

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 170 OF 2018

DISTRICT : PUNE

Shri Kishore Amrut Yadav,)
Head Constable, Anti Terrorism Cell,)
Pune Rural, Chavan Nagar,)
Pune 411 008.)
R/o: 499/2841, Sant Tu karam Nagar,)
Pimpri, Pune 411 018.)...**Applicant**

Versus

1. The State of Maharashtra)
Through Addl. Chief Secretary,)
[Home], Mantralaya,)
Mumbai 400 032.)
2. The Director General of Police,)
Police Head Quarters, S.B Road,)
Mumbai 400 001.)
3. The Superintendent of Police,)
Pune Rural, Chavan Nagar,)
Pune - 411 008.)...**Respondents**

Shri K.B Rajan, learned advocate for the Applicant.

Ms Neelima Gohad, learned Presenting Officer for the Respondents.

CORAM : **Shri Justice A.H Joshi (Chairman)**
Shri P.N Dixit (Member) (A)

DATE : **25.10.2018**

PER : **Shri Justice A.H Joshi (Chairman)**

ORDER

1. Shri K.B Rajan, learned advocate for the Applicant and Ms Neelima Gohad, learned Presenting Officer for the Respondents.

2. Applicant has moved present Original Application for following reliefs:-

“8(A) This Hon’ble Tribunal may be pleased to call for the records and proceedings from the Respondents and after examining the same be pleased to direct the Respondents to consider case of the applicant for promotion to the post of Police Sub-Inspector from the date of his immediate junior was promoted.

(B) Alternatively, without prejudice to above, this Hon’ble Tribunal may be pleased to call for the records and proceedings from the Respondents and after examining the same be pleased to direct the Respondents to pass orders disposing off the representation Annexure A6, A7, A8 preferred by the applicant within a given time frame.

(Quoted from page 11 of O.A)

3. The grounds on which applicant has prayed for the relief is:-

(a) The error which has occurred in eliminating him, resulted into supersession and promotion of a junior.

(b) It is admitted that applicant is found to be fit on seniority-cum-merit, i.e. category within which he is considered for promotion.

4. The Respondent no. 2 has filed reply and in the reply what is averred is as follows:-

“7. With reference to contents of Grounds Nos 5.1 to 5.6 of the O.A, it is submitted that the averments raised by the applicant are denied, being incorrect. It is true that error has been crept in while sending the information about the Applicant from the concerned unit and that led in not promoting the applicant when the promotions to the post of P.S.I were issued on 20.9.2017 by this office. However, thereafter from 27.11.2017, because of the Government letter issued by the G.A.D, no promotion to the

reserved category police personnel cannot be given because of litigation sub judice before the Hon'ble Supreme Court. Still this office has sent a proposal, as stated above, seeking orders from the State Government and action as per the guidance that will be received on the same from the State Government action in this matter with regard to the giving promotion to the Applicants the post of P.S.I would be taken by this office and the applicant would be communicated in the respect submission of this office.

(Quoted from page 49 of O.A)

5. The State has further averred that applicant's actual promotion is kept pending on account of pendency of matter before Hon'ble High Court and Hon'ble Supreme Court.

6. Admittedly, the matters pending before the Hon'ble High Court and Hon'ble Supreme Court relates to accelerated promotion of the candidates other than those promoted on seniority-cum-fitness category.

7. We, therefore, see no reason entitling the Government to withhold the decision to promote the applicant.

8. Though applicant has prayed for a very humble direction requiring the State to consider applicant's case /decide representation, in view of the admission contained in para. 7 of the affidavit of Respondent no. 2. This Tribunal did not limit itself in being bound by subdued prayer of the applicant.

9. Yesterday itself, we have already decided case of Shri Balwant C. Gavit Vs. State of Maharashtra & Others, O.A 264/2018. We, therefore, see no reason to take a different view in the matter.

10. We, therefore, decide this Original Application on the same lines as in O.A 264/2018. Hence following order is passed:-

(a) Original Application is allowed. We direct that name of the applicant be included in the list of officers to be promoted as P.S.I forthwith, by giving to the applicant the effect of said promotion applicable to a candidate who was immediately below the applicant in the merit list based on seniority-cum-merit, and preferably from 20.9.2017. The applicant shall be

entitled to all other benefits treated as if he was actually promoted on 20.9.2017 or the date on which any of the juniors to the applicant was promoted.

(b) Compliance be done within 15 days from today.

(c) In the circumstances, parties are directed to bear their own costs.

11. Steno copy and Hamdast is allowed. Learned P.O is directed to communicate this order to the Respondents.

Sd/-
(P.N Dixit)
Member (A)

Sd/-
(A.H. Joshi, J.)
Chairman

Place : Mumbai
Date : 25.10.2018
Dictation taken by : A.K. Nair.