

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO.530 OF 2024

Sandip Bhagwanrao Pawar)
Age : 42 years, Occ. Assistant Engineer,)
Gr-1, (PWD), Dist. Nanded 431 607) **...Applicant**

Versus

1) The State of Maharashtra)
Through the Secretary, Public Works)
Department, Mantralaya,)
Mumbai 400 032)

2) The Chief Engineer,)
Public Works Regional Department,)
Nanded, Bandhkam Bhawan,)
Snehnagar, Nanded 431 602)

3) The M.P.S.C.,)
Through the Secretary,)
Trishul Gold Field, Plot No.34,)
Sector-11, Opp. Sarovar Vihar,)
Belapur, CBD, Navi Mumbai 400 0614) **...Respondents**

Mr. S.S. Dere, learned Counsel for the Applicant.

Ms. K.S. Gaikwad, learned Presenting Officer for the Respondents.

CORAM : **Justice Mridula Bhatkar, Chairperson**
Mr. Debashish Chakrabarty, Member(A)

DATE : 23.09.2024

J U D G M E N T

1. Applicant seeks limited relief that his 'Probation Period' be declared as completed by 'Competent Authority' and order to that effect be issued along with all consequential Service Benefits.

2. Learned Counsel Mr. S.S. Dere has pointed out that proposal about completion of 'Probation Period' of Applicant was submitted by Superintending Engineer, P.W.D. Yavatmal on 3.7.2018 to 'Desk Officer, (Seva-1), P.W.D., Mantralaya'.
3. Learned Counsel submitted that Applicant has been in Government Service since 01.04.2016 on post of Assistant Executive Engineer (Civil), Grade-1, Group-A, in P.W.D. Therefore 'Probation Period' of Applicant must be declared as completed by 'Competent Authority' and all consequential Service Benefits including that of 'Seniority' and 'Annual Increments' etc., be granted to Applicant.
4. Learned Counsel submitted that Applicant had been appointed on post of Assistant Executive Engineer (Civil), Group-A, P.W.D based on Maharashtra Engineering Services (Civil) Group-A, Main Examination : 2013 conducted by 'M.P.S.C'.
5. Learned Counsel then relied on the 'Judgment' dated 25.07.2023 passed by this Tribunal in O.A.Nos.315, 425 and 426 of 2016, Suhas J. Wayachal Versus The State of Maharashtra & Ors.
6. Learned Counsel drew our attention to 'Paragraph 23' of the 'Judgment' of Wayachal (supra) dated 25.7.2003 whereby it had been held that 'Revised Recommendation List' dated 28.04.2016 prepared by M.P.S.C having been quashed and set aside, stands cancelled.

7. Learned Counsel further submitted that the 'Judgment' of Wayachal (supra) has bearing over case of the present Applicant who was recommended by M.P.S.C. The name of Applicant appeared at 'Serial No.6' in 'Original Recommendation List' dated 24.09.2015 for post of Assistant Executive Engineer (Civil), Group-A, P.W.D. The 'Revised Recommendation List' dated 28.04.2016 has since been set aside by 'Judgment' of Wayachal (supra) of this Tribunal dated 25.07.2023 but as per the said Revised Recommendation List dated 28.04.2016; Applicant had been pushed down to 'Serial No.33' and placed amongst recommended candidates for post of Assistant Executive Engineer (Civil), Group-A, Water Resources Department.

8. Learned Counsel has further submitted that the name of one Miss Kalyani Vilas Kalekar who belongs to 'Sports Category' was removed and therefore, she had filed O.A.No.436/2016 : Miss Kalyani Vilas Kalekar Versus the Chairman, M.P.S.C.. & Anr. The Tribunal had granted 'Interim Relief' and then O.A.No.436/2016 was allowed by 'Judgment' dated 25.07.2023. Thus, the present Applicant was again pushed up from 'Serial No.33' in 'Revised Recommendation List' for Water Resources Department back to 'Serial No.6' in 'Original Recommendation List' for Public Works Department. Applicant thus has remained in Original Recommendation List since 24.09.2015 after recruitment under Maharashtra Engineering Services (Civil) Group-A, Main Examination : 2013 for post of Assistant Executive Engineer (Civil), Group-A, P.W.D.

