

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 303 OF 2014

DISTRICT : AURANGABAD

Prakash Narayan Shrivastav,)
Age : 60 years, Occu. : Service (Retired),)
R/o. House No. 980, Shubhashree Colony,)
N-6, Cidco, Aurangabad.)

.... **APPLICANT**

V E R S U S

1. **The State of Maharashtra**)
2. **The Additional Sales Tax Commissioner,**
Maharashtra State, Nashik.)
3. **The Joint Sales Tax Commissioner,**)
Aurangabad Division, Near Railway Station,)
Aurangabad.)

... **RESPONDENTS**

APPEARANCE : Shri A.D. Sugdare, Counsel for Applicant.

: Shri D.M. Hange, Presenting Officer for
respondent authorities.

CORAM : **Hon'ble Justice Shri V.K. Jadhav, Member (J)**

DATE : **08.04.2024**

O R A L - O R D E R

1. Heard Shri A.D. Sugdare, learned counsel appearing for the applicant and Shri D.M. Hange, learned Presenting Officer appearing for respondent authorities.

2. The present Original Application is disposed of with the consent of both the parties at the admission stage itself.

3. By this Original Application, the applicant is seeking quashing and setting aside the letter dated 02.04.2024 issued by respondent No. 2 and further seeking declaration that the applicant is eligible for grant of deemed date of promotion as on 26.08.2008, when his junior was promoted on the post of Clerk.

4. In this context, the applicant has specifically pleaded in the present Original Application that the applicant belongs to Other Backward Class. He was appointed as Peon in the office respondent No. 3 by order dated 03.10.1984. It is the specific case of the applicant that though the applicant belongs to OBC category, he was appointed against vacancy available from Open category. In the backdrop of these facts though the applicant came to be retried on 31.07.2012, it is his specific case that his junior has been granted promotion prior to him and the applicant was given promotion on the post of Clerk by order dated 05.02.2011 and his junior was given promotion in the year 2008.

5. Learned Presenting Officer has placed on record a copy of judgment and order passed by this Tribunal in O.A. No.

406/2015, dated 18.07.2018. Learned P.O. submits that the said O.A. was filed by the present applicant himself by raising similar grounds with almost same prayers. By order dated 18.07.2018, the Division Bench of this Tribunal has dismissed the said O.A. No. 406 of 2015 without any order as to costs. Learned P.O. submits that there is no reason to entertain the present Original Application for the same cause of action, for the same reliefs and on the same grounds. Thus, the Original Application is liable to be dismissed.

6. On perusal of the judgment and order passed in O.A. No. 406/2015, dated 18.07.2018 by the Division Bench of this Tribunal, it appears that though the reliefs claimed by the applicant are in respect of grant of second benefit under Assured Career Progression Scheme, however the applicant had pleaded the same facts in the present Original Application. Learned Division Bench of this Tribunal has recorded the submissions of the applicant in para No. 2 of the O.A. No. 406/2015. The applicant herein had submitted in the said O.A. that he belongs to OBC category and passed SSC in 1974. He was appointed as a Peon on 30.10.1984 as recommended by Social Welfare Department. The applicant states that though he belongs to OBC

but he was appointed against a clear vacancy from Open category.

7. In the backdrop of these factual aspects as pleaded by the applicant in the aforesaid O.A. No. 406/2015, the Division Bench of this Tribunal in para No. 3 has made the following observations and dismissed the said Original Application :-

“3. In our view, it is not correct that the Applicant was not required to submit the Caste Verification Certificate in fact his promotion was also illegal due to inadvertent mistake as his appointment was made against roster point meant for OBC and the Applicant was aware of the fact that it was essential to submit Caste Verification Certificate. The original application is required to be dismissed. Since the applicant is now retired, we do not propose to take strict view. Hence, the following order :-

ORDER

Original Application is dismissed without any order as to costs.”

8. It is thus clear that by filing the present Original Application the applicant is requested to consider again his claim from Open category, though he belongs to OBC category. In the aforesaid para No. 3 this Tribunal has specifically observed that the Applicant was not required to submit the Caste Validity Certificate in fact his promotion was also illegal due to

inadvertent mistake as his appointment was made against roaster point meant for OBC and the Applicant was aware of the fact that it was essential to submit Caste Verification Certificate. It further appears that the learned Division Bench has further observed that since the applicant is now retired, the Bench does not propose to take strict view.

9. In view of above, there is no reason to entertain the present Original Application on the same point and on the same grounds. Hence, the following order :-

O R D E R

- (i) Original Application stands dismissed.
- (ii) In the circumstances, there shall be no order as to costs.
- (iii) Original Application is accordingly disposed of.

PLACE : Aurangabad.

DATE : 08.04.2024

(Justice V.K. Jadhav)

Member (J)

KPB S.B. O.A. No. 303 of 2014 VKJ Deemed date of Promotion