

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

ORIGINAL APPLICATION NO.1042 OF 2016

DISTRICT : SOLAPUR

Ms. Parveen Abdul Rashid Mujawar,)
Age 37 years, R/at Plot No.553-554, Aditya Nagar,)
Near Nirmiti Vihar, Bijapur Road, Solapur)..Applicant

Versus

1. The Commissioner of Police,)
Solapur City, Near Sadar Bazar Police Station,)
Solapur, Maharashtra)
2. The Special Inspector General of Police,)
Kolhapur Range, Tarabai Park, Kolhapur)
3. The State of Maharashtra,)
Through Principal Secretary,)
Home Department, Mantralaya, Mumbai 400032)
4. The Superintendent of Police,)
Solapur (Rural), Collector Compound,)
Near Rang Bhavan Chowk, Solapur 413005)..Respondents

Shri D.B. Khaire – Advocate for the Applicant

Smt. K.S. Gaikwad – Presenting Officer for the Respondents

CORAM : Shri Justice A.H. Joshi, Chairman

DATE : 18th January, 2018

J U D G M E N T

1. Heard Shri D.B. Khaire, learned Advocate for the Applicant and Smt. K.S. Gaikwad, learned Presenting Officer for the Respondents.

2. The applicant has filed present OA for the prayer that benefit of Assured Career Progression Scheme (ACP Scheme) which is already granted to the applicant by computing her service in the cadre of Clerk be modified and she be granted the benefit of ACP Scheme by computing her service as a constable and Clerk taken together w.e.f. 1.2.2012 and she be paid consequential benefits of fixation of pay, arrears etc.

3. The applicant's claim is based on the ratio as emerging from judgment of this Tribunal in OA No.533 of 2011 (Vinayak Shantwanrao Patole Vs. The State of Maharashtra & Ors.) decided by Aurangabad Bench of this Tribunal on 7.3.2012. The case proceeds on following admitted background.

- (i) The applicant was appointed as Women Police Constable on 1.2.2000. On applicant's request she was drafted as a Clerk in the same establishment w.e.f. 4.6.2003.
- (ii) The applicant's pay scale as a Constable and as Clerk was the same namely Rs.3050-75-3950-80-4590.
- (iii) The applicant has been granted the benefit of ACP Scheme by computing her clerical service and by excluding her tenure on employment as Constable.
- (iv) In the judgment of this Tribunal in OA No.533 of 2011 the judgments of Hon'ble Supreme Court in State of Maharashtra & Ors. Versus Uttam Vishnu Pawar Civil Appeal No.1021 of 2002, Dwijen Chandra Sarkar & Anr. Vs. Union of India & Ors. (1999) 2 SCC 119, Renu Mullick Vs. Union of India (1994) 1 SCC 373, Scientific Advisor to Raksha Mantri Vs.

V.M. Joseph (1998) 5 SCC 305, A.P. State Electricity Board Vs. R. Parthasarathi (1998) 9 SCC 425 and Union of India Vs. V.N. Bhat 2004 AIR SCW 1399 as well as judgment of Hon'ble High Court have been relied upon.

- (v) In the judgment of Hon'ble Supreme Court in CA No.1021 of 2002 relied in OA No.533 of 2011 the Government servant belonged to Telephone Operator cadre working in Mumbai Zone was transferred to Kolhapur with zero seniority as a Junior Clerk and his earlier service in different cadre was computed for the purpose of grant of Time Bound Promotion.

4. The State has opposed the relief on the ground that the benefit granted in earlier case was under the scheme of Time Bound Promotion while the new scheme is of Assured Career Progression.

5. It cannot be forgotten that the new scheme is a improvised scheme and it does not intend or tend to curtail benefits of Career Advancement and on the other hand improves the benefits. Copies of both GRs. namely 8.6.1995 and new scheme announced through GR dated 20.7.2001 are on record. Aim and object of both the schemes is the same. Therefore, this Tribunal holds that applicant is entitled to the relief sought for.

6. OA is accordingly allowed.

7. The respondents are directed:

- (a) To grant and pay to the applicant the benefit of ACP Scheme furtherance to GR dated 20.7.2001 w.e.f. 1.2.2012 and fix her pay and while granting to the applicant the benefit of ACP Scheme by computing applicant's tenure of employment from 1st date of appointment as Constable i.e. 1.2.2000 by obeying the ratio of judgments referred to in foregoing para no.3(iv) and (v).

- (b) Payment of all dues be made within 90 (ninety) days from the receipt of this judgment and order.
- (c) Parties are directed to bear own cost.

Sd/-
(A.H. Joshi, J.)
Chairman
18.1.2018

Dictation taken by: S.G. Jawalkar.

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