

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD
ORIGINAL APPLICATION NO. 271 OF 2012
DISTRICT: HINGOLI**

Anil S/o Hariharrao Sarode,
Age: 41 years, Occu: Service,
As Senior Clerk,
R/o Sidharth Colony, Hingoli,
Tq.& Dist. Hingoli.

.. APPLICANT

VERSUS

1. The State of Maharashtra,

(Copy to be served on Chief
Presenting Officer of the
Hon'ble Maharashtra Administrative
Tribunal Bench at Aurangabad)
2. The Collector,
Collectorate Office, Hingoli.
3. The Sub Divisional Officer,
Hingoli, Tq. & Dist. Hingoli.

.. RESPONDENTS

APPEARANCE : Shri- Amol Patale, learned Advocate holding for
Shri Hanumant V. Patil, learned Advocate for the
Applicant.

: Smt. Priya R. Bharaswadkar, learned Presenting
Officer for the Respondents.

CORAM : HON'BLE SHRI J.D. KULKARNI, MEMBER (J)

DATE : 22.08.2016

ORAL ORDER

Heard Shri Amol Patale, learned Advocate holding for Shri Hanumant V. Patil, learned Advocate for the Applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents.

2. In this Original Application, the applicant is claiming that the communication/letter dated 23.08.2011 issued by the respondent no. 2, be quashed and set aside. The said communication is at paper book page no. 27. Perusal of the said letter shows that the Collector, Hingoli informed the applicant about his ACRs for the period from 1.4.2004 to 24.10.2004 and 25.10.2004 to 27.01.2005. The said ACRs are of the Grade “क” (साधारण पेक्षा कमी).

3. According to the learned Advocate for the applicant, the applicant was promoted on regular basis vide order dated 2.9.2011 to the post of Senior Clerk from the post of Jr. Clerk. However, he was entitled to time bound promotion after completion of 12 years of

his service. He has also filed one application to that effect as per Exhibit-“D”.

4. Learned Advocate for the applicant has placed reliance on one G.R. issued by the Government of Maharashtra dated 1.2.1996 and as per the said G.R., the applicant should have been communicated the adverse ACRs as per letter dated 23.08.2011 immediately before 30th June of the said year of ACR.

5. Perusal of the said G.R. shows that if an employee receives adverse remarks about his ACRs, he is entitled to file appeal/review before the competent authority.

6. It seems from the record that the applicant has filed one representation on 3.9.2011 to the Collector, Hingoli, which is at paper book page no. 73 and 74 (both inclusive) (Exhibit-H). However, no decision has been taken on the said representation. It seems that the O.A. has been filed on 7.3.2012, just within six months from the date of representation.

7. The learned Presenting Officer invited my attention to paragraph nos. 3 and 4 of affidavit in reply. The said paragraphs read as under:-

***“3. As per the Government Resolution if an employee is appointed on one post and is not promoted for 12 years of his continuous service, he is entitle for getting benefit of time bound promotion. As per the service record of the applicant his service completed 12 years in the month of August 2008. While undergoing the process of giving time bound promotion to the applicant his total record was called for verification. While giving the time bound promotion to the applicant his confidential reports were inspected. When one candidate is to give time bound promotion as on date his past five year confidential reports has to be verify by the scrutiny committee. While undergoing the scrutiny of confidential reports for the last five average grade (i.e. B) Hence at that time the scrutiny committee did’nt take my decision for giving the time bound promotion to the applicant. The committee had decided to take the decision for giving the time bound promotion to the applicant in the next meeting.*”**

Also this office has communicated to the applicant about his below average confidential reports on dated 23.08.2011.

4. The applicant was given promotion on the post of Awwal Karkun on dated 2.9.2011. The committee meeting was held for regular promotions to the clerk on the post of Awwal Karkun on dated 25.08.2011. At that time applicant's five years confidential reports i.e. from year 2006-07 to 2010-2011 was considered for the giving regular promotion and his confidential reports average was B+ (i.e. over the average confidential report) hence the applicant was promoted to the cadre of Awwal Karkun."

8. Even for argument sake, it is accepted that the applicant was not considered for time bound promotion due to his adverse remarks, the fact remains that the said adverse remarks were communicated to the applicant on 23.08.2011 and therefore, the applicant could not get opportunity to file appeal. Except these ACRs, he has been promoted on regular basis in the year 2011, itself. Whether the applicant is entitled to time bound promotion or not, will be considered after review of the said ACRs?

9. In view of the aforesaid circumstances, the Original Application is partly allowed. The respondents are directed to take decision on the representation filed by the applicant dated 3.9.2011(Exhibit-H) within a period of three months from the date of this order and shall consider whether the applicant is entitled to time bound promotion or not on the basis of said representation without being influenced by any of the observations made in this Original Application.

10. With these observations, the Original Application stands disposed of with no order as to costs.

MEMBER (J)