

IN THE HIGH COURT OF BOMBAY AT GOA**MISC. CIVIL APPLICATION NO. 58 OF 2021****IN****WRIT PETITION NO. 76 OF 2021 (F)****VITORINO SALVADOR COLASSO APPLICANT****VS****STATE OF GOA, THR. ITS CHIEF****SECRETARY & 4 ORS.****.... RESPONDENTS*********

Mr. Terence Sequeira, Advocate for the Applicant.

Mr. Devidas J. Pangam, Advocate General with Mr. Prashil Arolkar,
Additional Government Advocate for the Respondents.

**Coram: M.S. Sonak &
M.S. Jawalkar, JJ.**

Date: 5th July 2021.

ORAL ORDER :

Heard Mr. Terence Sequeira, the learned Counsel for the applicant and Mr. D. Pangam, the learned Advocate General, who appears along with Mr. Prashil Arolkar, the learned Additional Government Advocate for the respondents.

2. By this Civil Application, the applicant/petitioner seeks clarification of the order dated 08.02.2021 made by us, disposing of Writ Petition (Filing) No. 76/2021. Mr. Sequeira, the learned Counsel for the applicant points out that at the stage when the

Miscellaneous Civil Application was made, the petitioner's Appeal before His Excellency, the Governor of Goa, challenging the penalty of censure of the petitioner was pending, therefore, a clarification was applied for to the effect that the petitioner ought to get his promotion from retrospective effect, should His Excellency, the Governor of Goa, set aside the penalty of censure.

3. Mr. Sequeira pointed out that after this application was filed, by judgment and order dated 15.04.2021, His Excellency, the Governor of Goa, has actually set aside the penalty of censure. He relied on the office memorandum dated 06.12.2016 and the decision of the Hon'ble Supreme Court in **Union of India (UOI) & Others Vs. K.V. Jankiraman & Others, AIR 1991 SC 2010**, to submit that the petitioner should now be granted promotion from retrospective effect.

4. The learned Advocate General pointed out that the petitioner has now been promoted. The issue of retrospective promotion will possibly involve the affectation of the rights of the other Officers, who have been promoted in the meanwhile. The learned Advocate General submits that this is a case of fresh cause of action of the applicant/petitioner and therefore, no clarification is necessary in the order made by us on 08.02.2021.

5. At this stage, Mr. Sequeira, based on instructions, states that for the present, the petitioner will be satisfied if directions are issued to the respondents to dispose of the petitioner's representation dated 04.05.2021 in accordance with law. He submits that this Court may also grant the petitioner liberty to re-agitate this issue, in case the representation is not favourably considered by the respondents.

6. According to us, the last submission made by Mr. Sequeira is quite reasonable and deserves acceptance.

7. Accordingly, without going to the merits, we direct the Director of Accounts to hear the petitioner and make suitable recommendations to the Government on the petitioner's representation. The representation will have to be disposed of one way or the other as expeditiously as possible and in any case within a period of six weeks from today. The decision will have to be communicated to the petitioner within the said period. If the petitioner is aggrieved by the decision, the petitioner will have the liberty to challenge the same in accordance with law. In such challenge, the circumstance that recommendations of the retrospective promotion were not granted by this Court in its order dated 08.02.2021, which shall not come in the way of the petitioner. In fact, this circumstance need not be considered by the Director of Accounts or the Government even while considering the

petitioner's representation dated 04.05.2021. The representation is based upon subsequent development i.e. the judgment and order dated 15.04.2021 made by His Excellency, the Governor of Goa. The Director of Accounts/the Government, therefore, will have to consider the effect of this order together with the contentions of the petitioner based on office memorandum dated 06.012.2016 and the judgment of the Hon'ble Supreme Court in the case of **K.V. Jankiraman** (supra).

8. With liberty as aforesaid, this application is disposed of. There shall be no order as to costs.

9. All concerned to act on an authenticated copy of this order.

M. S. JAWALKAR, J.

M. S. SONAK, J.

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