

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 1007 of 2023 (S.B.)

Kishor S/o Purushottam Bonde,
Aged about 58 years, retired Talathi,
R/o Plot No. 100, Near Hanuman Mandir,
Zingabai Takli, Bandhu Nagar, NAGPUR-440 001.

Applicant.

Versus

- 1) State of Maharashtra,
through its Secretary,
Revenue & Forest Department,
Mantralaya, MUMBAI, 32.
- 2) The District Collector, NAGPUR.
Civil lines NAGPUR. 440 001.

Respondents.

Shri Bharat Kulkarni, Advocate for the applicant.
Shri A.M. Khadatkhar, learned P.O. for respondents.

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

Dated :- 19/08/2024.

J U D G M E N T

Heard Shri Bharat Kulkarni, learned counsel for the
applicant and Shri A.M. Khadatkhar, learned P.O. for the respondents.

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

The applicant was appointed as a Talathi from 18/11/1987.
He has complied 12 years of service on 18/11/1999, but the
respondent no.2, the Collector, Nagpur has granted 1st time bound
promotion from 25/04/2003 from the date of passing Revenue

Qualifying Examination, subsequently 2nd benefit from 25/04/2015 and lastly 3rd benefit (24+6) granted from 25/04/2021. The entire dates are incorrect as the passing of departmental examination is not mandatory to sanction the claim of time bound promotion. Hence, the applicant has challenged the orders dated 28/02/2020, 25/11/2022 and the 1st time bound pay scale which was granted from 2003. The applicant is claiming that he is entitled to get 1st time bound promotion after completion of 12 years of service from the date of initial appointment, i.e., on 18/11/1999. Hence, he approached to this Tribunal for the following reliefs –

“ (11) (I) Direct the Respondent No.2 to grant the 1st benefit of Time Bound promotion from 18/11/1999 after 12 years continuous service instead of 25/04/2003 and subsequent 2nd & 3rd from 18/11/2011 & 18/11/2017 by revising the earlier orders, granted vide orders dated 28/02/2020 & 25/11/2022 Annexure A-1.

[ii] Direct the Respondent No.2 to modify the Impugned order and grant the benefit from 12 Years, 24 years & 30 years completion of service with the arrears of pay & allowances.

[iv] Direct the R. No.2 to revise the pension & all retiral benefits with arrears and Allow the application. Reserve to right to claim interest on delayed.

3. The O.A. is strongly opposed by the respondents by filing reply. It is submitted that the applicant was appointed on the post of Talathi on 18/11/1987 and his 12 years service come to an end on 18/11/1999 and so also he has passed Revenue Qualifying Examination on 25/26-04-2003. As per the Govt. G.R. dated

08/06/1995 for providing higher increment benefit to the Government employees, the Government has prescribed the criteria that the employee should have completed 12 years continuous service and he should be eligible by considering his qualification and competency and the employee should have passed Revenue Qualifying Examination and Divisional Examination (SSD). As per clause 2 (b) of the G.R. 08/06/1995 detailed procedure viz. seniority, qualification, passing of qualifying examination, departmental examination has been prescribed.

4. As per the Government Notification bearing no.SRV/1494/case no.863 (two)/E-7, dated 27/11/1996, Circle Officers (Entry Rules) have been prescribed and in Rule 3 (a), Talathi from among persons holding the post and having regular service of not less than three years in that cadre, according to merit, on the basis of seniority, the suitable and the person qualifying the promotion should be promoted. A qualified person in the said Rule means “a person who has passed the Revenue Qualifying Examination or for that examination a person is exempted from passing.”

5. As per the G.R. dated 20/07/2001, time bound promotion scheme introduced by G.R. dated 18/06/1995 has been superseded and Assured Progressive Scheme to the State Government employees within the service has been started and in para 2 (5) of the

said scheme “the pay scale of the promoted post being fixed or getting the senior pay scale provided that to fulfil all the prescribed qualification, eligibility, seniority, qualifying examination, departmental examination and to follow the procedure of promotion for the post of promotion.” It is submitted that the applicant has not passed the departmental examination within three years, therefore, he cannot claim for grant of time bound promotion after completion of 12 years of service i.e. on 18/11/1999. The applicant has passed the Revenue Qualifying Examination on 25/26-04-2003.

6. In para-22, it is submitted that this Tribunal has given direction in O.A.No.220/2016 to consider time bound promotion w.e.f. the date of passing of Revenue Qualifying Examination. The applicant cannot claim benefit of 1st time bound promotion after completion of 12 years service without passing Revenue Qualifying Examination. Hence, the O.A. is liable to be dismissed.

7. During the course of submission, the learned counsel for applicant has pointed out the Judgment of this Tribunal in O.A.869/2018, decided on 27/06/2023.

