

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 1028 of 2023 (S.B.)

Sanjay S/o Narayan Boche,
aged 50 years, Occ. Service,
R/o Adarsha Colony, Akola, Dist. Akola.

Applicant.

Versus

The State of Maharashtra,
Through Its Principal Secretary,
Public Works Department,
Mantralaya, Mumbai-32.

Respondents.

Shri S.P. Palshikar, Advocate for the applicant.
Shri S.A. Sainis, learned P.O. for respondent.

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

Dated :- 10/10/2024.

J U D G M E N T

Heard Shri S.P. Palshikar, learned counsel for the applicant and Shri S.A. Sainis, learned P.O. for the respondent.

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

The applicant was appointed as Assistant Engineer, Grade-II and was posted at Nagpur on 09/08/2000. The next promotion was / is of Deputy Engineer which goes by seniority-cum-merit. On 06/09/2014 seniority list was published of Assistant Engineer, Grade-II wherein the applicant's name was shown at Sr.No.749. While working at Nagpur, the applicant along with 5 others

persons faced departmental inquiry. The applicant was exonerated from the said departmental inquiry. One Shri Kurhekar was also facing departmental inquiry. He was promoted as Deputy Engineer. Juniors to the applicant like Shri Bampalwar and Tekade are promoted to the post of Deputy Engineer. They were promoted on 31/07/2017, whereas, the applicant is promoted on 17/07/2018. Therefore, the applicant has filed the present O.A. for the following reliefs –

“(8) (i) direct the respondent to grant deemed date of promotion to the applicant as of Deputy Engineer as 31/07/2017 when his junior was promoted;

ii) further be pleased to direct the respondent to show name of the applicant at Sr. No.25A in the order of promotion dated 31/07/2017 as a Deputy Engineer by granting him all consequential and monetary benefits arising there from;

3. The O.A. is strongly opposed by the respondents. In para-3.3 of the reply, it is submitted that as per Rule 19 (1) of the Maharashtra Civil Services (Conduct), Rules, 1979, the applicant was bound to submit “Asset and Liabilities Returns”, Further as per the G.R. dated 02/06/2014 the applicant ought to have filed such annual return as on 31/03/2017 before 31/05/2017. However, the applicant failed to submit the same and thereby committed misconduct. The applicant was also facing departmental inquiry. Hence, the promotion was not granted to the applicant. Hence, the O.A. is liable to be dismissed.

4. During the course of submission the learned counsel Shri S.P. Palshikar has pointed out letter dated 15/05/2017 filed on record (marked Exh-X). As per this letter, the applicant had submitted returns of asset and liability on 15/05/2017 i.e. before 31/05/2017. Hence, the objection raised by the respondents that the applicant had not filed asset and liabilities returns before 31/05/2017 is without any substance. The applicant was facing departmental inquiry along with five other employees. The applicant was exonerated in the departmental inquiry. Para-5 of the decision taken by the Government is reproduced below –

“५. आणि ज्याअर्थी, प्रस्तुत प्रकरणातील उपलब्ध दस्तावेज, चौकशी अधिकाऱ्यांचा अहवाल, अहवालाच्या अनुषंगाने अपचाऱ्यांचे निवेदन, निवेदनावरील अधीक्षक अभियंता, दक्षता व गुण नियंत्रण मंडळ, नागपूर यांचे अभिप्राय यांची तपासणी केली असता, श्री. बोचे यांचेवरील दोषारोप सिद्ध होत नसल्याचे स्पष्ट होत आहे. यास्तव, श्री. एस. एन. बोचे, सहा. अभियंता श्रेणी-२ यांना त्यांच्याविरुद्धच्या दोषारोपातून दोषमुक्त करण्याचा निर्णय शासनाने घेतला आहे.”

5. Juniors to the applicant namely Bampalwar and Tekade were promoted on 31/07/2017.

6. The learned counsel for applicant has pointed out the seniority list. The name of applicant is at sr.no.748, whereas, the name of Bampalwar is at sr.no.753. Therefore, it is clear that Shri Bampalwar was junior to the applicant. The applicant is promoted by the respondents on 17/07/2018 on the post of Deputy Engineer. The

applicant is claiming deemed date from the date on which Shri Bampalwar and Tekade were promoted i.e. from 31/07/2017.

7. There is no dispute that the applicant was senior to Shri Bampalwar. The applicant was already exonerated in the departmental inquiry. Name of applicant is shown senior to Bampalwar in the seniority list of the year 2014. But the name of applicant is not shown in the seniority list of Deputy Engineer published on 20/01/2021 because the applicant is not promoted on the said post.

8. There is no dispute that the applicant had submitted his asset and liabilities returns before the cutoff date i.e. 31/05/2017, therefore, the ground raised by the respondents that the applicant is not promoted because he had not produced asset and liability returns before 31/05/2017 is without any substance. The objection raised by the respondents is that the applicant was facing departmental inquiry. The decision taken by the Govt. cited above clearly shows that the applicant was / is exonerated in the departmental inquiry. There is no dispute that Shri Bampalwar and Tekade were juniors to the applicant. They are promoted on 31/07/2017, but the applicant is promoted on 17/07/2018. Hence, the applicant is entitled to get deemed date of promotion w.e.f. 31/07/2017. With these findings following order is passed –

ORDER

- (i) The O.A. is allowed.
- (ii) The respondents are directed to grant deemed date promotion to the applicant w.e.f. 31/07/2017.
- (iii) The respondents are directed to pay consequential benefits.
- (iv) The respondents are directed to correct the seniority list of the post of Deputy Engineer.
- (v) No order as to costs.

Dated :- 10/10/2024.

(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 Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 10/10/2024.