

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO.317/2014(D.B.)

Maharashtra Rajya Sthapatya Abhiyantriki
Sahayyak Sangh, registration no. NGP 5033,
c/o Shri R.M. Ledange, Zilla Parishad Colony,
Wani, District Yavatmal,
through its General Secretary Shri R.M. Ledange.

Applicant.

Versus

1) The State of Maharashtra,
through Secretary,
Department of Water Resources,
Mantralaya, Mumbai 400 032.

Respondent.

Shri P.D.Meghe, Ld. Counsel for the applicant.
Shri S.A.Sainis, Ld. P.O. for the respondent.

**Coram:-Hon'ble Shri Justice M.G.Giratkar, Vice Chairman &
Hon'ble Shri Nitin Gadre, Member (A).**

Dated: - 21st August, 2024.

JUDGMENT

Heard Shri P.D.Meghe, learned counsel for the applicant
and Shri S.A.Sainis, learned P.O. for the respondent.

2. The case of the applicant in short is as under-

The applicant has filed this O.A. for grant of first time bound promotion to the Members of the Union (as per the list Sr.No.106). The contention of the applicant is that all the members of the Union were initially appointed on the post of Muster Clerks, Road Karkoon, Mistri Grade I and II etc.. Those posts were merged into one cadre as Civil Engineering Assistants. However, in respect of those who were working on the technical posts, it was decided to give training to them and some of the members of the Union have to undergo the period of training. The members of Union were not granted first time bound promotion after 12 years of service from their regular service in the cadre of Civil Engineering Assistants.

3. The respondent has issued Circulars dated 18.03.1998 and 18.06.1998. Those are not implemented by the concerned department. Hence, applicant has filed the present O.A. for the following reliefs-

1. Direct By issuance of appropriate writ, order or direction, direct the respondent to implement its circulars dated 18.3.1998 and 18.6.1998 which are at Annexure A- II & Annexure A-III issued by respondent State, by granting promotional pay scale of Junior Engineer to all the Civil Engineering Assistants in various Divisions in the Maharashtra State particularly to those who have completed

45 years of age by granting them exemption from the qualifying examination for the post of Junior Engineer,

(a) Costs be saddled on the respondents.

(b) Grant any other relief deemed fit in the circumstances of the case in favour of the applicant;

4. The O.A. is opposed by the respondent on the ground that the members of the applicant's Union not passed the professional examination and therefore they are / were not entitled to get first time bound promotion after completion of 12 years from the date of their regularisation on the post of Civil Engineering Assistant. Hence, the O.A. is liable to be dismissed.

5. During the course of submission, the learned counsel for the applicant has pointed out the G.Rs. dated 18.03.1998 and 18.06.1998. Those G.Rs. are reproduced below-

1. The material portion of the G.R. dated 18.03.1998 is reproduced below-

शासन निर्णय, सामान्य प्रशासन विभाग, क्रमांक एसआरव्ही 1095/प्र.क्र.1/95/ बारा, दिनांक 8 जून 1995 अन्वये शासन सेवेतील गट "क" व "ड" (वर्ग 3 व 4) मधील कर्मचाऱ्यांना पदोन्नतीच्या संधी उपलब्ध नसल्याने असलेली कुंठितता घालविण्यासाठी कालबद्ध पदोन्नतीची योजना लागू करण्यात आली आहे. सदर शासन निर्णयातील तरतूदीस अनुसरून पाटबंधारे विभागातील स्थापत्य अभियांत्रिकी सहायक संवर्गातील कर्मचाऱ्यांना त्यांची तांत्रिक सहायक पदावरील पदस्थापना झाल्याच्या दिनांकापासून 12 वर्षे सेवा झाल्यानंतर कनिष्ठ अभियंतांची वेतनश्रेणी लागू करण्यास शासन मान्यता देण्यात येत आहे.

त्यानुसार आपल्या परिमंडळांतर्गत कार्यरत स्थापत्य अभियांत्रिकी संपायकांना कालबद्ध पदोन्नतीचा लाभ देण्यात यावा.

हे पत्र वित्त विभागाच्या अनौपचारिक संदर्भ क्र. 141/सेवा-3, दिनांक 21.2.1998 च्या प्राप्त संप्रतीनुसार निर्गमित करण्यात येत आहे.

2. The material portion of the G.R. dated 18.06.1998 is reproduced below-

संदर्भाकित शासन पत्रान्वये, पाटबंधारे विभागातील स्थापत्य अभियांत्रिकी संपायक संवर्गातील कर्मचाऱ्यांना त्यांची तांत्रिक संपायक पदावरील पदस्थापना झाल्याच्या दिनांकापासून 12 वर्ष सेवा झाल्यानंतर कनिष्ठ अभियंताची वेतनश्रेणी लागू करण्यात शासन मान्यता देण्यात येत असल्याचे कळविण्यात आले आहे. तथापि, ज्या कर्मचाऱ्यांची नेमणूक कार्यव्ययी आस्थापनेवर तांत्रिक संपायक म्हणून झाली आहे. अशा कर्मचाऱ्यांची 12 वर्षांची सेवा त्यांच्या कार्यव्ययी आस्थापनेवरील नियुक्तीच्या दिनांकापासून धरण्यात यावी किंवा कसे असा मुद्दा उपस्थित झाला होता. त्या अनुषंगाने असे कळविण्यात येते की, स्थापत्य अभियांत्रिकी संपायक संवर्गातील कर्मचाऱ्यांच्या आस्थापनेचा विचार न करता त्यांच्या तांत्रिक संपायक/मिस्त्री/कारकुन इत्यादी पदावरी पदस्थापनेच्या दिनांकापासून 12 वर्ष सेवा झाल्यानंतर कालबद्ध पदोन्नती योजनेअंतर्गत कनिष्ठ अभियंताची वेतनश्रेणी लागू करण्यात शासन मान्यता देण्यात येत आहे.

