefore, he is not entitled for getting extra benefits. As per Government of Maharashtra G.A.D G.R No. SRV-1095/C.N-1/95/12 dated 8.6.1995, considering the above mentioned facts and refusal by the Applicant to accept ‘Daftarbandh’ post, the pay scale of the Applicant was corrected as Rs. 3560/- by the Joint District Registrar, Ratnagiri vide his office order No. Aastha/Veni/Shri.Mankar /1994-97/04 dated 28.10.2004. As per revised scale, his pay scale and pension plan was corrected.

22.1 District Registrar alias Additional Collector, Ratnagiri passed office order dated 23.4.2007 about time bound promotion scale. This office order violates G.R dated 8.6.1995. Due to this incorrect

order the arrears of Rs. 11,070/- has been already paid to the Applicant vide office order dated 7.1.2015.”

It is quite strange that the Respondent no. 1 has stated that the order dated 23.4.2007 was ‘incorrect. The Respondent no. 1 was only expected to clarify the correct position, as to whether the Applicant was paid salary in accordance with this order dated 23.4.2007. It appears that he was not paid increments from 1.10.2004 to 1.4.2007. The prayer in prayer clause 9(b) has to be allowed.

As regards prayer in clause 9(c), there is no material at all on record to consider this request. It is not clear as to the basis on which this request has been made. The Applicant’s Time Bound Promotion was restored by order dated 23.4.2007. If he was not paid increments as per the order dated 24.4.1998, for the period 1.10.2004 to 1.4.2007, the same are required to be paid to him. As regards his pay fixation in the 6th Pay Commission, the Applicant has not been able to make out any case for interference by this Tribunal.

7. Having regard to the aforesaid facts and circumstances of the case, the Applicant is held entitled to be paid the salary for the month of June, 2009 minus the pension already paid to him. The Respondent no. 1

will ascertain whether the Applicant's annual increments for the period from 1.10.2004 to 1.4.2007 were released. If not, the Applicant will be paid arrears on this account within a period of 3 months from the date of this order. This Original Application is allowed accordingly with no order as to costs.

**Sd/-
(Rajiv Agarwal)
Vice-Chairman**

**Place : Mumbai
Date : 16.09.2016
Dictation taken by : A.K. Nair.**