***MAHARASHTRA ADMINISTRATIVE* TRIBUNAL,**

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.445/2010. (D.B.)

1. Ramashankar Samsherbahadursingh Thakur,
Aged about 61 years,
Occ-Retired,
R/o Sindhi Hindi Primary School,
Samta Nagar, Akola.

2. Ramesh Pundlik Bhandekar,
Aged about 61 years,
Occ-Retired,
R/o Wankhede Nagar, Dabki Road,
Old City, Akola.

3. Sahebrao Yashwantrao Mahalle,
Aged about 63 years,
Occ-Retired,
R/o Ravi Nagar, Kaulkhed, Akola.

3(i) Shobha Sahebrao Mahalle (Wife),
Aged about 65 years,
Occ-Household,

3(ii) Mangesh Sahebrao Mahalle (son),
Aged about 35 years,

3(iii) Manoj Sahebrao Mahalle (son),
Aged about 30 years,

Applicants 3(i) to 3 (iii) are residents of Ravi Nagar, Kaul Khed, Akola.

3(iv) Shubhangi Sudhir Pagrut (daughter),
Aged about 37 years,
R/o Data colony, Gaurakshan Road, Akola.

4. Ramesh Vishwasrao Pachade,
Aged about 64 years, Occ-Retired,
R/o Near Happy Hours School,
Lande's Wada, Jatharpeth, Akola.

5. Gopal Awadhut Korde,
Aged about 64 years, Occ-Retired,
R/o Gokul Colony, Akola Road, Akot,
Distt. Akola.

6. Surendra Sankaprasad Shriwas,
Aged about 64 years, Occ-Retired,
R/o Bajoria Nagari, C-20,
Hingna Road, Akola.

7. Niranjan Amaraji Chaurpagar,
Aged about 64 years, Occ-Retired,
R/o Shri Ganesh Vihar Apartment,
Gurukul Nagari, Kamla Nagar,
Malkapur, Akola.

8. Raghunath Punjaji Maind,
Aged about 65 years, Occ-Retired,
R/o Toshniwal Layout, Near Dudh Dairy,
Highway No.6, Near Shani Mandir,
Akola. **Applicants.**

-**Versus-**

1) The State of Maharashtra,
Through its Secretary,
Department of Home,
Mantralaya, Mumbai-400 032.

2) The Director General of Police,
State of Maharashtra,
Mumbai.

3) The Special Inspector General of Police,
Amravati.

4) The Superintendent of Police,
Akola. **Respondents**

Shri R.V. Shiralkar, the learned counsel for the applicants.
Shri M.I. Khan, the learned P.O. for respondents.

Coram:-Shri Shree Bhagwan, Vice-Chairman and
Shri Anand Karanjkar, Member (J)

Judgment is reserved on 24th June 2019.

Judgment is pronounced on 27th June 2019.

ORAL JUDGMENT

(Passed on this 27th day of June 2019.)

Per:- Member(J)

Heard Shri R.V. Shiralkar, the learned counsel for the applicants and Shri M.I. Khan, the learned P.O. for the respondents and perused the documents filed on record.

2. All the applicants were appointed in service in Motor Transport Department in District Police Force, Akola. The applicants were working in the Motor Transport Department, their rank was Police Constables. Before 1.3.1999, separate seniority list of staff on the establishment of Motor Transport Department was maintained and separate seniority lists of armed Police Constables, unarmed Police Constables and Constables working in Band Squad were maintained. There was grievance of the staff working in Motor Transport Department that there was no sufficient promotional

avenue and chances. That considering the grievance, Director General of Police (M.S.), Mumbai issued circular (Annexure A-1) dated 1.3.1999 and directed the Superintendents of Police in the State of Maharashtra to maintain common seniority list of Police Constables, Police Head Constables etc. working in respective branches on the establishment of District Police Force. The Home Department of Govt. of Maharashtra granted approval to the circular vide its letter dated 21.9.2004 and accordingly respective District Police Establishment Board prepared common seniority list.

3. It is contention of the applicants that as per circular dated 1.3.1999, they were entitled for promotion. The applicants are claiming that as per this circular, their seniority was to be fixed and they were eligible for promotion as Police Head Constables in the year 1981. It is grievance of the applicants that actually they were promoted as Police Head Constables sometime in the year 1996, 1997, 2000 and 2000. The relevant chart disclosing the names of the applicants, their dates of appointment, their actual promotion as Hawaldar, date of retirement is as under:-

Sr. No.	Names	Date of appointment in R.T.O.	Claim for deemed date of Hawaldar	Actual date of promotion as Hawaldar	Date of retirement
1	R.S. Thakur	11.4.1966	1981	13.8.1996	31.1.2006
2.	R.P. Bhandekar	12.7.1966	1981	13.8.1996	28.2.2006
3.	S.Y. Mahalle	12.7.1966	1981	13.8.2006	28.2.2005
4	R.V. Pachade	20.7.1966	1981	13.8.1996	31.8.2004
5	G.A. Korde	13.8.1966	1981	26.8.1997	31.12.2004
6	S.S. Shriwas	11.3.1967	1981	13.6.1996	30.4.2004
7	N.A. Chaurpagar	18.9.1965	1981	13.8.1996	31.5.2003
8	R.P. Maind	17.8.1963	1981	1.1.2000	31.5.2003

4. It is prayer of the applicants that they be granted deemed date of promotion on the post of Police Head Constables w.e.f. 1981 and second promotion as Assistant Sub-Inspector on the basis of common seniority list.

