

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 244/2020 (S.B.)**

1. Savita wd/o Ratirram Pendor, Age 56 Years, Occ.: Housewife.
2. Sujata D/o Ratriam Pendor, Age 29 Years, Occ.: Student.
3. Gita D/o Ratriam Pendor, Age 27 Years, Occ.: Student.
4. Nita D/o Ratriam Pendor, Age 25 Years, Occ.: Student.

D/o Ratriam Pendor, Age 25 Years,
Occ.: Student, R/o C/o Surendra Shedmake,
Ayodhya Nagar, Ward no. 15,
Chandrapur Road, Gadchiroli.

Applicants.**Versus**

- 1 State of Maharashtra,
Through Secretary,
Tribal Development Department,
Mantralaya, Madam Cama Road,
Mumbai-400 032.
- 2 The Assistant Secretary,
Tribal Development Department,
Mantralaya, Madam Cama Road,
Mumbai – 400 032.
- 3 The Additional Commissioner,
Tribal Development Department,
Office of Additional Commissioner,
Tribal Development Department, Giripeth,
Nagpur – 440 010.
- 4 Shri D. M. Hedau,
Assistant Commissioner (Administration),
Tribal Development Department,
Office of Additional Commissioner,

Tribal Development Department,
Nagpur, Giripeth, Nagpur – 440 010.

- 5 The Project Officer,
Integrated Tribal Development Project Chandrapur,
Office of Integrated Tribal Development Project Chandrapur,
Block No. 6, 1st Floor, Administrative Building,
In front of the bus stop, Collector Office,
Chandrapur, Pin Code - 442 401.

Respondents

Shri S.R.Dhambhare, Id. Advocate for the applicants.

Shri A.M.Khadatkar, Id. P.O. for the respondents.

Coram :- Hon'ble Shri M.A.Lovekar, Member (J).

JUDGMENT

Judgment is reserved on 24th Sept., 2024.

Judgment is pronounced on 27th Sept., 2024.

Heard Shri S.R.Dhambhare, Id. counsel for the applicants and
Shri A.M.Khadatkar, Id. P.O. for the Respondents.

2. Case of the applicant is as follows. The applicant was appointed as Junior Clerk on 20.11.1989. Though, by order dated 01.07.2006 (A-1) first time bound promotion was given to him erroneously w.e.f. 06.08.2005, by order dated 08.09.2011 (A-3) the error was corrected and this benefit was extended w.e.f. 20.11.2001 i.e., on completion of service of 12 years. The applicant had passed the

departmental examination on 08.08.2000 (at P. 26-A). Second time bound promotion ought to have been, therefore, given w.e.f. 20.11.2013. It was, however, not given. The applicant retired on superannuation on 30.07.2016. Hence, this Original Application to extend benefits of second time bound promotion w.e.f. 20.11.2013.

3. The applicant died during pendency of this O.A. on 12.01.2022 (at P. 58). His L.Rs. have since then prosecuted this Original Application.

4. The applicant has placed on record final seniority list of Clerk/Typist from 01.01.2013 to 01.01.2016. In this list name of the applicant is at Sr. No. 77 (at P. 87) whereas names of Shri Nakkanwar & Shri Irpate are at Sr. Nos. 83 & 89, respectively (at P. 88). By order dated 01.12.2018 (A-9) benefits of second time bound promotion were extended to them.

5. Stand of the respondents is that the applicant did not clear qualifying examination (for grant of second time bound promotion) nor did he seek exemption and hence benefits of second time bound promotion were not extendable to him.

6. In common judgment dated 26.07.2023 of this Bench in O.A. Nos. 279 & 280/2019 it is held:-

4. *During the course of submission, the learned counsel for applicants has pointed out the Judgment of this Tribunal in O.A.No.422/2016 with connected matters, decided on 18/09/2019.*

5. *This Tribunal in the above cited Judgment has held that on the ground of parity the applicants are entitled to get time bound promotion. The para-8 and 9 of the Judgment are reproduced below –*

"8. The Petitioner in Writ Petition No. No.3643/2009 (Mukund S/o Shankarlal Daima) was the Assistant Police Sub Inspector in Wireless Section of the Police Department and he joined service in the year 1980. The Petitioner cleared Class-IV examination and Class-III examination. Thereafter, he was unable to clear Class-II and Class-I examinations as per the norms fixed by the Department. In this situation, in Para-19 it is held by the Hon'ble High Court as under –

"(19) In view of aforesaid, it would be appropriate that the petitioner employed in Wireless Section of Police Department is given benefit of promotion to the next level post without insisting upon departmental or Class-I and II examination, on attaining age of 45 years by giving deemed date of promotion. Since it is stated that petitioner is no longer in service having retired on superannuation, as such, he shall be given deemed date of promotion from the date of promotion of his junior, along with all consequential benefits."

9. *In my opinion in view the above discussion, it is not possible to accept submission canvassed by the learned counsel for the applicants that it was not at all necessary for the applicants to clear the departmental examinations as per the norms fixed by the Police Department, but in view of the law laid down by the Hon'ble Bombay High Court in Writ Petition No.3643/2009, I am of the view that on ground of parity, on completion of age of 45 years, each applicant was entitled for the time bound promotion or the accrued Career Progressive as per the G.RS. issued by the Government."*

7. In view of aforesaid factual and legal position, I hold that benefits of second time bound promotion became extendable to the applicant from the date of extension of such benefits to persons junior to him, alongwith all consequential benefits. The same shall be extended. This order shall be complied with within two months from today. The O.A. is allowed in these terms with no order as to costs.

Member (J)

Dated :- 27/09/2024
aps

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 27/09/2024
and pronounced on

Uploaded on : 30/09/2024