

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH

No. MAT/MUM/JUD/1094 /2016
 Maharashtra Administrative Tribunal,
 Pay & Accounts Barrack Nos.3 & 4,
 Free Press Journal Marg,
 Nariman Point, Mumbai 400 021.
 Date :

ORIGINAL APPLICATION NO. 296 OF 2015**Sub: Deemed Date of Promotion**

- 1 Shri Bhaurao R. Gavit & 03 Ors.,
 C/o. Shri M.D. Lonkar, Advocate for the Applicant.

...APPLICANT/S.**V/s.**

- 1 Govt. of Maharashtra, Through
 Chief Secretary, Mantralaya,
 Mumbai-32.

- 2 Govt. of Maharashtra, Through Addl.
 Chief Secretary, G.A.D., Mantralaya,
 Mumbai-32.

.. ..RESPONDENTS**Copy to :** The C.P.O. M.A.T., Mumbai.

The applicant/s above named has filed an application as per copy already served on you, praying for reliefs as mentioned therein. The Tribunal on the 28th day of March, 2016 has made the following order:-

APPEARANCE : Shri. M.D. Lonkar, Adv for the Applicant.
 Shri. A.J. Chougule , learned P.O. for the Respondents.

CORAM : **HON'BLE SHRI. RAJIV AGARWAL, VICE-CHAIRMAN.**
HON'BLE SHRI. R.B.MALIK, MEMBER (J).

DATE : **28.03.2016.**

ORDER : Order Copy Enclosed/Order Copy Over Leaf

Sd/-
(R.B.MALIK)
 Member (J)

Sd/-
(RAJIV AGARWAL)
 Vice-Chairman

Research Officer, J.A.R.
 Maharashtra Administrative Tribunal,
 Mumbai. 28.3.2016

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

Original Application No.

of 20

DISTRICT

..... Applicant/s

(Advocate

versus

The State of Maharashtra and others

..... Respondent/s

(Presenting Officer.....)

Office Notes, Office Memoranda of Coram,
Appearance, Tribunal's orders or
directions and Registrar's orders

Tribunal's orders

O.A. No.296 of 2015

Heard Shri M.D. Lonkar, learned Advocate for the
Applicants and Shri A.J. Chougule, learned Presenting
for the Respondents.

2. This OA can be and is being hereby disposed off
finally at this stage itself.

3. The 4 applicants in this OA are working as Dy.
Secretary in so far as applicant no.1 is concerned and
Under Secretaries as far as applicant nos.2 to 4 are
concerned. The respondent no.1 is the State of
Maharashtra through Chief Secretary and respondent
no.2 is the State of Maharashtra through Addl. Chief
Secretary, GAD. The sum and substance of the case of
the applicants was that their promotions were held up on
account of pending prosecution vide Cr. Case No.230/08
(Old RCC No.426/06) on the file of Ld. Chief Judicial
Magistrate (CJM), Thane. These 4 applicants along with
61 others came to be prosecuted for having allegedly
committed various offences including Sections 420, 406,
467, 468 etc. and 120(B) of the IPC and Section 147 of
the Maharashtra Cooperative Societies Act. The
applicants and all other accused came to be acquitted by
the Ld. CJM. ~~Then~~ against the State preferred Cr.
Appeal No.337/13 (State of Maharashtra Vs. Nana Rama
Patil and 64 Ors.) By an order dated 7.3.2016 the Ld.
Additional Sessions Judge, Thané (District Judge-3)
dismissed the appeal of the State with the result the order
of acquittal recorded by Ld. CJM was affirmed.

4. There have been orders made by this Tribunal. A
couple of them were made by one of us [Shri R.B. Malik,
Member (J)] and the last one by the Hon'ble Vice-
Chairman. However, it is now not necessary to closely
examine those orders in view of the latest development in

Thakur

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
---	-------------------

the form of decision in the criminal appeal just referred to. It appears that the pendency of the criminal prosecution was the undoing of the applicants and there was no other impediment.

5. In the meanwhile by Govt. order dated 17.3.2016 issued by GAD the deemed date in the cadre of Dy. Secretary has been given to the applicant no.1 and although there is an apparent reference to the same being subject to the decision in Cr. Appeal No.337/13 in the Sessions Court, Thane the same has now become academic because the said Cr. Appeal has already been disposed off in the manner of speaking in favour of the applicants. As far as applicant no.1 is concerned by issuance of the order dated 17.3.2016 his grievance has been redressed. No doubt on the basis of the said order he will become entitled to be considered for further promotion and deemed date, if found fit, etc.

6. As far as the applicants no.2 to 4 are concerned, the Ld. PO on instructions from Smt. Tarde, Section Officer, GAD-34, informs that the case of applicants no.2 to 4 is also under active consideration in so far as deemed date in the cadre of Under Secretary is concerned. The record and proceedings would show that as mentioned in one of our orders earlier this matter hung fire for long and, therefore, we will have to lay down the outer limit so that case of these applicants would be finally decided.

7. We direct the respondents to decide the issue of the deemed date of applicants no.2 to 4 in the cadre of Under Secretary within four weeks from today and communicate the same to them within one week thereafter. If the respondents fail to comply herewith then till such time as they did with subject to any other action that could be taken against them they shall not make promotions in the cadre of Dy. Secretary. With these directions this OA stands disposed off with no order as to costs.

DATE: 28/3/16

CORAM:

Hon'ble Shri. RAJIV AGARWAL
(Vice - Chairman)
Hon'ble Shri R. B. MALIK (Member) J

APPEARANCE:

Shri/Smt. M. D. Lokar
Advocate for the Applicant
Shri/Smt. A. J. Chougale
C.P.O./P.O. for the Respondents
order passed in the
Tribunal's order.
Adj. To
O.A. is disposed off.

sd/-
R.B. Malik Member (J) 28.3.2016
sd/-
Rajiv Agarwal Vice-Chairman 28.3.2016

TRUE COPY

Asst. Registrar / Research Officers
Maharashtra Administrative Tribunal
28.3.2016