5. The respondent Nos. 2 and 3 have submitted their reply which is at page No.58. First contention of the respondents is that, as per circular dated 1.3.1999, the applicants were bound to give consent to work even as regular Police Constables and as this consent was not given, they were not considered. The second contention of the respondents is that the circular dated 1.3.1999 is prospective and not retrospective, as per this circular, direction was to prepare seniority list and to act on it after coming into force of this

circular. It is submitted that the circular was not retrospective, consequently, the appellants have no right to claim deemed date of promotion w.e.f. 1981.

6. It is contention of the respondents that considering the length of service of the applicants and their seniority and posts available for promotion in the Motor Transport Department, the applicants were promoted as Police Head Constables. Some of the applicants were promoted even before coming into force of this circular. It is submitted that as per the circular, common seniority list was published in the year 2001, in which names of the applicants are at Sr. Nos. 197 to 201, 208 and 297. It is submitted that the Superintendent of Police, Akola has strictly complied the circular and there is no illegality, therefore, the O.A. is liable to be dismissed.

7. After hearing both sides, we have gone through the circular (A-1) dated 1.3.1999. Paragraph 4 of the circular is as under:-

> "४. वरील सर्व अडचणींचा विचार करून तसेच मोटर परिवहन विभागातील पोलीस कर्मचाऱ्यांच्या सेवाजेष्ठतेबाबत राज्यातील सर्व घटक कार्यालयामध्ये एकसूत्रीपणा राहावा या दृष्टीने सदर प्रकरणी आता असा निर्णय घेण्यात येत आहे कि, प्रत्येक घटकात सर्व पोलीस शिपायांची (मोटर परिवहन विभागातील पोलीस कर्मचाऱ्यांसह) सामायिक सेवाजेष्ठता यादी ठेवण्यात

यावी व यापुढे मोटर परिवहन विभागातील चालक पोलीस शिपायांची सेवाजेष्ठता घटकातील इतर पोलीस शिपायासह एकत्र धरण्यात येऊन त्या घटकातील सामायिक सेवाजेष्ठतेनुसार व शासन विहित कार्यपद्धतीनुसार त्यांना पुढील पदावर पदोन्नती देण्याची कार्यवाही करावी."

8. After reading this para 4 of the circular, it must be accepted that the circular was prospective and as per this circular, common seniority list was to be maintained and after coming into force of this circular, promotions were to be given on the basis of this seniority list in future.

9. It is contended by the applicants that vide Annexure A-5, the Commandant, SRPF, Group-IV, Nagpur, Special Inspector General of Police, SRPF, Mumbai and the Superintendent of Police, Oosmanabad have given deemed date of promotions and, therefore, the applicants are also entitled for the same benefit. During the course of argument, it is made clear that the present applicants till their retirement never challenged the correctness of the seniority list which was prepared in the year 2001. The learned counsel for the applicants was unable to point out that any Police Head Constable who was junior to them, was promoted. It appears that the seniority list was prepared in the year 2001. In this seniority list, it is specifically mentioned that on which dates respective

applicants were promoted as Police Head Constables. It is contention of the applicants that the Superintendent of Police should have prepared common seniority list of Police Constables and in that common seniority list, names of the applicants should have been included. It is submitted by the learned P.O. that when circular dated 1.3.1999 was issued, out of 86 applicants were already promoted as Police Head Constables and the applicant Nos.2 and 8 were promoted as Police Head Constable in the year 2000 and considering this fact, there was no propriety to include the names of the applicants in the common seniority list of Police Constables, but their names were included in the common seniority list of Police Head Constables. It is clear that circular dated 1.3.1999 was to operate prospectively and as per directions in the circular, Superintendent of Police, Akola prepared seniority list of Police Head Constables. When the seniority list was prepared, all the applicants were Police Head Constables, consequently, there remains no substance in the claim that the applicants were entitled for deemed date of promotion w.e.f. 1981. The claim of the applicants is based on circular dated 1.3.1999, therefore, the applicants cannot claim anything contradictory to this circular.

10. Though, the applicants have placed reliance on the decision taken by the Commandant, SRPF, Mumbai and the Superintendent of Police, Osmanabad, but on the basis of this, this Bench cannot issue directions to the respondents to give deemed date to the applicants, because it will be in the violation of circular. In view of this discussion, we do not see any merit in the present O.A. Hence, we proceed to pass the following order:-

ORDER

(i) O.A. stands dismissed.

(ii) No order as to costs.

(Anand Karanjkar)
Member (J)

(Shree Bhagwan)
Vice-Chairman

Dt. 27th June 2019.

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