

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 32/2024(D.B.)**

Udaram Motiram Halmare,  
Aged about 49 years R/o. 27,  
Samrudhi Nagar Takiya Ward, Bhandara.

**Applicant.**

**Versus**

1. State of Maharashtra,  
through its Secretary,  
Co-Operative Marketing & Textile Department,  
Mantralaya, Mumbai-400 032.
2. Commissioner for Co-operation &  
Registrar of Co-Operative Societies, Pune.
3. Divisional Joint Registrar  
Co-Operative Societies, Dhanwate Chambers,  
Sitabuldi, Nagpur.

**Respondents.**

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Shri G.K.Bhusari, Ld. Counsel for the applicant.  
Shri V.A.Kulkarni, Ld. P.O. for the respondents.

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

**Dated:-** 27<sup>th</sup> August, 2024.

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### **JUDGMENT**

Heard Shri G.K.Bhusari, 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 initially appointed as Co-operative Officer, Group –I as per order dated 30.04.2010. He was posted in the office of Assistant Registrar, Co-operative Societies, Taluka Tiroda, District Gondia. The applicant has been transferred in the month of May, 2014 in the Office of Assistant Registrar, Taluka Tiroda, District Gondia. The respondent has initiated departmental enquiry as per charge sheet dated 06.01.2017. In the departmental enquiry not a single charges are proved against the applicant.

3. The applicant is prosecuted for the offence punishable under Sections 7, 13(1) (d), 13(1)(a) of Prevention of Corruption Act, 1988. The special case is pending before the District and Sessions Judge, Gondia. It is submitted by the applicant that he is not promoted on the post of Assistant Registrar because of the pendency of the Criminal case. It is submitted that the juniors of the applicant are promoted. Hence, he has approached to this Tribunal for the following reliefs-

*1) issue an appropriate order or directions to promote the applicant from the cadre of Co- Operative Officer, Grade-I to the cadre of Assistant Registrar, Cooperative Societies, Group-B on temporary basis subject to outcome of pending criminal case from the date 14.07.2023 on which the junior employees were promoted, in the interest of justice;*

*11) issue an appropriate order or directions to the Respondent Authorities to hold and declare that the Applicant is entitled for promotion from the cadre of Co- Operative Officer, Grade-1 to the cadre of Assistant Registrar, Cooperative Societies, Group-B, in the interest of justice;*

*issue an appropriate order or directions to respondent authorities to grant all consequential benefits to the applicant, in the interest of justice;*

*IV) Saddle the costs of the proceedings upon the respondents;*

**8. INTERIM RELIEF: -**

*During the pendency of the present Original Application issue an appropriate order or directions to the Respondent Authorities to hold and declare that the Applicant is entitled for promotion from the cadre of Co-Operative Officer, Grade-1 to the cadre of Assistant Registrar, Cooperative Societies, Group-B, in the interest of justice;*

4. The O.A. is strongly opposed by the respondents. It is submitted that the criminal case is pending against the applicant. Therefore, the applicant is not promoted. Hence, the O.A. is liable to be dismissed.

5. During the course of submission, the learned counsel for the applicant has pointed out the Judgment in O.A.No.115/2022 decided on 29.11.2023. The learned counsel for the applicant has

pointed out the Judgment of 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.** The learned counsel for the applicant has submitted that temporary promotion can be granted subject to the decision of the criminal case.

6. The learned P.O. strongly objected the O.A.. As per his submission, applicant cannot be promoted because Criminal case is pending against him.

7. 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 promotion cannot be denied on the ground that criminal case or departmental enquiry is pending. Temporary promotion can be granted subject to the decision of the criminal case or departmental enquiry. In view of Judgment of the Hon'ble Supreme Court and the Judgment of this Tribunal in O.A.No.115/2022, we proceed to pass the following order-

### **ORDER**

1. The O.A. is allowed.

2. The respondents are directed to temporary promote the applicant on the post of Assistant Registrar Co-operative Societies, if he is eligible for the same, from the date on which junior of the applicant is promoted.
3. 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

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