

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9895 OF 2024

Prakash Motiram Teli

... Petitioner

Versus

The State of Maharashtra & Ors.

... Respondents

.....

Mr. Omkar Kulkarni for the Petitioner.

Mr. N. C. Walimbe, Addl GP a/w. Mr. A. A. Alaspurkar, AGP for the
Respondent Nos.1 to 4.

CORAM : **M. S. KARNIK AND**
N. R. BORKAR, JJ.

DATED : **03rd JULY, 2025.**

ORAL ORDER (*Per M. S. Karnik, J.*)

1. Heard learned counsel for the petitioner and learned AGP for the Respondents-State.
2. A challenge in this petition is to the order dated 10.06.2024 passed by the Deputy Director, Health Services, Kolhapur. Mr. Walimbe, learned Addl Government Pleader raised an objection that against order dated 10.06.2024 the remedy of the petitioner is to approach the Maharashtra Administrative Tribunal. In ordinary course, we would have directed the petitioner to approach the Maharashtra Administrative Tribunal. However, we find it significant to note that in challenge to the order dated 30.03.2023 passed by the Tribunal in OA No. 225 of 2020, this Court in an earlier round of litigation in Writ Petition No. 368 of 2024 in paragraph Nos.6 and 7 observed thus:

“6. We also find that the order dated 26th March 2013 specifically states that promotion was to be granted temporarily to the petitioner subject to his satisfying further conditions of obtaining a requisite training certificate within a period of one year. This would indicate that unless the petitioner acquired the said eligibility, he was not liable to be promoted on a regular basis. Within a short period of his temporary promotion, the petitioner proceeded to refuse the same. This would indicate that till 28th June 2013, when he applied for withdrawal of the benefits of temporary promotion, the same had not crystallized into a regular promotion. We, therefore, find that the Tribunal was not justified in proceeding on the basis that though the petitioner was promoted temporarily, it was required to be treated as a regular promotion. The finding recorded to that effect is, therefore, found unsustainable.

7. In our view, since the impugned communication dated 22nd October 2019 has been issued only by relying upon the Government Resolution dated 12th September 2016, which has prospective operation, a re-consideration of the petitioner's request for restoration of benefits under the TBP Scheme as well as the prayer for grant of Deemed Date of Promotion deserves to be re-considered by the respondent.”

3. This Court in para 6 specifically observed that the petitioner was promoted temporarily and temporary promotion had not crystallised into a regular promotion. This Court, therefore, found that the Tribunal was not justified in proceeding on the basis that though the petitioner was promoted temporarily, it was required to be treated as regular promotion. However, we find that the Deputy Director, Health Services instead of proceeding on the footing that the temporary promotion cannot be treated

as regular promotion, passed the very same order. Thus, the purpose for which the impugned order was set aside and the matter was remitted to the Deputy Director, Health Services was completely overlooked.

4. In this view of the matter, the impugned order is set aside. We direct the Deputy Director, Health Services, Kolhapur to re-consider the matter and take a fresh decision on the petitioner's representation dated 20.05.2019 in terms of the directions of this Court in para 6 of the order dated 12.03.2024 in Writ Petition No. 368 of 2024 within the extended period of three months from today.

5. So far as rejection of the request for deemed date of promotion is concerned, it is open for the petitioner to avail appropriate remedies available in law.

6. The petition is disposed of.

(N. R. BORKAR, J.)

(M. S. KARNIK, J.)