

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

WRIT PETITION NO.3225 OF 2007

Wasudeo S/o Ukaji Khobragade,
Aged about 51 years, Occ. Service,
R/o Rukhmini Nagar, Behind
Dr Babasaheb Amdekar College,
Khat Road, Bhandara

... Petitioner

-vs-

1. Zilla Parishad, Gondia
Through its Chief Executive Officer,
Gondia
2. Zilla Parishad, Bhandara
Through its Chief Executive Officer,
Bhandara
3. The Commissioner,
Nagpur Division, Nagpur

... Respondents

Shri A. C. Dharmadhikari, Advocate with Shri N. A. Dharmadhikari, Advocate for petitioner.

Ms M. P. Munshi, Advocate for respondent Nos.1 and 2.

Ms N. P. Mehta, Assistant Government Pleader for respondent No.3.

CORAM : A. S. CHANDURKAR AND SMT M. S. JAWALKAR JJ.

DATE : March 03, 2022

Oral Judgment : (Per: A. S. Chandurkar, J.)

The petitioner herein has challenged the order dated 28/02/2006 passed by the Chief Executive Officer, Zilla Parishad, Gondia rejecting the claim as made by the petitioner seeking a deemed date of promotion to the post of Assistant Accounts Officer. The petitioner has sought grant of 13/12/1996 as the deemed date of such promotion and prayed that he be placed accordingly in the seniority list.

2. The petitioner was appointed on the post of Junior Accounts Officer in the District Rural Development Agency on 11/10/1984. On 05/02/1998 the petitioner passed the required departmental examination and thereafter on 01/01/2000 his services were absorbed in Zilla Parishad Gondia. On completion of age of forty five years he was granted assured service promotion from 21/03/2000. Thereafter on 20/06/2003 the petitioner was promoted as Assistant Accounts Officer. For the purposes of seeking deemed date of promotion the petitioner filed an appeal under Rule 14 of the Maharashtra Zilla Parishad (Discipline and Appeal) Rules 1964. It was his case that having passed the requisite examination on 05/02/1998 he was eligible for promotion from 13/12/1996 when his junior came to be promoted. The Chief Executive Officer on 12/07/2005 found that it was necessary for the petitioner to have passed the requisite examination shortly after joining service. He however passed the said examination on 05/02/1998. It was observed that the petitioner could be granted the deemed date of promotion from 05/02/1998 and not 13/12/1996 as claimed. On that premise the appeal preferred by the petitioner came to be dismissed. Being aggrieved the petitioner has approached this Court seeking the aforesaid relief.

3. Heard Shri A. C. Dharmadhikari, learned counsel for the petitioner and Ms M. Munshi, learned counsel appearing for respondent Nos.1 and 2. On 15/02/2022 the following order came to be passed.

“After hearing the learned Counsel for the parties for sometime, the facts on record indicate that the petitioner passed the qualifying

examination for being eligible for promotion to the post of Assistant Account Officer on 05.02.1998. The Additional Commissioner while deciding the appeal preferred under Rule 14 of the Maharashtra Zilla Parishad District Services (Discipline and Appeal) Rules, 1964 has in the order dated 12.07.2005 observed that the petitioner is entitled to claim a deemed date of promotion from 05.02.1998 being the date he passed the qualifying examination. Writ Petition No. 6499/2005 challenging the aforesaid order of this Court dated 14.11.2006 granted liberty to the petitioner to claim the deemed date of promotion from 05.02.1998. Such representation has been accordingly made on 13.12.2006. In the said representation, the petitioner was claiming deemed date of promotion from 13.12.1996 on which date his junior colleague was promoted. The representation made by the petitioner has however been rejected by observing that the petitioner had passed the qualifying examination on 05.02.1998.

We find that since the petitioner had passed the qualifying examination on 05.02.1998, he is entitled to claim deemed date of promotion from that date. This is for the reason that passing of the qualifying examination is a necessary requirement for promotion.

The learned Counsel for respondent no. 1 to obtain instructions as to whether benefit of deemed promotion from 05.02.1998 has been granted to the petitioner.

*For making such statement, put up on **25.02.2022**. The matter be listed in "Order" matters."*

4. It is now submitted by the learned counsel for the respondent Nos.1 and 2 that the petitioner has been granted all benefits by fixing his deemed date of promotion to be 05/02/1998. Such finding has already been recorded by the Chief Executive Officer in the order dated 12/07/2005 while

dismissing the appeal preferred by the petitioner.

We find that the petitioner would not be entitled to claim the deemed date of promotion to be 13/12/1996 for the reason that as per Rule 5 of Appendix-11 of the Maharashtra Zilla Parishad Service Recruitment Rules, 1967, it was necessary for the petitioner to have passed the requisite examination for being promoted to the post of Junior Accounts Officer within two years from his appointment. The petitioner however passed that examination on 05/02/1998 which was after almost thirteen years of his joining service. The junior Officer who was promoted on 13/12/1996 had passed the Junior Accounts Officer's examination within stipulated period while the petitioner failed to pass that examination within the stipulated period. The petitioner having passed that examination on 05/02/1998, we find that the petitioner would be entitled to be granted the deemed date of promotion only from that date.

5. In view of aforesaid, it is held that the petitioner is entitled to be granted 05/02/1998 as deemed date of promotion to the post of Assistant Accounts Officer and not 13/12/1996 as claimed by him. By clarifying the claim of the petitioner for grant of deemed date of promotion as well as the order dated 28/02/2006 in the aforesaid manner, the writ petition is disposed of with no order as to costs. Rule accordingly.

(Smt M. S. Jawalkar, J.)

(A. S. Chandurkar, J.)