IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO 618 OF 2015

DISTRICT : KOLHAPUR

Shri Rajan Pandurang Davari)
Assistant Engineer, Grade-I)
Small Scale Irrigation [Water Conservation]))
Sub-Division, Karve Chandgad,)
Dist-Kolhapur.)
R/o: Davari Galli, A/P Panchgaon,)
Tal-Karvir, Dist-Kolhapur 416 013.)...**Applicant**

Versus

1. The State of Maharashtra)
   Through the Principal Secretary,)
   Water Resources Department,)
   Mantralaya, Mumbai.)
2. The Addl. Chief Secretary [Services],)
   General Administration Department,))
   Mantralaya, Mumbai.)
3. Shri Sanjay V. Jewalikar,)
   Assistant Engineer, Grade-I,)
   Majalgaon Canal Division no. 10,)
   Parbhani.)...**Respondents**

Shri M.R Patil, learned advocate for the Applicant.

Ms Neelima Gohad, learned Presenting Officer for the Respondents no 1 & 2.

Shri M.D Lonkar, learned advocate for Respondent no. 3.

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

RESERVED ON : 26.09.2018
PRONOUNCED ON: 28.09.2018

PER : Shri Justice A.H Joshi (Chairman)

O R D E R

1. Heard Shri M.R Patil, learned advocate for the Applicant, Ms Neelima Gohad, learned Presenting Officer for the Respondents no 1 & 2 and Shri M.D Lonkar, learned advocate for Respondent no. 3.

2. The applicant has approached this Tribunal challenging the rank assigned to the applicant in the final seniority list.

3. The facts of the case are as follows:-

(a) The applicant was appointed as Assistant Engineer, Grade-I by order dated 31.8.2007, Exh. B, page 36 and he initially joined the said post on 10.9.2007.

(b) The Respondent no. 3 was appointed subsequently as Assistant Engineer, Grade-I by order dated 7.8.2010.

(c) The provisional seniority list was published on 30.8.2012.

(d) In the said seniority list Respondent no. 3 is shown at Sr. No. 92, with date of appointment as 31.8.2007.

(e) Applicant submitted representation dated 12.9.2012 raising objection to the Respondent no. 3 being shown

senior on the ground that Respondent no. 3 was appointed on 7.8.2010 and his seniority be reckoned from 7.8.2010.

(f) However, seniority list is finalized and published on 4.12.2017, page 57, by not considering the objection raised by the applicant but by correcting the date of joining.

4. It has come on record through Government decision dated 7.8.2010 that while scrutinizing the documents of scrutinizing the eligibility criteria, the authorities of the State Government entertained suspicion about the genuineness of the NTB Certificate submitted by Respondent no. 3. Therefore, appointment of Respondent no. 3 was deferred till scrutiny of applicant's Tribe claim.

5. The Caste Scrutiny Committee validated the certificate of Respondent no. 3. In the result, the Respondents issued orders appointing/promoting the Respondent no. 3, on 7.8.2010 and the Respondent no. 3 joined the employment.

6. According to applicant, the Respondent no. 3 has been granted due seniority to which he was not entitled, because he was appointed on 7.8.2010. Moreover, according to the applicant though Respondent no.3 was selected with applicant he was not appointed along with remaining candidates belonging to applicant's batch.

7. The contentions of the applicant as made out in the O.A and summarized in written submission is as follows:-

(a) Appointment of Respondent no. 3 was held back on the ground that his Caste Certificate required scrutiny and validity.

(b) Respondent no. 3 was appointed much later.

(c) Respondent no. 3 belongs to totally different batch due to his appointment at a later date in comparison to other candidates and, therefore, Respondent no. 3 has to be shown in the seniority list by treating him appointed/promoted on 7.8.2010.

8. After hearing what has transpired is as follows:-

(i) The fact that Respondent no. 3 was selected along with the applicant and belonged to same batch in which Applicant in O.A is a member is not disputed.

(ii) The fact that appointment of Respondent no. 3 was delayed/held back only because the authorities entered in doubt about genuineness of Caste Certificate of Respondent no. 3 and validity took time.

9. The appointment of Respondent no. 3 was delayed not account of his request or fault or on account of an eventuality that he belonged to different batch.

10. The delay in appointment of Respondent no. 3 on account of act of the Government does not amount to separation of Respondent no. 3 into another batch.

11. In the result, O.A does not have merit and is dismissed.

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

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

Place : Mumbai
Date : 28.09.2018
Dictation taken by : A.K. Nair.