

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD**

**WRIT PETITION NO. 890 OF 2011**

BASHIR AMIN PATHAN  
age 58 years, Occ. Retired,  
R/o Bazzar Tal Lane,  
Newasa, Tq. Newasa,  
Dist. Ahmednagar.

...Petitioner.

VERSUS

1. THE STATE OF MAHARASHTRA,  
through Its Secretary,  
Ministry of Revenue Department,  
Mantralaya, Mumbai – 32.  
(Copy to be served on Government  
Pleader High Court of Bombay  
Bench at Aurangabad.)

2. The District Collector,  
Collector Office,  
at Ahmednagar, Dist. Ahmednagar.

3. The Tahsildar,  
Office of Tahsil at Newasa,  
Tq. Newasa, Dist. Ahmednagar.

4. The Account Officer,  
Squad of Salary Verification,  
Nashik.

..Respondents

...  
Advocate for Petitioner : Mr. Pathan Yunas  
AGP for Respondents: Mr. K G Patil

...  
CORAM : S V GANGAPURWALA & V.K. JADHAV, JJ.  
Dated: June 12, 2015

...  
**ORAL JUDGMENT** :- (Per S.V.Gangapurwala, J.)

1. Mr. Pathan, the learned counsel for the petitioner submits that the Tribunal has partly allowed the original application filed by the petitioner to the extent of expunging the entry regarding permanent refusal of promotion to the cadre of Circle Inspector,

however, the benefit of time bound promotion which was given from 1.10.1994 was denied and instead it was directed by the Tribunal to give benefit from 3.6.1997. Learned counsel submits that the said order is not in consonance with the rules and the relevant Government Resolution. The petitioner was required to pass departmental examination within three years from the date of promotion or 31.12.1999 whichever is later and prior to that if the petitioner is exempted from passing said examination, then said time limit would not operate. According to the learned counsel the Tribunal has erroneously interpreted the Government Resolution and Rules.

2. Mr. Patil, learned Additional Government Pleader submits that Tribunal has not committed any error in passing the impugned order. The petitioner was given time bound promotion on 1.10.1994 however, was exempted from passing departmental examination from 3.6.1997. As such benefit has been rightly given from 3.6.1997.

3. We have considered the judgment delivered by the Tribunal, so also have considered the rules i.e. as notified by the respondent.

4. The rules are explicitly clear and they do not admit of any ambiguity. The petitioner was given benefit of time bound

promotion on 1.10.1994 and was exempted from passing departmental examination on 3.6.1997 before lapse of three years from the date petitioner was given time bound promotion. The petitioner is protected by the rules so also order dated 26.1.1997 more particularly clause No.5 which is reproduction of the rule.

5. In light of the above, operative part of clause Nos.ii), iii) and and iv) of paragraph No.8 stands quashed and set aside. It is held that the petitioner is entitled to the benefit of time bound promotion from 1.10.1994 and no recovery also is to be claimed from the petitioner. Order recorded in paragraph No.8 clause no. i) of the Tribunal stands confirmed. Writ Petition accordingly allowed. Rule is made absolute in above terms. No costs.

Sd/-

( V.K. JADHAV, J. )

sd/-

( S V GANGAPURWALA, J. )

...

aaa/-