

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****WRIT PETITION NO. 12546 OF 2017**

Dilip Sahadu Chaudhary

..

Petitioner

Versus

The State of Maharashtra and others

..

Respondents

Shri. Rajendra S. Deshmukh, Advocate for Petitioner.

Shri. K. N. Lokhande, A.G.P. for Respondent/State.

**CORAM : S.V. GANGAPURWALA AND
S. M. GAVHANE, JJ.****DATED : 04th September, 2018****PER COURT:**

. Mr. Deshmukh, the learned counsel for the petitioner submits that the tribunal committed an error in negating the case of the petitioner. The applicant was working as a Store Keeper. The petitioner was given the benefit of the first time bound promotional pay scale. The petitioner is given the benefit of second time bound promotion w.e.f. 01.04.2010. According to the learned counsel the said benefit ought to have been given from 01.10.2006. The petitioner retired on 31.05.2011. According to the

learned counsel the respondents failed to take into consideration the service rendered by the petitioner and the entitlement of the petitioner for second time bound promotional pay scale from 01.10.2006 in its correct perspective. The tribunal failed to consider the submissions canvassed by the petitioner in this regard. The reliance of the respondent on the adverse ACR's is improper. The same were never communicated to the petitioner. The ACR's can not be used against the petitioner. The petitioner did not get the opportunity to represent as against the said adverse ACR's.

2. Mr. Lokhande, the learned A.G.P. supports the order of the tribunal and submits that applicant was communicated about the adverse ACR's for the year 2004-2005. The applicant had filed representations also to the same. It is incorrect on the part of the applicant to say that the adverse ACR's were not communicated.

3. We have considered the submissions canvassed by the learned counsel for the respective parties. We have also gone through the judgment delivered by the tribunal.

4. The petitioner is given benefit of second time bound promotional pay scale with effect from 01.04.2010. The claim of the petitioner is for

second time bound promotional pay scale w.e.f. 01.10.2006.

5. The second time bound promotional pay scale is awarded after considering the eligibility of the person to the promotional post. The respondents have relied upon the ACR's of the petitioner for the year 2004-2005. The same is adverse. The ACR's for the year 2004-2005 was communicated to the petitioner. The petitioner filed his representation on 26.12.2005 and the report of the authority was also communicated to the petitioner on 17.05.2006. The applicants claim for review of the ACR's is rejected under letter dated 17.05.2006. The same was not challenged by the applicant prior to the filing of the original application. The original application is filed in the year 2014. The authority after considering the adverse ACR's has held that the petitioner is not eligible for the time bound promotional pay scale on 01.10.2006. However, the same benefit is given to the petitioner w.e.f. 01.04.2010. No error has been committed .

6. Writ petition, as such, is dismissed. No costs.

[S. M. GAVHANE, J.]

[S. V. GANGAPURWALA, J.]

ass/wp 12546.17