

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO 718 OF 2024**

DISTRICT : RATNAGIRI

Shri Pandurang Shamrao Shid,)
Occ-Circle Officer at Jaigad,)
Dist-Ratnagiri.)
R/o: At Post Sagaon, Shirala,)
Dist-Sangli.)**...Applicant**

Versus

1. The State of Maharashtra)
 Through the Secretary,)
 Revenue & Forest Department))
 Mantralaya, Mumbai.)
2. The Divisional Commissioner,)
 Konkan Division,)
 Konkan Bhavan, 1st floor,)
 Navi Mumbai 400 614.)
3. The District Collector,)
 Ratnagiri.)
 New Administrative Bldg,)
 1st floor, Desk No. 103,)
 Establishment Branch,)
 Jai Stambh, Tal-Ratnagiri.)**...Respondents**

Shri K.R Jagdale, learned advocate for the Applicant.

Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents.

CORAM : Justice Mridula Bhatkar (Chairperson)
Shri Debashish Chakrabarty (Member) (A)

DATE : 29.08.2024

J U D G M E N T

1. The Applicant prays that Respondents be directed to forthwith grant promotion to the Applicant on the post of Naib Tahsildar since his juniors are promoted forthwith and there are no 'Criminal Cases' or 'Departmental Enquiries' now pending against Applicant.

2. Learned Counsel for the Applicant submitted that the Applicant was appointed as 'Talathi' on 2.5.1998 and later was promoted to post of 'Circle Officer' by Order dated 28.1.2009 of Collector, Ratnagiri.

3. Learned Counsel submitted that in the meanwhile two 'Criminal Cases' against Applicant.

(a) C.R No. 3/2013 under Sec 7, 12, 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988

(b) C.R No. 63/2013 under Section 420, 417, 167 r/w 34 of IPC 1860.

4. Learned Counsel then submitted that Applicant has since been acquitted in both Criminal Cases by (i) Order dated 5.5.2017 passed by JMFC, Dapoli, District-Raigad and (ii) Order dated 17.5.2018 passed by Special Judge, Khed, District-Pune.

5. Learned Counsel thereupon submitted that two Departmental Enquiries were also conducted against Applicant

and in first Departmental Enquiry by Order dated 25.6.2018 of District Collector, Ratnagiri, the Applicant was exonerated and in second Departmental Enquiry the Applicant was held guilty and by Order dated 14.8.2018 of Collector, Ratnagiri, with punishment of Stoppage of Increment for One Year.

6. Learned Counsel has emphasized that the Applicant has undergone the said punishment in Second Departmental Enquiry. However, in the D.P.C meeting held on 25.4.2017 for promotion to post of Naib Tahsildar, it was held that though the Applicant was acquitted in both the Criminal Cases, the decisions with regard to both Departmental Enquiries were pending and so his case was kept in 'Sealed Cover'.

7. Learned Counsel submitted that Applicant filed representation dated 25.9.2018 to Respondents to consider his case for promotion to post of 'Naib Tahsildar' as he was acquitted in both the 'Criminal Cases' and he was exonerated in one Departmental Enquiry on 25.06.2018 and in second Departmental Enquiry although he was held guilty he has already undergone the punishment of stoppage of One Increment for One Year.

8. Learned Counsel for the Applicant relied on 'Para 2(4)(b)' of G.A.D G.R dated 30.8.2018 which is pursuant to the G.A.D G.R dated 15.12.2017 and drew attention to fact that 'Para 1(4)' of G.A.D G.R dated 15.12.2017 have been revoked and in its place 'Para 2(4)(b)' has been included which is relied upon by the Applicant. The contents of 'Para 2(4)(b)' of G.A.D G.R dated 30.8.2018 is reproduced below:-

२(४)(ब): "विभागीय पदोन्नती समितीच्या दिनांकाला ज्या अधिकारी / कर्मचाऱ्यांची प्रकरणे शिक्षेच्या अंमलाखाली असल्यामुळे परिच्छेद १ (१) (ड) नुसार मोहोरबंद पाकीटामध्ये ठेवण्यात आली आहेत अशा अधिकारी / कर्मचाऱ्यांची शिक्षा निवडसूची वर्षातच संपुष्टात येत असल्यास निवडसूचीमध्ये त्यांच्याकरीता

एक पद राखून ठेवून शिक्षा संपल्यानंतर व अन्य विभागीय चौकशी प्रलंबित नसल्यास, त्यांचे मोहोरबंद पाकीट उघडून ते पदोन्नतीस पात्र ठरत असल्यास त्यांना पदोन्नती देण्यात यावी.”

The contents of 'Para 2(4)(b)' of G.A.D G.R dated 30.8.2018 is applicable to those Government Servants whose cases are kept in Sealed Cover and as they are undergoing the punishment at the time of meeting of D.P.C. In such cases if the punishment in Departmental Enquiry is coming to an end within period of one year for which the 'Select Year' is valid then One Post will have to be kept available for promotion of such Government Servants subject to fulfillment of other conditions by opening of 'Sealed Cover'. However, in present case Applicant has been given punishment by Order dated 14.8.2018 of Collector, Ratnagiri, for 'Stoppage of One Increment for One Year' which will be in effect till 01.07.2019 and goes beyond the period of 'One Year' as DPC meeting was held on 25.04.2017 to prepare the Select List. Hence, One Post of Naib Tahsildar could not have been kept available for Applicant in that Select List.

9. The D.P.C meeting in which the Sealed Cover of Applicant has been kept was held on 25.4.2017, whereas he was held guilty in the Departmental Enquiry by Order dated 14.8.2018 of Collector, Ratnagiri was to be in force till 01.07.2019 and this Para 2(4)(b) of G.R dated 30.8.2018 is not 'ipso facto' applicable to the case of Applicant. Nonetheless, the Applicant now stands acquitted in both Criminal Cases by (a) Order dated 5.5.2017 passed by JMFC, Dapoli, District-Raigad and (b) Order dated 17.5.2018 passed by Special Judge, Khed, District-Pune. Further Applicant has been exonerated in first 'Departmental Enquiry' on 25.6.2018 and also undergone punishment in second 'Departmental Enquiry' upto 01.07.2019. Hence, now there is no impediment to promote him to post of Naib Tahsildar.

10. We have gone through the Affidavit in Reply dated 12.8.2024 by Shri Rajaram N. Mhatre, Tahsildar, in the office of Tahsildar, Ratnagiri. After hearing both sides and as Applicant is acquitted in both Criminal Cases and exonerated in one Departmental Enquiry and he has undergone punishment in second Departmental Enquiry.

11. The case of the Applicant therefore needs to be expeditiously decided by holding Special D.P.C as many of his juniors have been promoted to post of 'Naib Tahsildar' we accordingly pass the following order:-

ORDER

- (a) We direct the Respondent No. 2 to hold Special D.P.C meeting within four weeks to consider the eligibility of Applicant for promotion to post of 'Naib Tahsildar'. If the Applicant is found otherwise eligible, he be promoted to the post of Naib Tahsildar.
- (b) Original Application accordingly stands disposed of.

Sd/-
(Debashish Chakrabarty)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 29.08.2024
Dictation taken by : A.K. Nair.