

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.4134 OF 2020

Shri Resham Dadaji Randive .Vs. Divisional Commissioner, Nagpur Division,
Nagpur and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri N.S. Warulkar, Advocate for the petitioner.

Ms Shamsi Haider, A.G.P. for the respondent No.1/State.

Shri J.B. Kasat, Advocate for the respondent No.2.

CORAM : ANIL S. KILOR, J.

DATED : 10/03/2023

1. Heard.

2. A prayer for grant of deemed date of promotion w.e.f. 21.04.2003 came to be rejected by the Divisional Commissioner, vide impugned order dated 03.12.2019, which is the subject matter of the present writ petition.

3. The undisputed facts in the present case, as follows :-

i) The petitioner passed the examination on 27.12.1998 which is the pre-requisite for holding post in any of the district services mentioned in Appendix "A" to the rules namely the Maharashtra Zilla Parishads District Service Post Recruitment Examination Rules, 1985.

- ii) The period prescribed for such examination was four years and three chances.
- iii) The petitioner was appointed on 17.11.1990.
- iv) He did not pass the said examination in three chances and within four years but cleared the examination on 27.12.1998.
- v) Shri S.P. Gadewar, was appointed on 13.07.1998.
- vi) He cleared the examination within four years and three chances i.e. on 29.06.2000.
- vii) Shri Gadewar, passed the said examination within stipulated period.
- viii) Accordingly, his appointment was confirmed w.e.f. 13.07.1998 i.e. the date of his initially appointment.

4. The Government Resolution dated 31.03.2017 categorically says that, any employees who does not clear the examination within stipulated period of four years and in three chances, he/she shall be considered from the next date of the passing the examination, for seniority and promotion.

5. Thus, there is a difference made in between the employees, who passes the examination within stipulated period and candidate who pass the examination after the stipulated period for determining the dates for seniority.

6. In this case, Shri S.P. Gadewar, falls in the first category i.e. the category of an employee who passed the examination within stipulated period. Whereas, the petitioner falls in second category i.e. an employee who failed to clear the examination within stipulated period of four years and three chances and passed the examination after the stipulated period.

7. As far as, first category of employees are concerned, who passes the examination within stipulated period, the date of initial appointment is to be considered for seniority. Whereas, as regards the employees in the second category, the date for seniority shall be considered from the next date of the date on which such employee passes the examination.

8. In the circumstances, if the date for seniority of Shri S.P. Gadewar, is considered as 13.07.1998 i.e. from the initial appointment and date of petitioner is considered from 27.12.1998 i.e. the date on which the petitioner passed his examination, Shri S.P. Gadewar cannot be considered as junior to the petitioner, as per Government Resolution dated 31.03.2017.

9. On the contrary, Shri Gadewar, is senior to the petitioner and therefore, his promotion to the post of Agricultural Officer w.e.f. 24.04.2003 is not relevant for

granting deemed date of promotion to the petitioner. Accordingly, the Divisional Commissioner has rightly rejected the case of the petitioner for deemed date of promotion. Hence, I have not found any merit in the present petition.

Accordingly, the writ petition is **dismissed**.

JUDGE