

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4706 OF 2008
AND
CIVIL APPLICATION NO. 1644 OF 2017
CIVIL APPLICATION NO. 9615 OF 2010
WITH
CIVIL APPLICATION NO. 6299 OF 2015

Ramchandra Damodharrao Phadke
Age 64 years, Occ. Retired
R/o H.No.1-7-359, "Dilasa"
Vidyanagar (E), Behind Hotel
Sahyadri, Beed 431122. ..Petitioner

Versus

1. M.S.R.T.Corporation,
Central Office,
Maharashtra Vahatuk Bhavan,
Dr.Anandrao Nair Road,
Mumbai 400 008,
Through its Manager (Personnel).

2. M.S.R.T.Corporation,
Beed Division, Beed, through its
Divisional Controller. ..Respondents

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Advocate for Petitioner : Shri Mundada Vinodkumar R.
Advocate for Respondent : Shri A.B.Dhongade
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CORAM : RAVINDRA V. GHUGE, J.
Dated: February 03, 2017
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ORA JUDGMENT:-

1. By consent of the parties, this matter is heard finally. As such, all pending Civil Applications seeking listing of the matter for final hearing stand disposed off.

2. I have heard the strenuous submissions of Shri Mundada, learned Advocate for the petitioner and Shri Dhongade, learned Advocate on behalf of the respondent / Corporation.

3. A short issue has been raised for the consideration of this Court and for which purpose, the dates and events recorded as below are significant:-

(a) The petitioner was promoted as an Accountant by order dated 6.6.1981.

(b) He joined his posting at Nagpur on 10.8.1981 and marked his presence on the said date as an Accountant.

(c) He was moved to Yavatmal on 12.8.1981 and then he was posted at Pusad on 19.8.1981.

(d) He made an application on 18.9.1981 praying for his increments, which were payable to him on the lower post prior to his promotion.

(e) Circular dated 20.3.1981 mandates that a person seeking increments of the lower posts upon being promoted,

would be permitted to work on the lower post and should apply within one month from the date of the order of promotion and only then the application would be considered favourably.

(f) A fresh circular was issued on 18.4.1986, by which, such a candidate was permitted to make an application for such increments within one month from the date of joining duties on the promotional post.

(g) Regulation 58 under the Service Regulations applicable, provides that the promotion of any employee from a lower to a higher post takes effect from the date on which the employee actually takes charge of the higher post, unless otherwise directed by the competent authority.

(h) It is undisputed that the respondent / Corporation has rejected the claim of the petitioner.

(i) He preferred Complaint (ULP) No.137 of 2004, which has been dismissed by the Industrial Court by the impugned judgment dated 11.1.2008.

4. Considering the dates and events, the case of the petitioner is

apparent. Regulation 58 prescribes that the date on which the employee takes charge on the promotional post, would be the date from which his duties on the promotional post would commence. The petitioner joined the promotional post at Nagpur on 10.8.1981 and his application for seeking the benefits of increment of the lower post was filed on 18.9.1988. Considering the earlier circular dated 20.3.1981, the application of the petitioner deserves to be rejected as it was not filed within one month from the date of promotion dated 6.6.1980.

5. Even if it is presumed that he is covered by the subsequent circular dated 18.4.1986 by which, an application would be entertainable if it is filed within one month from the date of taking charge, yet the application of the petitioner is beyond one month from 10.8.1981 when he joined on the promotional post at Nagpur.

6. Considering the above, I do not find that the Industrial Court has committed any error while delivering the impugned judgment. This petition being devoid of merits is therefore, dismissed.

7. Rule is discharged.

(RAVINDRA V. GHUGE, J.)

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