

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO 264 OF 2018**

DISTRICT : PUNE

Shri Balwant C Gavit)
Assistant Sub-Inspector,)
Attached to Khadak Police Station,)
Pune-42, R/o: A/14, Bhavani Peth,)
Police Line, Pune-1.)...**Applicant**

Versus

1. The Director General & Inspector)
General of Police, [M.S],)
Mumbai, having office at)
Old Council Hall, S.B Marg,)
Mumbai 400 039.)
2. The State of Maharashtra,)
Through Principal Secretary,)
Home Department, Mantralaya,)
Mumbai 400 032.)...**Respondents**

Shri G.A Bandiwaekar, learned advocate for the Applicant.

Ms Savita Suryavanshi, learned Presenting Officer for the Respondents.

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

DATE : **24.10.2018**

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

ORDER

1. Heard Shri G.A Bandiwadekar, learned advocate for the applicant and Ms Savita Suryavanshi, learned Presenting Officer for the Respondents.

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

“9(a) By a suitable order/direction, this Hon’ble Tribunal may be pleased to set aside the order dated 20.9.2017 passed by the Respondent no. 1 (Exhibit-A) to the extent to which the same has not included the name of the Petitioner being promoted as Police Sub-Inspector and accordingly the Respondents be directed to forthwith promote the Petitioner to the post of Police Sub-Inspector and to grant him the deemed date with effect from 20.9.2017 together with all the consequential service benefits, as if the impugned order has not been passed.”

(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 Respondents has filed reply and in the reply what is averred is as follows:-

“2. I say and submit that following are the factual and legal submissions made by me on the para no. 6.12 of the O.A., viz.

2.1 The applicant is from Scheduled Tribe category and his date of recruitment as Police Constable is 16.8.1988. It is factually correct that the applicant has qualified in the Departmental Qualifying Examination held by this office in 2013 and he is entitled for his promotion as Police Sub-Inspector as per his seniority, i.e. as per the mandate of amended Rule 3(a) of P.S.I (Recruitment) Rules, 1995. It is also true that the last person of S.T category who has received promotion is 31.8.1989 (at least 1 year junior to the applicant). However, it is submitted that the omission of the name of applicant is clerical error occurred while preparing the promotion list. It is further come to the notice of this office that apart from the applicant, the names of other 37 men were inadvertently omitted while preparing the promotion list.”

(Quoted from pages 31 & 32 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. In view of the foregoing, following order is passed:-

(a) Original Application is allowed in terms of prayer clause 9(a), which reads as follows:-

“9(a) By a suitable order/direction, this Hon'ble Tribunal may be pleased to set aside the order dated 20.9.2017 passed by the Respondent no. 1 (Exhibit-A) to the extent to which the same has not included the name of the Petitioner being promoted as Police Sub-Inspector and accordingly the Respondents be directed to forthwith promote the Petitioner to the post of Police Sub-Inspector and to grant him the deemed date with effect from 20.9.2017 together with all the consequential service benefits, as if the impugned order has not been passed.”

(Quoted from page 11 of O.A)

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

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

9. 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 : 24.10.2018
Dictation taken by : A.K. Nair.