

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO.663/2020 WITH****CIVIL APPLICATION NO.137/2024 (D.B.)**

Bhagwat S/o Nagorao Lad,  
Aged 57 yrs.; Occ: Service,  
R/o House No. 760 B,  
Bhankheda, Nagpur-18.

**Applicant.**

**Versus**

1. State of Maharashtra,  
through its Principal Secretary,  
Public Health Department,  
10th Floor GT Hospital Campus Building,  
New Mantralaya, Fort, Mumbai-01.
2. Director of Public Health,  
Aarogya Bhavan, St. Georges Hospital Compound,  
P.D'Mello Road, CST, Mumbai-01.
3. Deputy Director of Health Services,  
Nagpur Region, Mata Kacheri Compound,  
Shradhanand Peth, Nagpur.

**Respondents**

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Shri N.D.Thombre, Ld. Counsel for the applicant.  
Shri S.A.Sainis, Ld. P.O. for the respondents.

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**Coram:-Hon'ble Shri Justice M.G.Giratkar, Vice Chairman.**  
**Dated: - 27<sup>th</sup> March, 2024.**

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### **JUDGMENT**

Heard Shri N.D.Thombre, learned counsel for the applicant and Shri S.A.Sainis, learned P.O. for the respondents.

2. The regular Division Bench is not available. The Hon'ble Chairperson, M.A.T., Principal Bench, Mumbai issued Circular No.MAT/MUM/JUD/469/2023,dated 24/04/2023. As per the direction of Hon'ble Chairperson, if both the parties have consented for final disposal, then regular matter pending before the Division Bench can be disposed off finally.

3. As per the M.A.T., Principal Bench, Mumbai office order / letter No.MAT/MUM/JUD/1350/2023, dated 21/11/2023, the Hon'ble Chairperson, M.A.T., Principal Bench, Mumbai has given direction to this Tribunal to decide the Division Bench matters if the matter is covered by the Judgments of Hon'ble Supreme Court, Hon'ble High Court and the Benches of the M.A.T. etc. Hence, the matter is heard and decided finally with the consent of learned counsel for both the parties.

4. Case of the applicant in short is as under-

The applicant was initially appointed as Junior Clerk by respondent no.3 on 26.12.1984. The applicant was promoted to the

post of Senior Clerk and thereafter on the post of Assistant Superintendent and thereafter to the post of Office Superintendent. The applicant is working on the post of Administrative Officer Class-II since 16.10.2007, next promotion is in the cadre of Chief Administrative Officer. The applicant is eligible for the same from 2010, as per Rules. The departmental enquiry was initiated against the applicant. The respondents have not promoted the applicant. Hence, he approached to this Tribunal.

5. In the reply, it is submitted by the respondents that as per G.R. issued by General Administrative Department dated 15.12.2017, even if disciplinary action is initiated against an Officer on the date of meeting of Divisional Promotion Committee and if disciplinary action is initiated against the concerned Officer before the promotion order of the Concerned Officer is issued, decision of D.P.C. should be kept in sealed envelope. According to this Rule, the decision of promotion of the applicant has been kept in a sealed envelope due to departmental enquiry is pending against him. Hence, the O.A. is liable to be dismissed.

6. During the course of submission, learned counsel for the applicant has pointed out Government Resolution dated 09.01.2024 and order of the Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.2877/2023. The Hon'ble Bombay High Court, Bench

at Nagpur has dismissed the said Writ Petition on the ground that the applicant was exonerated from charges in the departmental enquiry. The order of exoneration is passed by the Government of Maharashtra. Now, there is no any charges against the applicant as per G.Rs. dated 09.01.2024 and 22.01.2024.

7. As per the submission of learned counsel for the applicant, now there is no any enquiry pending against the applicant and there is no any criminal case against the applicant. Hence, the applicant is entitled for promotion.

8. The learned P.O. submits that promotion of the applicant will be considered in the coming D.P.C.. Hence, the following order.

**ORDER**

1. The O.A. is partly allowed.
2. The respondents are directed to open the sealed envelope in the coming D.P.C. and promote the applicant if he is eligible for the same.
4. Issue of deemed date of promotion is kept open.
5. The C.A. is also disposed of.
6. No order as to costs.

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

**Dated – 27/03/2024.**  
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.  
Judgment signed on : 27/03/2024.  
Uploaded on : 02/04/2024.

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