

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 1051/2022(D.B.)**

Dr. Ajay Tukaram Thaware,
Aged 52 yrs., Occ. Service,
R/o Teacher Colony, Ayodhya Nagar, Gadchiroli,
Tah. & Dist. Gadchiroli-442605.

Applicant.

Versus

1. State of Maharashtra,
Through its Secretary,
Department of Animal Husbandry,
Mantralaya, Mumbai-400032.
2. Commissioner of Animal Husbandry,
Maharashtra State, Aund, Pune.
3. Regional Joint Commissioner,
Animal Husbandry, Civil Lines,
Nagpur-440001.
4. District Animal Husbandry Officer,
Zilla Parishad, Gadchiroli.

Respondents.

Shri P.A.Gode, Ld. Counsel for the applicant.
Shri M.I.Khan, Ld. P.O. for the respondents.

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

Dated:- 27th August, 2024.

JUDGMENT

Heard Shri P.A.Gode, learned counsel for the applicant and Shri M.I.Khan, learned P.O. for the Respondents.

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

The applicant was appointed as Live Stock Development Officer, Grade-A, as per order dated 15.10.1994. He was posted at Jarawandi, Tahsil Etapalli, District Gadchiroli. The applicant was entitled for next promotion as Assistant Commissioner, Animal Husbandry. The applicant was not considered by the respondents for promotion on the ground that open enquiry by the Anti Corruption Department was proposed. As per direction of the General Administration Department, Mantralaya Mumbai one post of Assistant Commissioner, Animal Husbandry was directed to be kept vacant. Applicant is not promoted by the respondents. Therefore, the applicant has approached to this Tribunal for the following reliefs-

A) To direct the Respondents to include the name of the Applicant in the list of eligible candidates of Live Stock Development Officer, Grade-A, for promotion to the post of Assistant Commissioner, Animal Husbandry, by modifying the

list dated 12/09/2022 issued by Respondent No.1 and declare that, the Applicant is entitled for the promotion for the post of Assistant Commissioner, Animal Husbandry Grade-A (ANNEXURE-E) and accordingly direct the Respondents to grant promotion to the Applicant to the post of Assistant Commissioner, Animal Husbandry.

*A-1) This para added and annexed at page No. 164. kindly see,
B) Allow the Original Application.*

C) Any other relief as deemed fit in the facts and circumstances of the case may be granted.

INTERIM RELIEF:

During the pendency of original Application by way of interim relief this Hon'ble Tribunal may be pleased to direct the (K) The Respondents have committed the error in publishing the list dated 18/10/2022 without inclusion of the name of the Applicant, though he is entitled for promotion. This shows that, the Respondents have acted in violation of Article 14 of Constitution of India. The Applicant though eligible applying the criteria of seniority-cum-merit, still the name of the Applicant has not been mentioned in the list dated 18/10/2022. Hence, looking to this aspect of the matter the list dated 18/10/2022 needs to be modified including the name of the Applicant as per his seniority.

3. The O.A. is strongly opposed by the respondents by filing reply. It is submitted in paras 6 and 7 as under –

6. It is most humbly submitted that, as departmental inquiry is supposed to propose against the applicant, hence name of the applicant is not included into the list published on 12/09/2022 for the continuation of government service after completion of 50-55 years of age. However, departmental inquiry proceedings were not initiated against the applicant,

hence the Departmental Promotional Committee (DPC) was considered and shortlisted the applicant for the promotion. While, General Administration Department states that, however the applicant was found guilty in the open inquiry from the Anti-Corruption Bureau, hence he cannot be considered for promotion due to lack of fulfilment of technical requirements and excluded the applicants name from the promotional list.

7. It is submitted that. General Administration Department directed to keep 1 post vacant until the department takes immediate action to take a final decision on the applicant's case. Hence one promotional post of Assistant Commissioner, Animal Husbandry is kept vacant. In between time as per the conclusion drawn by the Enquiry Committee as mentioned above the decision is taken on the applicant's case that there is no need for an open inquiry against the applicant, which was informed to the Dy. Police Superintendent, Anti-Corruption Bureau by letter dated 12/12/2022.

4. During the course of submission, the learned counsel for the applicant has submitted that till date no any enquiry is pending against the applicant. The Anti Corruption Department also not conducted any open enquiry. Therefore, the applicant is entitled for promotion on the post of Assistant Commissioner, Animal Husbandry.

5. Heard Shri M.I.Khan, learned P.O. for the respondents. As per his submission, the open enquiry was proposed for the offences

under the Prevention of Corruption Act and therefore applicant was not promoted.

6. “Para 7 of the reply show that the decision was taken to keep one post of Assistant Commissioner, Animal Husbandry vacant as per the direction of G.A.D. In between time as per the conclusion drawn by the Enquiry Committee as mentioned above the decision is taken on the applicant’s case that there is no need for an open enquiry against the applicant which was informed to the Deputy Police Superintendent of Police Anti Corruption Bureau, by letter dated 12.12.2022.” This reply itself show that now there is no any enquiry pending against the applicant therefore there was/is no any hurdle for the respondents to promote the applicant on the post of Assistant Commissioner, if he is eligible for the said post. The respondent authority may verify the service record of the applicant i.e. in respect of C.Rs. etc.. Hence, we pass the following order-

ORDER

1. The O.A. is allowed.
2. The respondents are directed to promote the applicant on the post of Assistant Commissioner, Animal Husbandry, if he is eligible for the said post. The respondents may verify the service record of the applicant for the promotional post.

4. No order as to costs.

(Nitin Gadre)
Member(A)

(Justice M.G.Giratkar)
Vice Chairman

Dated – 27/08/2024.
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 : 27/08/2024.
and pronounced on
