

**THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.151 OF 2016

DISTRICT : MUMBAI

Shri Dilip Tukaram Jagtap,)
 Having office at the Charity)
 Commissioner, 83, Annie Besant Road,)
 Worli Naka, Mumbai 400 016)
 Residing at : Room No.25, Gharkul CHS,)
 Sector 16 A, Nerul, Navi Mumbai.)

..APPLICANT

VERSUS

1. The Secretary (Finance),)
 (Accounts & Treasuries),)
 Finance Department,)
 Main Building, 4th floor,)
 Mantralaya, Mumbai 400 032)
2. The Charity Commissioner,)
 (Maharashtra State), Mumbai,)
 83, Annie Besant Road, Worli Naka,)
 Mumbai 400 018.)
3. The Director,)
 Accounts & Treasuries,)
 Maharashtra State, Govt. Barrack)
 No.15 & 16, Free Press Journal)
 Marg, Nariman Point,)
 Mumbai 400 021)

....RESPONDENTS

Shri Uday Bhosle, learned Counsel for the Applicant.

Smt. Archana B.K., learned Presenting Officer for the Respondents.

CORAM : SHRI RAJIV AGARWAL, VICE-CHAIRMAN

DATE : 24.08.2016.

J U D G M E N T

1. Heard Shri Uday Bhosle, learned Counsel for the Applicant and Smt. Archana B.K, learned Presenting Officer for the Respondents.

2. This O.A. has been filed by the Applicant seeking benefit of the judgment of this Tribunal dated 13.12.2013 in O.A.No.837/2012, as a similarly situated person.

3. Learned Counsel for the Applicant argued that the Applicant was appointed as Junior Clerk on 24.10.1983 in the office of the Respondent No.2. This appointment was not on the recommendation of the Maharashtra Public Service Commission (M.P.S.C.). Services of the Applicant and other non-M.P.S.C. employees were regularized by G.R. dated 01.12.1994 from the date of issuance of that G.R. However service before 01.12.1994 was not to be counted for seniority or other service related benefits as per the G.R. For granting Time Bound Promotion, service from the date of initial appointment was required to be counted as held by this

Tribunal in O.A.No.837/2012 by judgment dated 13.12.2013. The Applicants in the aforesaid O.A. were also employees of the present Respondent No.2. This order was made applicable to the Applicant and others by the Respondent No.2 by office order No.975 dated 12.11.2014. However, the Pay Verification Unit has taken objection that the decision of this Tribunal in aforesaid O.A. has not attained finality and various Writ Petitions are pending before Hon'ble Bombay High Court. Learned Counsel for the Applicant argued that in W.P.No.9051/2013 by judgment dated 20.04.2016, Hon'ble High Court has held that for Time Bound Promotions, service from the date of initial appointment has to be counted. Various judgment of this Tribunal taking that view have been upheld by Hon'ble High Court. Learned Counsel for the Applicant argued that the Applicant is entitled to the benefit of the judgment of this Tribunal dated 13.12.2013 in O.A.No.837 /2012, which was extended to Applicants therein as the Applicant is a similarly situated person.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that judgment of this Tribunal in O.A.No.837/ 2012 was applicable to the Applicants in that O.A. G.R. dated 08.06.1995 regarding grant of Time Bound Promotion provides that an employee is eligible to get Time Bound Promotion after completion of 12 years of regular and continuous service. The Applicant's services were regularized by G.R. dated 01.12.1994 and he is eligible for Time Bound Promotion of 12 years after that date.

5. It is seen that this Tribunal by judgment dated 13.12.2013 in O.A.No.834/2012 has held that employees in the office of the present Respondent No.2 were entitled to count service before regularization for the purpose of Time Bound Promotion in terms of G.R. dated 08.06.1995. The present Applicant and the Applicant in O.A.No.837/2012 are identically placed in terms of regularization of their services. They were non-M.P.S.C. employees, whose services were regularized by G.R. dated 01.12.1994. This Tribunal held in a number of cases, that service before regularization is to be counted for the purpose of determining eligibility for grant of Time Bound Promotion. Once the judgment of this Tribunal in the aforesaid O.A.No.837/2012 was delivered, the Respondent No.2 rightly extended benefit of Time Bound Promotion to the Applicant by office order No.975 dated 12.11.2014. The objection of the Pay Verification Unit dated 07.12.2015 regarding Pay Fixation of the applicant in terms of judgment of this Tribunal in O.A.No.837/2012 was based on the fact that many judgments of this Tribunal were challenged before Hon'ble Bombay High Court in various Writ Petitions. That objection no longer survives as Hon'ble Bombay High Court has upheld decisions of this Tribunal in Writ Petition No.9051/2013 by judgment dated 08.06.2016. The office order No.975 of 12.11.2014 does not suffer from any infirmity and the Respondents have to act accordingly.

6. Having regard to the aforesaid facts and circumstances of this case, this O.A. is allowed. The Respondents are directed to deal with the case of the Applicant in terms of judgment dated 13.12.2013 in O.A.No.837/2012 as regards extending benefit of Time Bound Promotion to the Applicant. The office order No.975 of 12.11.2014 is upheld. There will be no order as to costs.

(RAJIV AGARWAL)
VICE-CHAIRMAN

Place : Mumbai
Date : 24.08.2016
Typed by : PRK