

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION No. 3133/2014.

Prashant nilkanthrao Mhaiskar

VERSUS

Chief Executive Officer, Zilla Parishad, Wardha and another.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

CORAM : B.P. DHARMADHIKARI
AND A.P. BHANGALE, JJ.

DATE : FEBRUARY 27, 2015.

Heard Smt. S.W. Deshpande, learned
Counsel for the petitioner and Shri P. Thakare, learned
Counsel for respondents.

Petitioner approached the Divisional
Commissioner in Departmental Appeal No.24/2011-12,
and that appeal has been allowed on 10.01.2012. In
paragraph no.4, the Divisional Commissioner then
found that the petitioner was due and should have

been promoted on 27.02.2009 itself. However, the matter was placed back for fresh consideration before the Chief Executive Officer.

Petitioner thereafter approached the competent Authority functioning under the Persons with Disability (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and that Authority on 30.03.2013 directed the Chief Executive Officer to take decision within a period of three months. Thereafter, the petitioner has been promoted as Centre Incharge on 30.07.2013.

Prayer of petitioner is that he should have been given deemed date.

Shri P. Thakare, learned Counsel appearing for respondents submits that as the matter was pending before the Appellate Authority, the Chief Executive Officer has passed suitable orders, as and when occasion arose.

The orders show that claim of petitioner was overlooked initially on 27.02.2009. Though the Departmental Appeal No.24/2011-12 was allowed on 10.01.2012, those observations has been overlooked

by the Chief Executive Officer, therefore, the petitioner was constrained to file another appeal, that appeal was also allowed on 30.03.2013. Thus, unnecessary the petitioner was required to move another forum for ventilation of his grievance.

In this background while effecting promotion on 30.03.2013 as Centre Incharge, it was open to the Chief Executive Officer to find out whether deemed date of promotion can be given to the petitioner. That exercise has not been done. There is no explanation as to why deemed date could not have been given.

Thus, having subjected the petitioner to appeal twice before different forums, again a responsible officer like Chief Executive Officer has not discharged his duties diligently. In this situation, we allow the petition with costs of Rs. 3000/- payable by the respondents to petitioner. Respondent no.1 shall within a period of 6 weeks consider the prayer of the petitioner for grant of deemed date and pass suitable orders. If such orders are not passed by the said Authority within 6 weeks, he shall file an affidavit

explaining the reasons therefor in this disposed of matter.

Writ Petition is, thus, allowed and disposed of accordingly.

JUDGE

JUDGE

Rgd