

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO 303 OF 2020**

DISTRICT : PUNE

Shri Manik Namdeorao Thosare)
Service as Deputy Director,)
Sports and Youth Services,)
Kolhapur, having office at)
Sports Complex, Sambhaji Nagar,)
Kolhapur. R/o: 303, Shriram Chandrama)
C.H.S, Behind Renault Showroom,)
Mumbai Bangalore Highway, Baner,)
Pune – 45.)...**Applicant**

Versus

1. The State of Maharashtra)
Through the Principal Secretary,)
Sports & Youth Services Dept,)
Mantralaya, Mumbai 400032.)
2. Shri J.S Dubale,)
Working as Joint Director,)
Sports and Youth Services,)
Having office in the Office of the)
Commissioner, Sports and Youth)
Services, [M.S], Pune.)...**Respondents**

Shri B.A Bandiwadekar, learned advocate for the Applicant.

Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents.

CORAM : **Justice Mridula R. Bhatkar (Chairperson)**
Shri P.N Dixit (Vice-Chairman) (A)

DATE : **22.12.2020**

PER : **Justice Mridula R. Bhatkar (Chairperson)**

ORDER

1. Shri B.A Bandiwadekar, learned advocate for the Applicant and Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents

2. In this Original Application the applicant seeks declaration that the order dated 19.9.2019 promoting junior officer Shri Jayprakash Dubale, is illegal, as the promotion is denied to the petitioner to the post of Joint Director, Sports and Youth Services, Group-A.

3. The applicant who was working as Deputy Director of Sports and Youth Services, was prosecuted for the offences punishable under Section 13(1)(c), 13(1)(d) and 13(2) of Prevention of Corruption Act, 1988 and so also under Sec 120-B, 467, 468, 471, 109 of IPC and the offence is registered against him at Pune on 17.6.2017. He was arrested and was in the Prison for three months. He was suspended on 17.6.2017. His suspension was revoked on 27.3.2019. However, he was not given posting till 20.11.2019.

4. The meeting of the Establishment Board II was conducted on 5.9.2019. However, in the said meeting the case of the applicant was not at all considered for want of Annual Confidential Reports and so also in view of his suspension and criminal prosecution.

5. Learned counsel for the applicant submits that the order for conducting review meeting of Establishment Board II be passed and the case of the applicant for promotion be placed.

6. The Respondent-State have filed affidavit in reply dated 25.8.2020 and 17.11.2020 through Shri Appasing Ramsing Rajput, Under Secretary in the office of Principal Secretary, Sports and Youth Services,

Mantralaya, Mumbai. So also affidavit in reply is filed by Shri Jayprakash Dubale, Respondent no. 2 on 17.12.2020.

7. Learned C.P.O relying on para 9 of the affidavit dated 25.8.2020 of Mr. Rajput pointed out that due to the prosecution and suspension departmental enquiry is initiated against the applicant and therefore his case was not considered by the Establishment Board II, but the case of Mr Jayprakash Dubale was considered and recommended to the post of Joint Director, Sports and Youth Services.

8. Mr. Dubale in his affidavit in reply has submitted that the dispute is between applicant and Respondent no. 1, and he has no role in the policy making process.

9. On perusal of the minutes of Establishment Board No. II, dated 11.9.2019 it is found that the Establishment Board II has not considered the case of the applicant for promotion for the reasons mentioned therein.

10. In view of the above, the Respondent no. 1 is directed to conduct review meeting of the Establishment Board II, which is to be held before 15th January, 2021 for considering the case of the applicant for promotion to the post of Joint Director, Sports and Youth Services as the applicant is retiring on 31.1.2021 and the decision of the Establishment Board II to be communicated to the applicant within five days thereafter.

11. With the above directions, Original Application stands disposed of.

Sd/-
(P.N Dixit)
Vice-Chairman (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 22.12.2020
Dictation taken by : A.K. Nair.