



**J U D G M E N T****{Delivered on 24<sup>th</sup> day of November, 2016}**

1. The applicant Shri Baburao Sakharam Labhanage belongs to Vanjari caste, which comes into Nomadic Tribe category and joined the service as a Police Constable on 17.2.1978. On 10.10.2013 the applicant was selected as Police Sub Inspector (for short P.S.I.) and in the promotion list his sr. No. was 469. On 26.5.2014, the res. no. 2 asked the applicant to produce his caste validity certificate. The applicant filed number of representations on 31.5.2014, 2.7.2014, 9.5.2015 requesting the respondents to give him posting as he was as P.S.I. and also to relieve him as per the promotion order. The applicant also submitted that only two months are left for his retirement on superannuation and, therefore, his posting on promotion to the post of P.S.I. is necessary.

2. In the meantime the applicant was given ad-hoc promotion on 20.2.2015 for the period of 11 months and vide corrigendum dated 31.12.2014 the said ad-hoc promotion was converted into a regular promotion. The name of the applicant was at sr. No. 469 in the said corrigendum.

3. The applicant submitted his caste validity certificate on 26.5.2014 to the respondent no. 2, however, he was not given deemed date of

promotion. The applicant has, therefore, prayed that the respondents be directed to give him deemed date of promotion as P.S.I. from 10.10.2013 on which the date applicant was promoted and he shall be given all consequential benefits.

4. The res. no. 2 the Superintendent of Police, Jalna has filed his affidavit in reply and submitted that the applicant has submitted caste validity certificate in the month of July, 2014 i. e. after a lapse of 9 months from the date of order of promotion. The said certificate was necessary on the date of issuance of the promotion order. The res. no. 2, therefore, informed the Director General of Police regarding non submission of the caste validity certificate by the applicant.

5. The res. no. 3 the Special Inspector General of Police, Aurangabad has also filed affidavit in reply. It is stated that the applicant has committed breach of the promotion order dated 10.10.2013, since he has not submitted the caste validity certificate. Considering the fact that the applicant was due for retirement, the respondents have taken action of promotion of the applicant. As per the guidelines issued in the letter dated 16.3.2015, temporary promotion was given to the applicant for 2 months. The caste validity certificate is condition precedent and it was compulsory for the purpose of promotion

and the employees are not entitled for the promotion, if they did not submit the caste validity certificate.

6. Heard Shri Shri S.D. Dhongde, learned Counsel for the Applicants and Shri S.K. Shirse, learned Presenting Officer for the Respondents. I have also perused the application, affidavit, affidavit in replies filed by the respective respondents and various documents placed on record.

7. The material point to be considered in this O.A. is whether the applicant is entitled for deemed date of promotion of the post of P.S.I. from 10.10.2013 as claimed by him ?

8. The impugned order of promotion vide which the applicant along with number of Officers were promoted to the post of P.S.I. is 20.2.2015. The applicant's name is at sr. No. 469 therein and his date of posting is shown as Aurangabad Region. It is seen that the said list comprised of 1907 candidates. In view of the said selection, the impugned order dated 10.10.2013 has been issued for promotion of various Officers including the applicant. The said order is at paper book pages 14 to 16. In condition no. 3 of the said order it was mentioned as under :-

*“३. उपरोक्त आदेशातील मागासवर्गीय पोलीस कर्मचा-यांच्या बाबतीत ज्यांची जात वैधता प्रमाणपत्र पडताळणी झाली नसेल त्यांना पदोन्नती न देता त्याबाबतचा अहवाल या कार्यालयास सादर करावा.”*

9. It seems that, since the applicant has not submitted the caste validity certificate, his case was reported accordingly and correspondence in this regard is at paper book page 27.

10. However, subsequently the applicant was temporarily promoted for 2 months only vide order dated 11.9.2014 considering the exigencies of the administration and thereafter the said appointment has been made permanent.

11. According to the learned Advocate for the applicant, the applicant should have been made permanent from the date of order of promotion dated 10.10.2013, however, it seems that the applicant has not submitted the caste validity certificate and though the caste validity certificate bears the date 2.1.2014, the same has been submitted by the applicant in the office in the month of July, 2014. The applicant is claiming deemed date of promotion from the date of order i. e. 10.10.2013 and the same cannot be accepted as the applicant has not produced the caste validity certificate. The applicant's claim, however, can be considered from the date of submission of caste validity

certificate before the appropriate authority. In view thereof, I pass following order :-

**ORDER**

- (i) The O.A. no. 546/2015 is partly allowed.
  
- (ii) The respondents are directed to grant deemed date of promotion to the applicant of the post of P.S.I. from the date of producing the caste validity certificate and also to grant him all consequential benefits accordingly.

There shall be no order as to costs.

**MEMBER (J)**

ARJ OA NO. 546-2015 JDK (DEEMED DATE)