

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 950 of 2022 (S.B.)**

Purushottam S/o Marotrao Bodalkar,  
Aged about 62 years, Occupation- Retired,  
R/o Veer Baburao Shedmake Square, Chamorshi Road,  
Kannamwar Nagar, Gadchiroli, Tah. and District- Gadchiroli.

**Applicant.**

**Versus**

1) The State of Maharashtra,  
Through its Secretary, Revenue & Forest Department,  
Mantralaya, Mumbai-32.

2) Collector, Gadchiroli, District- Gadchiroli.

**Respondents.**

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**Shri M.R. Khan, Advocate for the applicant.**  
**Shri A.M. Khadatkhar, learned P.O. for respondents.**

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

**Dated :- 05/08/2024.**

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

Heard Shri M.R. Khan, 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 working as a Naib Tahsildar. He came  
to be retired on 31/12/2018 after attaining the age of superannuation.  
The service record of the applicant was excellent and unblemished.  
The applicant was granted 1<sup>st</sup> time bound promotion after completion  
of 12 years of service in the year 1996. After completion of 24 years of

service, the applicant was entitled to get second time bound promotion in the year 2008, but it was not granted by the respondents.

Therefore, he approached to this Tribunal for the following reliefs –

*“A) Issue an appropriate order or direction to the respondent No.2 to grant benefits of second Time Bound Promotion to the applicant, from 2008 pursuant to the Assured Progressive Scheme, in the interest of justice;*

*B) Issue an appropriate order or direction to the respondent No.2 to decide the representations made by the applicant dated 15/3/2019, 27/1/2020, 3/2/2020, 16/3/2021, 14/02/2022, in the interest of justice.”*

3. The O.A. is strongly opposed by respondent no.2 by filing reply. It is submitted that in the Departmental Promotion Committee (D.P.C.) dated 26/04/2021, the case of the applicant was considered for 2<sup>nd</sup> and 3<sup>rd</sup> time bound promotion. The D.P.C. has taken a decision that the applicant was entitled to get 2<sup>nd</sup> time bound promotion on 02/03/2008, but his ACRs were adverse therefore he was granted 2<sup>nd</sup> time bound promotion on 2/3/2014. Therefore, he is not entitled to get 3<sup>rd</sup> time bound promotion in the year 2020 because he is retired in the year 2018. There is no dispute that the respondents have not granted 2<sup>nd</sup> time bound promotion on 2/3/2008. As per the contention of the respondents that ACRs of the applicant were adverse.

4. The learned P.O. has pointed out the ACRs filed on record and submitted that ACRs of the applicant were adverse.

5. The learned counsel for applicant has submitted that those ACRs were not communicated to the applicant and therefore the respondents cannot deny the time bound promotion to the applicant. In support of his submission pointed out the Judgment of the Hon'ble Supreme Court in the case of ***Rukhsana Shaheen Khan Vs. Union of India & Ors.***, decided on 28/08/2018 and the Judgment of the Hon'ble Supreme Court in the case of ***Dev Dutt Vs. Union of India & Ors. (2008) 8 SCC,725.***

6. From the perusal of the ACRs filed on record, there is nothing to show that those ACRs were communicated to the applicant. The learned P.O. has submitted that there are signatures of the applicant on the self assessment form. It is pertinent to note that every employee is to make self assessment and used to sign on the self assessment form. Nothing is on record to show that adverse remarks were communicated to the applicant. The the Hon'ble Supreme Court in the case of ***Dev Dutt Vs. Union of India & Ors. (cited supra)*** it is held that the adverse remarks should have been communicated to the applicant. The Hon'ble Supreme Court in the case of ***Rukhsana Shaheen Khan Vs. Union of India & Ors. (cited supra)*** has held in para-1 and 2 as under –

“ (1) *The sole issue involved in this appeal is whether the uncommunicated Annual Confidential Reports (ACRS), which are adverse*

*to the appellant, should have been relied upon for the purpose of consideration of the appellant for promotion.*

*(2) In view of the decision of this Court in **Sukhdev Singh Vs. Union of India & Ors. reported in (2013) 9 SCC 566**, there cannot be any dispute on this aspect. This Court has settled the law that uncommunicated and adverse ACRS cannot be relied upon in the process.”*

7. Now it is settled law that the uncommunicated adverse remarks cannot be taken into consideration to deny the time bound promotion. There is no dispute that the applicant was entitled to get 2<sup>nd</sup> time bound promotion on 2/3/2008, but it was not granted to him on the ground that there was adverse remarks. Those remarks were not communicated to the applicant. Hence, the applicant is entitled to get 2<sup>nd</sup> time bound promotion on 2/3/2008, but he is not entitled to get 3<sup>rd</sup> time bound promotion because he is already retired in the year 2018 and 3<sup>rd</sup> time bound promotion was due in the year 2020. Hence, the following order –

### **ORDER**

(i) The O.A. is allowed.

(ii) The respondents are directed to grant 2<sup>nd</sup> time bound promotion w.e.f. 2/3/2008 and give all the consequential benefits to the applicant within a period of three months from the date of receipt of this order.

(iii) No order as to costs.

**Dated** :- 05/08/2024.

**(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 : 05/08/2024.