8. The learned counsel for applicant has submitted that after completion of 12 years of service, the applicant is entitled to get 1st time bound promotion. The respondents have not granted the same.

The passing of Revenue Qualifying Examination is not the criteria. Hence, prayed to allow the O.A.

9. The learned P.O. has submitted that the applicant has not passed the Revenue Qualifying Examination and therefore he is not entitled to get time bound promotion after completion of 12 years service from the date of initial appointment. As soon as the applicant has passed the Revenue Qualifying Examination, the respondents have granted the time bound promotion to the applicant. Therefore, the O.A. is liable to be dismissed.

10. This Tribunal has recorded its findings. Para-6,7,8 & 9 of O.A.No.869/2018 is as under –

“6. The learned counsel for the applicant has pointed out the Judgment of M.A.T., Principal Bench, Mumbai in O.A.No.1493/2009 with connected O.As., decided on 30/10/2015. From the cited decision of the M.A.T., Mumbai it is clear that passing of RQE examination is not a ground to refuse time bound promotion. In the cited Judgment, it is also held that pendency of the criminal case cannot be a ground to deny the promotion. In para-11 of the Judgment in O.A.No.1493/2009 with connected matters, the M.A.T., Mumbai has held as under –

“(11) Baviskar's case also was based on more or less the same principles. Although it would appear that the successor of 1995 G.R. dated 20.7.2001 whereby the Assured Career Progression Scheme (ACP) was introduced was also considered therein. The essence of the matter is the same. It was observed in Para 2 that a certain judgment of this Tribunal taking the view

that was ultimately taken in Baviskar's case was in fact affirmed by the Hon'ble High Court in Writ Petition No.4808/2006. From Para 4, it would appear that there also the Applicant did not clear the examination within the time limit and the number of attempts. It was held that in so far as Time Bound Promotion was concerned, the seniority had no role to play and relying upon another judgment of this Tribunal and a judgment of the Hon'ble Supreme Court in K.C. Sharma and others Vs. Union of India and others (1997) 6 SCC 721, the OA was allowed and the Applicants were held eligible to be considered for the benefit of Time Bound Promotion (ACP) from the date of completion of 12 years of service provided they had passed the departmental examination on that date and were otherwise eligible."

7. In para-13, the M.A.T., Mumbai has held in respect of RQE examination as under –

"13. It is, therefore, very clear that the principle is that for Time Bound Promotion, the period is to be counted from the date of initial appointment and even if the concerned employee did not clear the examinations within the time and attempts, etc. that might give rise to any other consequence with regard to his service conditions, but as far as Time Bound Promotion is concerned, that would be no circumstance against him."

8. The M.A.T., Mumbai in para-11 has recorded its findings that pendency of the criminal case cannot be a ground to deny the time bound promotion. The Judgment of Hon'ble High Court in Writ Petition No. 4808/2006 was quoted by the M.A.T., Mumbai. The Judgment of Hon'ble Supreme Court in the case of K.C. Sharma and others Vs. Union of India and others (1997) 6 SCC 721 was also

quoted. In para-11, it is specifically held that the passing of RQE examination cannot be a ground to deny the time bound promotion.

9. The applicant was not at fault for pendency of the criminal case. He was acquitted by the Special Court. The said Judgment was challenged before the Hon'ble High Court. The Hon'ble High Court dismissed the said appeal preferred by the State. As per the Judgment of M.A.T., Mumbai, it is clear that pendency of the criminal case cannot be a ground to deny the time bound promotion. Passing of RQE examination is also not a ground to deny the time bound promotion. The respondents have denied the claim of the applicant on the ground of pendency of the criminal case and also on the ground of not passing the RQE examination. Hence, the following order –

ORDER

(i) The O.A. is allowed.

(ii) The respondents are directed to give time bound promotion to the applicant after completion of 12 years of service from the date of his initial posting.

(iii) No order as to costs.”

11. As per the above cited findings of this Tribunal, the applicant need not to pass Revenue Qualifying Examination for getting time bound promotion. The respondents were at liberty to take necessary action, if there was any breach of service conditions. The applicant is now retired on 01/03/2022. There is nothing on record to show that any adverse C.Rs. were communicated to the applicant. Hence, the applicant is entitled to get 1st time bound promotion after

completion of 12 years of service from the date of initial appointment. The applicant was entitled to get 1st time bound promotion on 18/11/1999. Hence, the following order –

ORDER

- (i) The O.A. is allowed.
- (ii) The respondents are directed to give 1st time bound promotion from 18/11/1999 to the applicant after completion of 12 years of service from the date of his initial appointment
- (iii) The respondents are directed to give all consequential benefits to the applicant within a period of six months from the date of receipt of this order.
- (iv) No order as to costs.

Dated :- 19/08/2024.

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 : 19/08/2024.