

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.549 OF 2020

DISTRICT : MUMBAI

Sub.:- Time Bound Promotion

Shri Suresh G. Tandale.)
Age : 57 Yrs, Occu.: Inspector of Legal)
Metrology, R/o. Mathura, Plot No.271,)
N-3, CIDCO, Aurangabad – 431 001.)...**Applicant**

Versus

1. The State of Maharashtra.)
Through its Principal Secretary,)
Food & Civil Supplies & Consumer)
Protection Department, Mantralaya,)
Mumbai – 400 032.)

2. The Controller of Legal Metrology.)
M.S, Fountain Telecom Building No.1))
7th Floor, M.G. Road, Hutatma)
Statue Chowk, Fort, Mumbai – 1.)...**Respondents**

Mr. R.M. Kolge, Advocate for Applicant.

Smt. A.B. Kololgi, Presenting Officer for Respondents.

CORAM : A.P. KURHEKAR, MEMBER-J

DATE : 11.04.2023

JUDGMENT

1. The Applicant has challenged the communication dated 14.11.2019 issued by Respondent No.2 – Controller of Legal Metrology,

Mumbai whereby his request for higher pay scale for the post of Assistant Controller of Legal Metrology in the pay scale of 9300-34800 with Grade Pay 4400 is rejected.

2. Heard Shri R.M. Kolge, learned Advocate for the Applicant and Smt. A.B. Kololgi, learned Presenting Officer for the Respondents.

3. The Applicant joined service as Inspector, Legal Metrology (Lower Grade) in 1995. The Respondent No.2 by order dated 09.04.2012 granted the benefit of 1st Time Bound Promotion (TBP) on completion of 12 years' by way of non-functional promotion for the post of Inspector, Legal Metrology (Selection Grade) w.e.f. 16.08.2007. Before grant of benefit, he was in the pay scale of 9300-34800 Grade Pay 4200 in the cadre of Inspector, Legal Metrology (Lower Grade) and after benefit, he was placed in the pay scale of 9300-34800 Grade Pay 4300 for the post of Inspector, Legal Metrology (Selection Grade). He did not raise any grievance about the order dated 09.04.2012 for near about 7 years. For the first time he made representations on 07.01.2019 and 23.08.2019 claiming the benefit of pay scale for the post of Assistant Controller, Legal Metrology. His representations are rejected by communication dated 14.11.2019 stating that Recruitment Rules for the post of Inspector, Legal Metrology (Selection Grade) and for the post of Assistant Controller, Legal Metrology are different and Applicant cannot claim the benefit of next higher pay scale of Assistant Controller, Legal Metrology.

4. In view of submission, the small issue was for consideration whether Applicant is entitled to non-functional promotion for the post of Assistant Controller of Legal Metrology.

5. When specific query was raised to learned Advocate for the Applicant about Recruitment Rules prevailing at the time of appointment of the Applicant, all that, he stated that in 1995 when Applicant joined the post of Inspector, Legal Metrology (Lower Grade), no such

Recruitment Rules for higher post were in place. He has pointed out that the Recruitment Rules, 1998 for the post of Inspector, Legal Metrology (Selection Grade) were framed and notified by Notification dated 23.04.1998 and it being subsequent to the appointment of the Applicant, it has no relevance. I find no merits in his submission.

6. Even if Recruitment Rules for the post of Inspector, Legal Metrology (Selection Grade) known as "Rules of 1998" were notified on 23.04.1998, it holds the field, since it is by the said Rules, the post of Inspector, Legal Metrology (Lower Grade) falls in the zone of consideration for the post of Legal Metrology (Selection Grade). As per Rule No.3, the Inspector, Legal Metrology who worked three years continuously would be eligible for promotion to the post of Inspector, Legal Metrology (Selection Grade) subject to seniority. Suffice to say, the promotional channel to the post of Inspector, Legal Metrology (Lower Grade) to the post of Inspector, Legal Metrology (Selection Grade) is provided under 'Rules of 1998'. It is precisely for this reason in view of these Rules, the Respondent No.2 granted first benefit of TBP to the Applicant for the post of Selection Grade having completed 12 years' service in the cadre of Inspector, Legal Metrology (Lower Grade). While serving as Inspector, Legal Metrology (Lower Grade), he was in pay scale of 9300-34800 Grade Pay 4200, but after benefit, he was placed in the pay scale of 9300-34800 Grade Pay 4300. Needless to mention, the benefit of TBP is given by way of non-functional promotion by giving benefit of non-promotional post to avoid stagnation.

7. Notably, Applicant did not raise any grievance for about 7 years about grant of benefit to him for the post of Inspector, Legal Metrology (Selection Grade) and for the first time, he made representation on 07.01.2019 contending that he would have been given the benefit of TBP for the post of Assistant Controller, Legal Metrology. Be that as it may, the question is whether Applicant can claim the benefit of TBP scheme

directly for the post of Assistant Controller, Legal Metrology which is higher to the post of Inspector, Legal Metrology (Selection Grade).

8. Notably, the Government by Notification dated 26.10.1999 framed Recruitment Rules for the post of Assistant Controller, Legal Metrology Rules, 1998 which are made applicable w.e.f. 17.04.1996. As per these Rules, a person who is working on the post of Inspector, Legal Metrology (Selection Grade) continuously for three years would be eligible for promotion to the post of Assistant Controller, Legal Metrology subject to seniority. As such, the post of Assistant Controller, Legal Metrology is the next promotional post and it needs to be filled-in from eligible candidates from the cadre of Inspector, Legal Metrology (Selection Grade). It is thus explicit that the post of Assistant Controller, Legal Metrology is the next promotional post to the Inspector, Legal Metrology (Selection Grade). Whereas in the present case, admittedly, Applicant though appointed as Inspector, Legal Metrology (Lower Grade), he was given the benefit of 1st TBP Scheme for the next promotional post of Inspector, Legal Metrology (Selection Grade), but what now he is claiming the benefit of the post of Assistant Controller, Legal Metrology, which is totally different post and higher to the Inspector, Legal Metrology (Selection Grade). In other words, Applicant wants to jump-up to the post of Assistant Controller, Legal Metrology by skipping the post of Inspector, Legal Metrology (Selection Grade), which is totally impermissible and untenable. Thus, Applicant was already given the benefit of functional promotion to the post of Inspector, Legal Metrology (Selection Grade) by order dated 09.04.2012 to which he was entitled.

9. The totality of aforesaid discussion leads me to sum-up that the challenge to the impugned order holds no water and O.A. is liable to be dismissed. Hence, the order.

ORDER

The Original Application stands dismissed with no order as to costs.

Sd/-

(A.P. KURHEKAR)
Member-J

Mumbai

Date : 11.04.2023

Dictation taken by :

S.K. Wamanse.

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