

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

WRIT PETITION NO.6173/2016

Bhimrao s/o Baliram Kanhekar

...Versus...

The Union of India, through its Secretary, Ministry of Finance, Department of Revenue, North Wing, New Delhi – 11 and others

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

Court's or Judge's orders

Shri B.L. Meshram, Advocate for petitioner
Shri A.M. Joshi, Advocate for respondents

**CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.**

DATE : 09.12.2016

In this petition, the petitioner has made the following
prayers :-

“(i) *issue a writ of mandamus or any other writ or writs commanding the Union of India to pass appropriate corrigendum to the order dated 24.9.2009 (Annex.A) giving the deemed date of fixation of seniority, pay and grant of arrears of pay and allowances from the date of order of promotion of his juniors ;*

(ii) *quash and set aside the order of respondent no.3 dated 30.01.2015 (Annex.-H);*

(iii) quash and set aside order of Hon'ble Central Administrative Tribunal, Mumbai Circuit Bench at Nagpur, hereby rejected the contempt petition bearing No.2010/2015 vide order dated 03.09.2015 (Annex.J);

(iv) grant any other relief which this Hon'ble Court deems fit and proper and as such the order or further orders or order or directions or direction as while afford the complete relief to the present petitioner, in the interest of justice.”

Shri A.M. Joshi, the learned Counsel for the respondents raises an objection to the tenability of the writ petition. It is stated that in pursuance of the order passed by the Central Administrative Tribunal, dated 10.11.2014, that was never challenged by the petitioner earlier, the respondents were directed to reconsider the claim of the petitioner for deemed date promotion and take an appropriate decision within a time frame. It is stated that the respondents have taken a decision in the claim of the petitioner for deemed date promotion and has rejected the same vide order, dated 30.1.2015. It is stated that without challenging the said order before the Central Administrative Tribunal, the petitioner has filed the instant petition with the aforesaid prayers. It is stated that if the petitioner is aggrieved by the order passed by the respondents, rejecting the claim of the petitioner, it would be necessary for the petitioner to challenge the said order before the Central Administrative Tribunal.

We uphold the objection raised on behalf of the respondents in regard to the tenability of this writ petition. The petitioner had accepted the order of the Central Administrative Tribunal, dated 10.11.2014 and had waited for the decision of the respondents on the claim of the petitioner for deemed date promotion. After the claim of the petitioner was rejected vide order, dated 30.1.2015, the petitioner has challenged the order of the Tribunal belatedly along with the order, dated 3.9.2015 that was passed in the contempt petition before the Tribunal.

In the circumstances of the case, we decline to entertain the writ petition and dispose of the same with no order as to costs. The petitioner is, however, free to challenge the order, dated 30.1.2015 in appropriate proceedings before the Central Administrative Tribunal, if so advised.

Order accordingly. No costs.

JUDGE

JUDGE

Wadkar