

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 301 of 2018 (S.B.)**

Vilas Marotrao Naik,  
aged about 53 years, Occ. Service as a Senior Clerk,  
Government College of Engineering, Amravati.

**Applicant.**

**Versus**

1] State of Maharashtra, through its Secretary,  
Department of Technical Education, Mantralaya, Mumbai.

2] Director, of Technical Education,  
3 Mahapalik Marg, Maharashtra State, Mumbai-32.

3] Joint Director, Technical Education,  
Regional Office, Gadge Nagar, Amravati.

4] Principal, Government College of Engineering,  
Amravati.

5] Shri S.S.Deshpande,  
aged 43 years, Occ. Service as a Sr.Clerk in Govt. Residential  
Women's Polytechnic College, Yavatmal.

**Respondents.**

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**S/Shri R.S. Kurekar, S.M. Bhagde, Smt.G.S. Bhagde, Advs. for the  
applicant.**

**Shri A.M. Khadatkhar, learned P.O. for respondent nos.1 to 4.  
None for respondent no.5.**

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

**Dated :- 16/04/2024.**

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## **J U D G M E N T**

Heard Shri S.M. Bhagde, learned counsel for the applicant, Shri A.M. Khadatkar, learned P.O. for respondent nos.1 to 4 and none for respondent no.5.

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

The applicant came to be appointed on the post of Watchman by respondent no.3 on 02/01/1991. The service of the applicant was continued. The respondent no.5 was appointed on 11/01/1995 on the post of Hamal on compassionate ground. On 21/03/1997 the respondent no.5 was promoted on the post of Clerk. The applicant was not promoted before respondent no.5 though he is senior to respondent no.5. The applicant was promoted on 27/07/2007 on the post of Clerk-cum-Typist. The seniority list was published on 01/01/2007 in which the applicant is shown junior to the respondent no.5. In the seniority list, the applicant is wrongly shown as junior. The applicant made representation to respondent no.3 to give deemed date of promotion on the date from which respondent no.5 was promoted. The respondents / authority have not taken the cognizance of the representation. Therefore, the applicant approached to this Tribunal for the following reliefs –

*“(12) (1) allow the application and further be pleased to grant deemed date of promotion to the applicant at par with the respondent No. 5 Shri Deshpande i.e. from 21.03.1997 when the*

*respondent No. 5 Shri Deshpande was promoted on the post of Clerk, in the interest of justice;*

*(13) The applicant seeks direction against the respondents to grant deemed date of promotion at par with the respondent No. 5 Shri Deshpande i.e. from 21.03.1997 when the respondent No.5 Shri Deshpande was promoted on the post of Clerk, and therefore, there is no question of any interim order.”*

3. The O.A. is strongly opposed by the respondents. It is submitted that respondent no.5 was appointed on compassionate ground. He was appointed on Class-IV post, that time Class-III post was not available. As per the G.R. dated 29/10/2001 and the Rules framed by the Government, respondent no.5 is freshly appointed on Class-III post as per his qualification. Respondent no.5 was not promoted, but he was appointed as per the guidelines given in the Government G.R. for appointment on compassionate ground. Hence, the O.A. is liable to be dismissed.

4. During the course of submission, the learned counsel for applicant submits that respondent no.5 was subsequently appointed whereas the applicant was appointed in the year 1991. Respondent no.5 was appointed on 11/01/1995, therefore, he is junior to the applicant. The seniority list is not filed on record to show that the applicant was senior to respondent no.5. The criteria for fixing seniority are different. Not only the appointment, but the departmental examination etc. is to be considered while fixing the seniority. The

applicant has not filed any seniority list to show that he was senior to respondent no.5. The seniority list of the year 2007 shows that respondent no.5 is senior to the applicant. This seniority list is not challenged by the applicant. Now the applicant cannot say that he is senior to respondent no.5. In the seniority list dated 1/1/2007 the applicant is shown at Sr.No.46, whereas, respondent no.5 is shown at Sr.No.4. Therefore, it is clear that respondent no.5 was senior to the applicant. Hence, the contention of the applicant that respondent no.5 was junior to him is not supported by any seniority list.

5. In respect of promotion of respondent no.5 as contended by the applicant, it is clear that it was not a promotion, but it was appointment by the respondents / authority as per the Government G.R. for appointment on compassionate ground. The Government G.R. in respect of appointment on compassionate ground is very clear. The candidates who are to be appointed on compassionate ground shall be appointed as per his qualification on Class-III / Class-IV post, if the posts are available. It appears that when respondent no.5 was appointed in the year 1995 that time Class-III post was not available and therefore, he was appointed on Class-IV post. As soon as Class-III post remained vacant, then in the year 1997 respondent no.5 was appointed on Class-III post. It is not a promotion, it is an appointment as per the Government G.R. for appointment on

compassionate ground. Therefore, the applicant cannot say that respondent no.5 is promoted though he was junior to him. Hence, the following order-

**ORDER**

The O.A. is dismissed with no order as to costs.

**Dated** :- 16/04/2024.

**(Justice M.G. Giratkar)**  
**Vice Chairman.**

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.

Judgment signed on : 16/04/2024.