

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

WRIT PETITION NO.6329/2015

State of Maharashtra through its Principal Secretary, Agriculture, Animal
Husbandry, Dairy Development and Fisheries Department, Mantralaya,
Mumbai – 32 and others

...Versus...

Subhash Eknath Kawalkar and others

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

Court's or Judge's orders

Mrs. P.D. Rane, AGP for petitioners
Shri Bharat Kulkarni, Advocate for respondent nos.1, 9 & 10

CORAM : SMT. VASANTI A. NAIK AND
PRASANNA B. VARALE, JJ.

DATE : 23.11.2015

By this petition, the State and its authorities challenge the order of the Maharashtra Administrative Tribunal, Nagpur allowing the original application filed by the respondents and holding that the State Government was not justified in withdrawing the second time bound promotion granted in favour of the respondents.

The respondents had joined their services in the milk scheme in the Dairy Development Department some time in the 1980's. After the State Government formulated the assured progressive scheme for granting time bound promotion to its employees, the respondents were granted the time bound promotion w.e.f. 1.10.1994 in terms of the policy dated 8.6.1995.

After completion of the period of 12 years of service from 1.10.1994, the respondents were given a second time bound promotion in pursuance of the scheme from different dates. The second time bound promotion granted to the respondents was, however, withdrawn by the State Government by the separate orders in the year 2012. The orders cancelling the second time bound promotion were challenged by the respondents before the Maharashtra Administrative Tribunal in the original application. The original application filed by the respondents is allowed by the Tribunal and it was held that the petitioners were not justified in cancelling the time bound promotions granted to the respondents on various dates after completion of the period of 12 years of continuous service from 1.10.1994. The order of the Maharashtra Administrative Tribunal is challenged in the instant petition.

On hearing the learned Counsel for the parties and on a perusal of the impugned order, it appears that the Tribunal was justified in allowing the original application filed by the respondents. It was the case of the petitioners before the Tribunal that the petitioners had granted the first time bound promotion to the respondents in the year 1988 in pursuance of the Government Resolution dated 1.1.1986. We, however, find on a reading of the Government Resolution of the year 1986 that by the said Government Resolution, the State Government had merely revised the pay of the employees working in the milk scheme. The Tribunal rightly held that the case of the petitioners that they had granted time bound promotion to the respondents three times and therefore, the time bound promotion granted to them on the third occasion was withdrawn by the orders that were challenged

before the Tribunal, was not correct. The Tribunal rightly held that the assured progressive scheme was framed by the policy of the Government in the year 1995 for the first time and hence, the petitioners could not have been granted the first time bound promotion in the year 1988. The Tribunal rightly held that the reliance placed by the petitioners on the Government Resolution revising the pay scale of the employees could not be considered as a time bound promotion. The Tribunal held that the respective respondents were granted time bound promotion by the petitioners only on two occasions firstly in the year 1995 w.e.f. 1.10.1994 and secondly in the year 2006 and 2008 after completion of 12 years of service from 1994. We find that the order of the Tribunal is just and proper and the Tribunal has rightly set aside the action on the part of the State Government of withdrawing the second time bound promotion, granted to the respondents.

Since the order of the Tribunal is just and proper, the writ petition is dismissed with no order as to costs.

JUDGE

JUDGE

Wadkar