

**Civil Application No. 102/2018 in O.A.No.97/2018 and  
Review Application No.06/2018 in O.A.No.97/2018.**

**Coram: Shri J.D. Kulkarni,  
Vice-Chairman (J) and  
Shree Bhagwan, Member(A)**

**Dated : 2<sup>nd</sup> May 2018.**

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Shri D.T. Shinde, the Ld. Adv. for the applicants in C.A.102/2018.  
Shri M.D. Lonkar, Adv. holding for Shri S. Sanyal, the learned  
counsel for the applicants in Rev. Appln. No.06/2018.  
Shri S.A. Deo, the learned C.P.O. for the respondents.

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**Order**

**Per:-Vice-Chairman (J)**

Heard Shri D.T. Shinde, the learned counsel for the applicants and Shri S.A. Deo, the learned C.P.O. for the respondents in Civil Application No. 102/2018 and Shri M.D. Lonkar, Adv. holding for Shri S. Sanyal, the learned counsel for the applicants and Shri S.A. Deo, the learned C.P.O. for the respondents in Review Application No. 06/2018

2. The applicants in this O.A. have claimed that the Government Circular dated 25.10.2017 issued by respondent No.1 which is a provisional seniority list-cum-gradation list of Tehsildar cadre for the period from 1.1.2004 to 31.12.2010 be declared as absolutely illegal, erroneous, arbitrary, discriminatory and bias, since it is not showing the names of the applicants at appropriate places in the said list. It is prayed that the said list be quashed and similarly

letter dated 16.1.2018 issued by respondent No.1 whereby the respondent No.1 has called for information of Tehsildars' cadre / post working in the Divisions of respondent Nos. 2 to 7 on the ground that the such action is illegal, erroneous, arbitrary and discriminatory. It is also claimed that the directions be issued to the respondent No.1 to decide the objections-cum-representations filed by the applicants against the proposed seniority list.

3. In the O.A., on 6.3.2018, this Tribunal was pleased to observe that the prayer of the applicants is premature, as the list published vide circular dated 25.10.2017 is a provisional seniority list and the same has not become final. In the said order, the learned C.P.O. was directed to take instructions as to what is the status of objection taken by the applicants and within how many days objection will be considered.

4. On instructions, the learned C.P.O. stated that the issue of reservation in promotion is pending before the Hon'ble Apex Court and it cannot be said as to within how many days the seniority list will be finalized and objection will be decided. However, it is an admitted fact that, no promotion orders will be issued unless and until the seniority list is finalized.

5. Review Application is filed whereby the applicant in the Review Application are claiming that the sentence in para 4 fo the order dated 6.3.2018 “a) if it is an admitted fact that no promotion order will be issued unless and until seniority list is finalized”, be reviewed. Since because of that sentence, promotion process has been on-hold.

6. The learned C.P.O. has filed this C.A. No.102/2002 whereby he has requested to recall / modify the order dated 6.3.2018 passed by this Tribunal and to grant permission to respondent No.1 to effect the order of promotion of 51 officers on the post of Deputy Collectors purely on *ad hoc* basis, subject to finalization of seniority list.

7. It is stated that the issue as to whether the reservation policy is applicable for promotion to the Government servants, pending before the Hon’ble Apex Court and the Hon’ble Apex Court vide order dated 15.11.2017 has referred the said issue to the Constitutional Bench. It is stated that there is dearth of Deputy Collectors and vacancies are hampering day to day administration of Government and as such it is necessary to issue promotion orders to the Deputy Collectors purely on *ad hoc* basis to streamline the working of Government. Because of the observations made by this

Tribunal, “admittedly, no promotion orders will be issued unless and until the seniority list is finalized”, the respondent No.1 is unable to issue promotion orders to the officers.

8. The learned C.P.O. submits that the applicants in this case have challenged the provisional seniority list, as according to them, their names are not placed at a proper place in the seniority list of Tehsildars and their objections have not been decided. As already stated, the impugned list notified vide G.R. dated 25.10.2017 is a provisional list. In the said notification, it has been stated that the said list will be subject to the decision in the W.P. No. 2797/2015 and the judgment therein which is pending before the Hon'ble Apex Court and in such circumstances, the seniority list dated 5.10.2017 cannot be said to be final and the applicants will get full opportunity of being heard, since their objections are under consideration and, therefore, *prima facie* the O.A. seems to be premature.

9. The learned C.P.O. submitted that even if it accepted, though not admitted, the applicants' places in the seniority list, may not be proper, still the applicants will not cause any prejudice by virtue of promotions of 51 officers, since the applicants' number are almost at the end of the list or far away from the persons to be considered for promotion and the applicants will not come in the zone

of consideration, if permission is granted to promote 51 officers on *ad hoc* basis.

10. The learned C.P.O. submitted that only 51 officers are to be promoted out of the list of about 1275 officers. He submitted that the last person who may be considered for such *ad hoc* promotion, may be at Sr. No.972.

11. The learned C.P.O. also pointed out that as per the pleadings of the applicants themselves, the applicant No.1 stands at Sr. No.1040, but he has been wrongly shown at Sr. No.1175, whereas the applicant No.2 stands at Sr. No.1049, though he has been shown at Sr. No.1196, whereas the applicant No.4 stands at Sr. No.1050 instead of at Sr. No.1273. Even for argument sake, it is accepted that the applicants be kept at Sr. number in the list as per their requests, they may not come in the zone of consideration, if 51 officers are promoted temporarily on *ad hoc* and temporary basis. In such circumstances, it will not be proper and in the interest of administration to restrain the respondent No.1 from promoting the officers on *ad hoc* basis merely on the ground that the seniority list in respect of the applicants has not become final.

12. The learned counsel for the review petitioner submits that if the respondent No.1 is granted permission to appoint ad hoc officers as prayed for, review petition may be disposed of, since it may lose its purpose. The learned counsel for the applicants submitted that the application for modification of order is not tenable. It is material to note that, in the order dated 6.3.2018, it was clearly observed that the original application filed is premature, since the applicants may get an opportunity to challenge the final list of seniority and since their objections are not yet considered by the respondent authorities. The O.A. has been thus disposed of being premature.

13. In view of discussion in foregoing paras, we proceed to pass the following order:-

### **ORDER**

- (i) C.A. No. 102/2018 is allowed.
- (ii) The respondents need not wait for finalization of seniority list for promoting 51 officers purely on *ad hoc* and temporary basis.
- (iii) Review Application also stands disposed of accordingly.

(Shree Bhagwan)  
Member (A)

pdg

(J.D.Kulkarni)  
Vice-Chairman (J)