हे पत्र वित्त विभागाच्या अनौपचारिक संदर्भ क्र. 549/सेवा-3 दि. 10/6/98 च्या प्राप्त संप्रतीनुसार निर्गमित करण्यात येत आहे.

6. During the course of submission, the learned counsel for the applicant has pointed out the Judgment of this Tribunal in O.A.No.803/2021 and the Judgment of the Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.6788/2013. He has

pointed out para 2 and 9 of the Judgment in Writ Petition No.6788/2013. It is reproduced below-

2. The Department of Rural Development, made applicable the time bound promotion scheme to the employees working under the Zilla Parishad with effect from 1-10-1994, by adopting a scheme framed on 18-6-1998, by the Irrigation Department of the State Government. Under the said scheme, the employees working in the post of Civil Engineering Assistant in the service of Zilla Parishad were entitled to be placed in the pay scale of Rs.5500-9000 available to the promotional post of Junior Engineer with effect from date of completion of their 12 years of continuous service in the grade in which they were working, including that of Mistri or Civil Engineering Assistant. This scheme was introduced as an incentive to the employees who remained stagnated till the date of their superannuation for want of promotional benefit.

9. In view of the above, we pass the following order.

(i) The writ petitions are allowed.

(ii) The respondent Zilla Parishad, Buldhana is directed to place all the petitioners in the pay scale of Rs.5500-9000 of Junior Engineer either with effect from 1-10-1994 or from the date of their completion of 45 years of age whichever event occurs later and to pay all the monetary benefits to them arising out of it, including the arrears of difference and ultimately, the revision in the pension.

(iii) The entire exercise be carried out by the respondent - Zilla Parishad, Buldhana within a period of three months from the date of receipt of copy of the judgment of this Court.

7. This Tribunal has held that the similarly situated employee was eligible for consideration to grant first time bound promotion / ACPS after 12 years of service from initial date of absorption / appointment i.e. from 01.01.1989. Para 11 of the Judgment of this Tribunal in O.A.No.803/2021 is reproduced below-

11. The M.A.T., Principal Bench, Mumbai has observed in the Judgment that G.R. of 1995 and 1997 both are contradictory. It is observed that so far as TBP is concerned, it is right of employee that after completion of 12 years from date of his initial appointment, he is entitled for TBP and that cannot be taken away from the employee. In para-13, it is observed that "it is, therefore, very clear that principle is that for Time Bound Promotion, the period is to be counted from the date of initial appointment and even if the concerned employee did not clear the examinations within time and attempts, etc. that might give rise to any other consequence with regard to his service conditions, but as far as Time Bound Promotion is concerned, that would be no circumstances against him."

8. The applicants / members of the Union are similarly situated employees like the employee in O.A.No.803/2021. The Government decision / G.Rs. dated 18.03.1998 and 18.06.1998 are very clear. As per these G.Rs., all the applicants / members of the Union should have been granted first time bound promotion after

completion of 12 years of service from the date of their regularisation in the respective cadre.

9. Some of the applicants / members of the Union were regularised as per the decision of the Kalelkar Award. They were brought on CRTE.

10. There is no dispute that the applicants / members of the Union were regularised in their respective cadre, but they were not granted first time bound promotion on the ground that they have not passed professional examination.

11. This Tribunal and also M.A.T., Principal Bench, Mumbai have held that passing of technical examination is not mandatory to grant first time bound promotion after completion of 12 years from the date of their initial appointment in the cadre. It is also held by this Tribunal in various O.As. that the employees are exempted from passing the departmental examination after completion of age of 45 years, as per the Rule prescribed. All the applicants / members of the Union have completed 45 years of age. Therefore, they should have been exempted, even if they have not passed any departmental examination. The stand taken by the respondent that the applicants / members of the Union were not granted first time bound promotion because they have not passed the professional examination.

12. It is already held by this Tribunal and M.A.T., Principal Bench, Mumbai that passing of Professional/SSD examination is not mandatory to grant first time bound promotion after completion of 12 years of service. All applicants / members of the Union were regularised in the cadre of Civil Engineering Assistant, Muster Clerks etc.. They are entitled to get first time bound promotion after completion of 12 years of service from the date of their regularisation in the respective cadre. They are entitled to get first time bound promotion after completion of 12 years of service as per the Government G.Rs. dated 18.03.1998, 18.06.1998. Hence, we pass the following order.

ORDER

1. The O.A. is allowed.
2. The respondent is directed to implement the Government Circular/G.Rs. dated 18.03.1998 and 18.06.1998.
3. The respondent is directed to grant first time bound promotion / ACPS to the members of applicant's Union after completion of 12 years of service from the date of their regular service in their respective cadre.

4. The respondent is directed to grant promotional pay scale to all the members of the applicant's Union and give all the benefits after completion of 12 years of service in their respective cadre.
5. The respondent is directed to pay all the financial benefits to the applicants / members of applicant's Union.
7. The respondent is directed to comply this order within a period of four months from the date of receipt of this order.
3. No order as to costs.

(NitinGadre)
Member(A)

(Justice M.G.Giratkar)
Vice Chairman

Dated – 21/08/2024.
rsm.

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

Name of Steno : Raksha Shashikant Mankawde.
Court Name : Court of Hon'ble Vice Chairman
&Hon'ble Member (A).
Judgment signed on : 21/08/2024.
and pronounced on