

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 50 of 2020 (S.B.)**

Premraj Vasudeo Lanjewar,
Aged 71 years, Occ. Retired Govt. Servant,
R/o Baba Tajuddin Lay out, Near Sugat Nagar, Nara Road,
Jaripatka, Nagpur.

Applicant.

Versus

- (1) State of Maharashtra,
through its Secretary Department of Home,
Mantralaya, Mumbai-32.
- (2) Director General of Police,
Shahid Bhagatsing Marg, Colaba, Mumbai.
- (3) Special Inspector General of Police, Nagpur Range,
Civil Lines, Nagpur.
- (4) Superintendent of Police (Rural), Civil Lines, Nagpur.

Respondents.

Shri R.V. Shiralkar, Advocate for the applicant.

Shri V.A. Kulkarni, learned P.O. for respondents.

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

Dated :- 07/05/2024.

J U D G M E N T

Heard Shri R.V. Shiralkar, learned counsel for the
applicant and Shri V.A. Kulkarni, learned P.O. for the respondents.

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

The applicant was working as a Police Sub Inspector. The applicant was due for promotion. The promotion order was issued on 17/12/2005. He was promoted on the post of Assistant Police Inspector. But he was not given actual promotion because of the pendency of criminal case against him. The applicant was acquitted by the Judicial Magistrate First Class (JMFC) on 30/09/2004. The State Government / respondents have challenged the acquittal order before the Hon'ble High Court. The revision / appeal was dismissed by the Hon'ble High Court on 13/12/2018. The applicant is retired on 31/08/2006. The Special Inspector General of Police, Nagpur (R/3) submitted proposal to the Government to give deemed date of promotion to the applicant w.e.f. 20/12/2005, but the respondents have not considered the same. The said proposal is rejected as per the order dated 26/08/2022 on the ground that the SLP is pending before the Hon'ble Supreme Court in respect of reservation.

3. The reply is filed by respondent no.2. It is submitted that as per the Rule 32 of the Maharashtra Civil Services (General Conditions of Services) Rules, 1981, the applicant is not entitled for any arrears and therefore the applicant cannot claim the deemed date of promotion as prayed.

4. It is further submitted that the proposal was considered by the respondents and it is rejected on the ground that the SLP is pending before the Hon'ble Supreme Court in respect of reservation.

5. During the course of submission, learned counsel for applicant has submitted that the applicant was already acquitted by the J.M.F.C. in the year 2004. The promotion order is dated 17/12/2005. The respondents should have given promotion to the applicant. Now the applicant is retired and therefore prayed to grant deemed date of promotion to the applicant. The learned P.O. has pointed out the Rule 32 of the Maharashtra Civil Services (General Conditions of Services) Rules, 1981 and submitted that the applicant cannot claim the arrears.

6. The Rule 32 of the Maharashtra Civil Services (General Conditions of Services) Rules, 1981 is reproduced below –

“32. How the date of promotion is determined.

The promotion of a Government servant from a lower to a higher post, his duties remaining the same, takes effect from the date on which the vacancy occurs, unless it is otherwise ordered. But when the promotion involves the assumption of a new post with enlarged responsibilities, the higher pay is admissible only from the date on which the duties of the new post are taken.

[Provided that, if deemed date is given, then that Government servant's pay shall be fixed notionally from the date of deemed

date given to him, accordingly pay shall be drawn from the date of actual holding the charge of that post.]”

7. Hence, the following order –

ORDER

(i) The O.A. is allowed.

(ii) The impugned order dated 26/08/2022 issued by respondent no.2 rejecting the proposal submitted by R-3 is hereby quashed and set aside.

(iii) The respondents are directed to give deemed date of promotion to the applicant w.e.f. 17/12/2005 and revise the pay of the applicant.

(iv) However the respondents shall not entitle for arrears of salary / pay.

(v) The applicant is not entitled for any arrears of the post of Assistant Police Inspector from 17/12/2005 till the date of his retirement.

(vi) The respondents are directed to pay the pension and pensionary benefits after revising the pay scale of the applicant on the promotional post of the applicant.

(vii) No order as to costs.

Dated :- 07/05/2024.

(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 : 07/05/2024.