

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8494 OF 2019

Uttam Maruti Gound

....Petitioner

V/S

The State of Maharashtra & Anr.

....Respondents

...

Mr. Omkar M. Kulkarni for the Petitioner.

Mr. B.V. Samant, AGP for Respondents-State.

...

**CORAM: DHIRAJ SINGH THAKUR &
SANDEEP V. MARNE, JJ.**

DATE : JULY 20, 2023.

P.C.:

1 The grievance of the Petitioner in the present Petition is primarily regarding the rejection of his claim for deemed promotion with effect from the date when his junior was so promoted. The Original Application preferred by him before the Maharashtra Administrative Tribunal has since being dismissed by virtue of the order impugned dated 5 July 2017.

2 The case of the Petitioner is that one Ms. Surekha Sunil Gangurde who was junior to the Petitioner in the cadre of Administrative Officer was promoted with effect from 11 August 2010. It is stated that the

Petitioner ought to have been promoted from the date when the junior was so promoted in the said cadre. The denial of promotion to the Petitioner appears to have been based on the ground that the Petitioner was facing a departmental enquiry which resulted in the stoppage of his increment for the period of one year from 1st July 2010 till 30 June 2011. It is thus urged by the learned Counsel appearing for the Petitioner that if at all the Petitioner had to be denied promotion the same could not have been denied beyond 30 June 2011.

3 On a perusal of the order dated 29 April 2016 passed by the Government of Maharashtra it can be seen that the only reason for denying the promotion to the Petitioner is the factum of his punishment of stoppage of increment from 1st July 2010 to 30 June 2011. The facts as they emerge from the record also reflect that Ms. Surekha Sunil Gangurde who had earlier being given promotion on temporary basis by virtue of order dated 11 August 2010 in the cadre of the Senior Administrative Officer was conferred the benefit on substantive basis retrospectively with effect from 11 August 2010.

4 Another fact which has emerged during the course of arguments, as has been projected by the learned Counsel for the Petitioner is that the Petitioner was also facing another departmental enquiry which resulted in the order of censure against him on 16 April 2013. As to when the

departmental enquiry was initiated which ultimately resulted in the order of censure on 16 April 2013 is not before us. In the background of the aforementioned facts we are of the opinion that if at all the case of the Petitioner was not to be considered for giving effect from the date when his junior was so promoted on account of the currency of the order of the punishment of stoppage of increment, his case ought to have been considered for grant of the benefit of promotion with effect from a date when he in fact became eligible for such a promotion post the expiry of the period of stoppage of the increment i.e. with effect from 1 July 2011. We accordingly direct the Respondents to consider his case for promotion from the said date in accordance with the rules and the Government Resolutions on the subject however while considering his case the impact of the order of censure in the pendency of the proceedings be also considered. Let decision be taken in this regard within a period of three months.

5 The Writ Petition is disposed of.

SANDEEP V. MARNE, J.

DHIRAJ SINGH THAKUR, J.

SUDARSHAN
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