9. Learned P.O for Respondents admitted that it was necessary on the part of M.P.S.C. to recommend successful candidates to respective 'Administrative Departments' based on Original Recommendation List dated 24.09.2015. However, this was not done immediately by M.P.S.C. Therefore, P.W.D has still not taken any decision about declaration of completion of 'Probation Period' of Applicant based on proposal submitted by Superintending Engineer, P.W.D. Yavatmal on 3.7.2018.

10. We have gone through the 'Judgment' of Wayachal (supra) and also the 'Judgment' in case of Kalekar (supra). The PWD has not challenged the 'Judgment' dated 25.07.2023 passed O.A.Nos.315, 425 and 426 of 2016. The stand taken by PWD now is ridiculous, especially in view of the 'Judgment' dated 25.07.2023 of Kalekar (supra). By way of corollary as 'Revised Recommendation List' dated 28.04.2016 was cancelled so earlier recommendation of Applicant for appointment in the Water Resources Department in place of Miss Kalyani Vilas Kalekar also came to be set aside and thus 'Original Recommendation List' published on 24.09.2015 had to be acted upon by M.P.S.C. The name of Applicant had appeared at 'Serial No.6' in 'Open General Category' in the Original Recommendation List published by M.P.S.C on 24.09.2015. So Applicant came to be appointed to post of Assistant Executive Engineer, (Civil), Group-A, PWD.

11. The Applicant was given 'Appointment Order' by PWD on 11.03.2016 and then he joined as Assistant Executive Engineer on

01.04.2016. Applicant has since been working on post of Assistant Executive Engineer (Civil), Group-A, PWD. However, the declaration of completion of 'Probation Period' of Applicant is not yet decided by 'Competent Authority' and thus Applicant prays that it be expeditiously done on the basis of the proposal submitted by Superintendent Engineer, P.W.D. Yavatmal on 03.07.2018 wherein it is stated that his 'Probation Period' was from 01.04.2016 to 31.03.2018. As 'Revised Recommendation List' of 28.4.2016 was set aside; the 'Original Recommendation List' of 24.9.2015 had come alive and as per this Original Recommendation List of 24.9.2015 all appointments to post of Assistant Executive Engineer (Civil), Group-A including that of Applicant have since been made by P.W.D.. Other successful candidates who were recommended by M.P.S.C. as per 'Original Recommendation List' of 24.9.2015 and subsequently appointed to posts of Assistant Executive Engineer (Civil), Group-A, P.W.D., are now serving in PWD. The learned Counsel even pointed out that 'Probation Periods' of all those who had been appointed along with Applicant as per 'Original Recommendation List' of 24.9.2015 for post of Assistant Executive Engineer (Civil), Group-A, Public Works Department have been declared as be completed by the 'Competent Authority' except in case of Applicant.

12. The matter is very clear. The 'Probation Period' of Applicant which was from 01.04.2016 to 31.03.2018 i.e. of 'Two Years' should have been declared as completed by 'Competent Authority' by passing written order as per relevant rules and regulations. If the 'Competent

Authority' finds that the services rendered by any 'Probationer' is not satisfactory; the 'Competent Authority' can even extend the 'Probation Period'. However, it is not the case with the Applicant. Therefore, if at all, there are no other valid reasons or adverse remarks, then 'Probation Period' of Applicant is now required to be declared as completed by 'Competent Authority'. The 'Competent Authority' should have taken appropriate decision much earlier based on proposal of Superintending Engineer, P.W.D., Yavatmal dated 03.07.2018. We are constrained to observe that 'Competent Authority' has failed to do so; as there has been undue delay in taking appropriate decision about completion of 'Probation Period' of Applicant. Hence indulgence is required and we pass the following orders:

ORDER

- (A) O.A. is Allowed.
- (B) The 'Probation Period' of Applicant from 01.04.2016 to 31.03.2018 to be declared as completed upon observance of relevant rules and regulations by 'Competent Authority'.
- (C) 'Notification/Order' declaring the completion of 'Probation Period' of Applicant to be issued on or before 09.10.2024.
- (D) The consequential 'Service Benefits' be given to Applicant within next Two Weeks thereafter by 23.10.2024.

Sd/-
(Debashish Chakrabarty)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

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