

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 1052/2022(D.B.)**

Mahadeo S/O Uttam Bharsakale,
Aged about 31 years, Occ. Service,
R/o- 238, main road, Near old Hanuman Mandir,
Ganeshpur (Maharkhed) Buldhana, Dist: Buldhana.

Applicant.

Versus

1. The State of Maharashtra,
Through its Secretary,
Home Department, Mantralaya,
Mumbai, Fort Mumbai-01.
2. The Director General of Police,
Chhatrapati Shivaji Maharaj Marg,
Colaba, Mumbai-01.
3. The Superintendent of Police,
Washim, District: Washim.

Respondents.

Shri M.A.Sable, Ld. Counsel for the applicant.
Shri V.A.Kulkarni, 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 M.A.Sable, learned counsel for the applicant and Shri V.A.Kulkarni, 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 Police Sub-Inspector (P.S.I.) as per order dated 05.02.2009. He was promoted on the post of Assistant Police Inspector (A.P.I.) as per order dated 02.08.2013. Thereafter, the applicant was due for promotion on the post of Police Inspector. The name of applicant was reflected in the seniority list. He was called by the Departmental Promotion Committee (DPC) for the promotion on the post of P.S.I., but he was not promoted on the ground that one Criminal case for the offence punishable under Sections 323, 427, 504, 506 34 of I.P.C. r/w Section 3 (1) (r) (s), 3 (2) (v) (va) of Atrocities Act was pending against him. Hence, the applicant has approached to this Tribunal for the following reliefs-

A) The Hon'ble Tribunal be pleased to direct the Non-Applicants to modify the impugned promotion list dated 02.02.2022, issued by the non applicant no. 2 Annexure-A-1, and further be pleased to direct the non applicants to grant promotion to the applicant on the post of Police Inspector.

B) After modifying the said Promotion list by granting promotion to the applicant be pleased to direct the non-applicant to grant deemed date of promotion from 23.02.2021

and also direct the non-applicant to grant all consequential monetary benefits to the applicant arrived from his promotion.

C) To saddle the cost of this application on the respondents;

D) To grant any other relief which this Hon'ble Tribunal may deem fit and proper, in the interest of justice;

INTERIM ORDER, IF ANY, PRAYED FOR:-

By way of interim relief the Hon'ble Tribunal be pleased to direct the non applicants to grant ad-hoc promotion on the post of Police Inspector.

3. The respondents have filed reply. In para 3 of the reply, it is submitted that because of the pendency of criminal case against the applicant, his result of D.P.C. is kept in a sealed covered. Hence, the applicant is not promoted. Therefore, the O.A. is liable to be dismissed.

4. During the course of submission, the learned counsel for the applicant has pointed out the Judgment of this Tribunal in O.A. No.427/2023 decided on 07.12.2023 and he has also pointed out the Judgments of the Hon'ble Supreme Court in the case of **Union of India Vs. K.V.Jankiraman and Others reported in (1991)4 SCC 109 decided on 27.08.1991** and **Union of India and Others Vs. Anil Kumar Sarkar(2013) 4 SCC 161 decided on 15.03.2013.**

5. The learned P.O. has submitted that because of the pendency of Criminal case against the applicant, he is not promoted. Hence, the O.A. is liable to be dismissed.

6. The Hon'ble Supreme Court in the case of **Union of India Vs. K.V.Jankiraman and Others reported in (1991)4 SCC 109 decided on 27.08.1991** and **Union of India and Others Vs. Anil Kumar Sarkar(2013) 4 SCC 161 decided on 15.03.2013** have held that the promotion cannot be withheld because of the pendency of the departmental enquiry or criminal case. The temporary promotion can be given subject to the decision of criminal case or departmental enquiry. In the present case, the applicant was denied the promotion on the ground that criminal case was/is pending against the applicant. In view of Judgment of the Hon'ble Supreme Court, the applicant is entitled to get temporary promotion subject to the decision of criminal case pending against him. Hence, we pass the following order-

ORDER

1. The O.A. is allowed.
2. The respondents are directed to temporarily promote the applicant, if he is eligible for the promotional post by opening sealed cover of Departmental Promotion Committee (D.P.C).
3. The respondents are directed to grant deemed date of promotion on which junior of the applicant is promoted.

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
