

**THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
AURANGABAD BENCH, AURANGABAD**

**ORIGINAL APPLICATION NO.263 OF 2006
(Subject : Deemed Date of Promotion)**

DISTRICT : BEED

Jijaba Eknath Patte,)
 Posted at the Time of Retirement as)
 Senior Clerk in the Office of Deputy Inspector)
 General of Registration and Deputy Controller)
 Of Stamps, Aurangabad.)
 Resident of "Pate Niwas", Bazar Lane,)
 Police Station Road, Georai,)
 District Beed 431 127.)

..APPLICANT

VERSUS

1. Inspector General of Registration)
 And Controller of Stamps,)
 Maharashtra State, Pune.)
2. Deputy Inspector General of Registration)
 And Deputy Controller of Stamps,)
 Aurangabad Division, Aurangabad.)
3. Joint District Registrar Class I,)
 Aurangabad.)

4. Joint District Registrar Class II,)
Beed.)
5. The State of Maharashtra,)
Through the Secretary,)
(Revenue & Forest),)

....RESPONDENTS

Shri A.P. Chawre, learned Counsel for the Applicant.

Shri N.U. Yadav, learned Presenting Officer for the Respondents.

CORAM : SHRI RAJIV AGARWAL, VICE-CHAIRMAN
SHRI J.D. KULKARNI, MEMBER (J)

DATE : 18.10.2016.

PER : SHRI RAJIV AGARWAL, VICE-CHAIRMAN

J U D G M E N T

1. Heard Shri A.P. Chawre, learned Counsel for the Applicant and Shri N.U. Yadav, learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicant who is seeking deemed date of promotion to the post of Sub-Registrar, Grade-II on 07.08.1983 and Sub-Registrar, Grade-I from 12.08.1994 and Gazetted Officer, Class-II from 05.06.1998. Delay in filing this O.A. has been

condoned by order dated 21.06.2016 and M.A.No.291/2014 in O.A.No.263/2006.

3. Learned Counsel for the Applicant argued that the Applicant was working as a Junior Clerk when an F.I.R. came to be registered against him in 1983, viz. C.R.No.7 of 1983 in Beed Police Station. He was placed under suspension on 29.04.1983 and reinstated on 30.08.1984. When the charge-sheet was filed, he was again suspended on 07.06.1991 and remained under suspension upto 17.07.1992. In Special Case No.20 of 1991, the Applicant was acquitted by judgment and order dated 25.11.2002. The Applicant made a representation dated 29.12.2002 that his suspension period may be regularized and he may be promoted as Sub-Registrar (Grade II). As the Applicant's representation was not considered, he filed this O.A. which was disposed of by this Tribunal by order dated 29.11.2011 as time barred. The Applicant filed W.P. No.10075/2012 in Hon'ble High Court and by order dated 07.07.2014, order of this Tribunal dated 29.11.2011 was quashed and set aside and the Applicant was given liberty to seek condonation of delay. By order dated 21.06.2016, delay in filing this O.A. has been condoned.

4. Learned Counsel for the Applicant stated that in the seniority list of 1983, maintained by the Respondent No.1, the Applicant was at Sr. No.40 and one Shri M.K. Qureshi was at Sr. No.45 (para 4.02 of O.A.). Shri Qureshi

was promoted as Sub-Registrar, Grade II by order dated 07.08.1983. He was promoted as Sub-Registrar, Grade I by order dated 12.08.1994 and as Gazetted Officer, Class II on 05.06.1998. The Applicant was acquitted in the Criminal case filed against him and his suspension period has been treated as duty period. As such the Applicant claims that he is eligible to be given these deemed date of promotions, being the dates on which his junior was so promoted.

5. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that the Applicant was acquitted in Special Case No.21 of 1991 by Learned Special Judge, Beed by order dated 25.11.2002. However, the Applicant first applied for deemed date of promotion by representation dated 12.04.2004. He retired from service on 30.06.2005. His representations were considered by the Respondents and he was not found eligible to be granted deemed date of promotion as per rules. The Applicant is seeking promotions merely on the ground that Shri Qureshi, who was his junior as Junior Clerk, was granted promotions on different dates. However, that fact itself will not make the Applicant eligible to be given promotions to those posts regardless of merit of the Applicant. The Applicant was not found suitable for promotion and, therefore, he could not be given deemed promotion.

6. We are rather disappointed with the affidavit-in-reply dated 21.09.2006 filed on behalf of the Respondent

Nos.1 to 5. This affidavit is filed by Joint District Registrar (Class I), (L.G.), Jalna. In fact, looking into the subject matter of this O.A., affidavit-in-reply should have been filed by the Respondent No.1 or some responsible officer in his office. In the affidavit-in-reply, it is mentioned that the Applicant was not found suitable for promotion. However, no details like when his case was placed before the Departmental Promotion Committee (D.P.C.) and what was the decision of the said D.P.C. have been placed on record. No rule under which it was held that the Applicant was not found eligible for promotion is mentioned. It is seen that under rules 5(5) of the Maharashtra Civil Services (Regulation of Seniority) Rules, 1982, a Government servant not promoted according to his rank owing to a disciplinary proceeding can be given a deemed date otherwise than his rank in the seniority list. Whether the Applicant's case was considered under this rule is not clear. The Respondents have also apparently not considered his case as per Circular dated 02.04.1976. It is not clear whether the Applicant's case was ever considered by any D.P.C. and whether his Annual Confidential Reports were found not upto the mark for promotion. Though the matter is quite old, we have no option but to give directions to the Respondents that the case of the Applicant for promotion from the dates when his juniors were promoted, should be placed before Review D.P.C., if it was not placed before the D.P.C. earlier. If the case was considered by D.P.C. and the Applicant was found

unfit for promotion, the minutes of D.P.C. may be made available to the Applicant.

7. This O.A. is disposed of with the direction to the Respondent No.1 to consider the representation of the Applicant for deemed dates of promotion to different posts in the light of discussion in the preceding paragraph. If his case was not placed before D.P.C. earlier, it should be placed before a review D.P.C. If his case was considered by D.P.C. for promotion, minutes of the meeting may be made available to the Applicant. This should be done within a period of three months from the date of this order. This will be no order as to costs.

(J.D. KULKARNI)
MEMBER(J)

(RAJIV AGARWAL)
VICE-CHAIRMAN

Place : Mumbai
Date : 10.2016
Typed by : PRK