

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 510 OF 2019

DISTRICT : THANE

Shri Umesh Shyamsundar Waval,)
Working as Assistant Sub-Inspector,)
Attached to Police Head Quarter,)
Thane [R], Thane.)
R/o: Flat no. 1, Ambika Apartment,)
Kalyan [W], Dist-Thane.)...**Applicant**

Versus

1. The Director General & Inspector)
General of Police, [M.S],)
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 Arvind V. Bandiwadekar, learned advocate for the Applicant.
Ms Archana B.K, learned Presenting Officer for the Respondents.

CORAM : **Shri P.N Dixit (Vice-Chairman) (A)**
Shri A.P Kurhekar (Member)(J)

DATE : **11.02.2020**

PER : **Shri P.N Dixit (Vice-Chairman) (A)**

ORDER

1. Heard Shri Arvind V. Bandiwadekar, learned advocate for the Applicant and Ms Archana B.K, learned Presenting Officer for the Respondents.

2. Learned advocate for the applicant submits that his case is identical to the one which was decided earlier in O.A 264/2018, decided on 24.10.2018.

3. The order reads as under:-

“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.”

4. During the hearing, learned P.O mentions as under:-

“श्री. वाढळ यांचा भरती दिनांक ०५/०३/१९८८ व प्रवर्ग वि.मा.प्र. असा आहे. श्री. वाढळ यांच्या जात प्रवर्गातील व त्यांचे सोबत म्हणजेच दि.०१/११/१९८८ पर्यंत भरती झालेल्या अंमलदारांना पोलीस उप निरीक्षक पदाची पदोन्नती देण्यात आली आहे. त्यामुळे श्री.वाढळ हे देखील त्यांचे भरती दिनांक व जात प्रवर्गानुसार पोडनि पदाच्या पदोन्नतीस पात्र ठरतात.

२. तथापि, श्री. वाढळ हे विशेष मागासवर्गीय कर्मचारी असल्याने तसेच त्यांनी दि.२५/०५/२००४ नंतर पोहवा ते सहायक पोलीस उपनिरीक्षक पदच्या पदोन्नतीमध्ये आरक्षणाचा लाभ घेतल्याचे दिसून येते त्यामुळे शासन पत्र क्र. बीसीसी-२०१७/प्र.क्र.३१२A/१६-ब, दि.२९/१२/२०१७ मध्ये मार्गदर्शक सूचनानुसार श्री. वाढळ यांना सद्यःस्थितीत पोलीस उप निरीक्षक पदावर पदोन्नती देता येणार नाही. ”

The order issued by this Tribunal on 24.10.2018 had already considered the submission and passed the order.

5. As there is no difference between the case which has been already decided and the present case, we pass the following order.

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

a] By a suitable order/direction, this Hon'ble Tribunal may be pleased to hold and declare that as per 5 of the impugned order dated 24.3.2017 (Exhibit-A) issued by the Respondent no. 1, that the Petitioner was / is entitled for the deemed date, namely, 1.7.2014 along with promotion in the post of Police Sub Inspector in view of the Petitioner being fully eligible, qualified and suitable.

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

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

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

Sd/-
(A.P Kurhekar)
Member (J)

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

Place : Mumbai
Date : 11.02.2020
Dictation taken by : A.K. Nair.

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