

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 675 of 2022 (S.B.)**

Shri Shyam Dhondbaji Zalke,
Aged about 70 years,
Occ. Retired Additional Collector, (Yavatmal)
R/o Godwe Layout, Arni Taluka Arni,
District: Yavatmal.

Applicant.

Versus

- (1) State of Maharashtra,
through its Chief Secretary,
Revenue Department, Mantralaya,
Mumbai- 32.
- (2) Commissioner of Revenue,
Commissioner Office, Amravati,
District Amravati.
- (3) The Collector, Collector Office,
Yavatmal Distt. Yavatmal.
- (4) Tahsildar,
Tahsil Office Umarkhed,
Distt. Yavatmal.
- 5) Tahasildar,
Tahsil Office, Taluka Arni,
District: Yavatmal.
- (6) The Accountant General,
Maharashtra-II, Civil Lines,
Nagpur.

Respondents.

Shri J.S. Wankhede, Advocate for the applicant.
Smt. A.D. Warjekar, learned P.O. for respondents.

Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.

Dated :- 10/12/2024.

J U D G M E N T

Heard Shri J.S. Wankhede, learned counsel for applicant and Smt. A.D. Warjekar, learned P.O. for the respondents.

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

The applicant was appointed on the post of Junior Clerk on 19/01/1975. Thereafter, he was promoted on the post of Senior Clerk in the year 1986. Subsequently, in 1989 he was promoted as a Naib Tahsildar. Thereafter, he was promoted on 29/06/2000 as Tahsildar and lastly in the year 2008 he was promoted as a Deputy Collector. Respondent no.1 published the deemed date promotion of the applicant from the cadre of Tahsildar in Amravati Division vide G.R. 10/03/2005 thereby respondent no.1 declared deemed date promotion of applicant from 01/07/1996. The applicant is retired in the year 2008. The respondents have promoted Shri R.D. Kale on 16/02/2014. Shri Kale was Junior to the applicant. The applicant made several representations for granting deemed date of promotion from the date on which his junior Shri Kale was promoted, but the respondents have not granted deemed date of promotion on the ground that the C.Rs. of the year 2000-2001 are not available. Hence, the applicant approached to this Tribunal by filing the present O.A. for the following reliefs –

“(9) (i) Direct the respondents to decide the case of applicant regarding his deemed date promotion and after declaring the deemed date promotion 16/2/2004 and subsequently decide the representation dated 10/10/2017 and dated 14/03/2022 Annexure-A-14, and thereby to release the amount as per the deemed date promotion from dated 16/02/2004.

(10) By way of interim relief direct the respondents to decide the representation dated 10/10/2017 and dated 14/03/2022, Annexure-A-14, and thereby to release the amount as per the deemed date promotion from 16/02/2004.”

3. The O.A. is opposed by the respondents. It is submitted that the C.Rs. of the applicant were not available and the applicant is retired. The applicant has not filed the present O.A. within limitation. Hence, the O.A. is liable to be dismissed.

4. During the course of submission, the learned counsel for applicant has pointed out the representation made by the applicant on 03/08/2006. Thereafter, the Commissioner, Amravati forwarded proposal along with the application of applicant. Again on 24/05/2010 the Commissioner, Amravati has forwarded the representation of applicant stating that junior of the applicant namely Shri Kale was promoted on 16/02/2004. As per order dated 30/09/2010, the Government has informed the Divisional Commissioner, Amravati to submit the CRs of applicant from the year 1997-98 to 2000-01. As per

letter dated 11/02/2014 it is informed that the CRs of the year 1999-2000 and 2000-2001 are not available and they are searching for the same. It appears that thereafter also the said C.Rs. were not forwarded by the Divisional Commissioner, Amravati.

5. The applicant was not at fault for not submission of his CRs. by the superior authority. There is no dispute that junior Shri Kale was promoted on 16/02/2004, therefore, the applicant is also entitled to get deemed date of promotion of the post of Deputy Collector from the date on which his junior Shri Kale was promoted.

6. The learned P.O. has submitted that the applicant has not filed the present O.A. within limitation and therefore the O.A. is liable to be dismissed.

7. The Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.5557/2012, decided on 22/11/2012 in the case of **Sau. Kalpana W/o Dadarao Mohod Vs. the State of Maharashtra and ors.**, has held that claim of deemed date of promotion is a continuous cause of action and therefore the limitation is not applicable. Para-5 of the Judgment is reproduced below –

“(5) Perusal of the record would reveal that the claim of the petitioner before the learned Tribunal pertain to deemed date of

promotion. It can thus be seen that the cause of action available to the petitioner was continuous cause of action.”

8. In view of the Judgment of Hon’ble Bombay High Court, Bench at Nagpur in the case of ***Sau. Kalpana W/o Dadarao Mohod Vs. the State of Maharashtra and ors.***, this O.A. is within limitation because this O.A. is in respect of deemed date of promotion. The Hon’ble High Court has held that the deemed date of promotion is a continuous cause of action. There is no dispute that junior of applicant Shri Kale was promoted on 16/02/2004. The applicant was not at fault. The superior authority has not submitted the C.Rs. of the applicant. Hence, the following order –

ORDER

(i) The O.A. is allowed.

(ii) The respondents are directed to give deemed date of promotion to the applicant w.e.f. 16/02/2004 from the date on which his junior Shri Kale was promoted.

(iii) The respondents are directed to pay the financial benefits to the applicant, if he is entitled for the same.

(iv) No order as to costs.

Dated :- 10/12/2024.

**(Justice M.G. Giratkar)
Vice Chairman.**

dnk.

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

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 10/12/2024.