

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4572 OF 2019

Nagnath S/o Gyanba Jadhav,
Age : 66 years, Occu : Retired
Samata Niwas in front of Civil
Court, Tq. Ausa, District – Latur

.. Petitioner

Versus

1] The State of Maharashtra,
Through : Secretary,
Revenue Department,
Mantralaya, Mumbai – 32.

2] The Commissioner,
Aurangabad Division,
Aurangabad

3] The Collector,
Latur

.. Respondents

...
Advocate for petitioner : Mr. S.D. Dhongade
AGP for the respondent – State : Mrs. R.P. Gour
...

**CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**

DATE : 30 SEPTEMBER 2022

ORAL ORDER (SANDEEP V. MARNE, J.) :

Rule. Rule is made returnable forthwith. Mrs. Gour, AGP
waives service for the respondent – State. At the joint request of the
parties, the matter is heard finally at the stage of admission.

2. By the present petition, the petitioner challenges the judgment and order dated 12-02-2019 passed by the Maharashtra Administrative Tribunal Bench Bench at Aurangabad in Original Application no. 611 of 2017.

3. In his original application, the petitioner had sought following prayers :

- “A) This original application may kindly be allowed with costs.
- B) The respondents may kindly be directed to grant the applicant deemed date of promotion as Tahsildar from 13.2.2006 the date on which employees junior to the applicant are promoted, with all consequential benefits.
- C) The respondents also kindly be directed to release one annual increment of the applicant due on 1.1.2017 and to re-fix his pay and pension with all consequential benefits.
- D) The respondents may kindly be directed to implement the order dated 17.3.2007 issued by the Govt. granting deemed date of promotion as Nayab Tahsildar to the applicant from 14.1.1998 onwards with all consequential benefits including further promotion.
- E) Any other equitable and appropriate relief to which the applicants are found due and entitled in the facts & circumstances of the case may kindly be granted in favour of the applicants.”

4. It appears that, when the Original Application was taken up for hearing, the advocate appearing for the petitioner proposed to give

up certain prayers and to press the rest of the prayers. Accordingly, the Tribunal has recorded in the impugned judgment as under :-

“8. During the course of hearing, learned Advocate for the Applicant has submitted that the Applicant is not pressing prayer clause 9 (b) and (d) regarding deemed date of promotion on the post of Tahasildar and implementation of order dated 17.3.2007. He has submitted that the Applicant is pressing only prayer **clause 9(b)** as regards release of one annual increment which was due on 1.1.2007 and re-fixation of the pay and pension.

9. Since, the Applicant has not pressed the prayer clause 9(b) and (d). The only issue for my consideration is regarding the prayer **clause 9(c)** made by the Applicant in the Application.”

Perusal of paragraphs no. 8 and 9 of the impugned judgment and order indicates that there is no clarity as to which prayer was given up and which prayer was pressed. This is because in paragraph no. 8 of the order, the Tribunal has observed that the petitioner was pressing only prayer clause 9(b) whereas in paragraph no. 9 of the order, the Tribunal has observed that it was considering the prayer clause 9(c).

5. Today, Mr. Dhongade, learned advocate appearing for the petitioner continues to press prayer for release of the promotion. The prayer for promotion was made in prayer 9(b) of the Original Application. On account of the observations made by the Tribunal in paragraphs no. 8 and 9 of the order, it is not clear as to whether prayer clause 9(b) was indeed given up or the petitioner was still continuing to press it. The Tribunal has considered and decided only the prayer for

release of the annual increment. The prayer for grant of release of promotion has neither been considered, much less decided.

6. Therefore, in the interest of justice, we deem it appropriate to set aside the impugned judgment and order dated 12-02-2019 and remand the Original Application for consideration of the same on its own merits in respect of all the prayers.

7. Writ petition is accordingly partly allowed.

8. Rule is made absolute in the above terms.

9. The parties shall approach the Tribunal on 16-11-2022. There shall be no need for the Tribunal to issue any notice to the parties.

[SANDEEP V. MARNE]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/