

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR.

ORIGINAL APPLICATION NO.587/2013.

Shri Ram Sumant Paunikar,
Aged about 48 years,
Occ-P.S.I.,
R/o 66, Netaji Apartment Housing Society,
Near Nisarga Lawn, Friends Colony,
Nagpur.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Home Department,
Mantralaya, Mumbai-32.
2. The Director General of Police (M.S.),
Mumbai.
3. The Additional Director General of Police (M.S.),
Wireless Division, Pune.

Respondents.

Shri P.D. Randive, the Ld. Advocate for the applicant.
Shri A.M. Ghogre, Ld. C.P.O. for the respondents.

**Coram:- B. Majumdar, Vice-Chairman and
Justice M.N. Gilani, Member (J).**

Dated:- 25th July, 2014.

Order

Per: Member (J)

With the consent of learned counsel for the parties, this O.A.
is heard finally at the stage of admission.

2. Aggrieved by the refusal of the respondents to promote him to
the post of Police Inspector (Wireless), the applicant has filed this O.A.

3. On 1.2.1990, the applicant joined as Wireless Operator (Police
Constable) on the establishment of the respondent No.3. On 27.5.1994, he was
promoted to the post of Head Wireless Operator which is equivalent to the post of
Head Constable. He got his second promotion as Police Sub-Inspector (Wireless)

on 17.7.2007. It is stated that in the order of seniority, he falls within the zone of consideration for further promotion. He has been waiting for his further promotion since the year 2010. The respondents took very unrealistic approach in denying the promotion by quoting the fact of pendency of O.A. No. 144/2010.

4. The respondent No.2 submitted reply. It is stated that in the year 2009-2010, when the case of the applicant was placed before the Departmental Promotion Committee, he had not completed three years on the post of Police Sub-Inspector (Wireless). Therefore, he was considered for the post of Police Inspector (Wireless). In the subsequent years, his case was again considered by the Departmental Promotion Committee. The reason for not promoting him as stated in the reply is pendency of O.A. No. 144/2010 which has been filed by one B.S. Kumbhare, Police Sub-Inspector (Wireless). In that O.A., it has been alleged that the applicant and other officers have forged the caste certificates. It is also stated that the department is seeking some guidelines from the Government as to how the seniority of the applicant has to be fixed, since it is turned out that he belongs to the caste Koshti, which is recognized as Special Backward Class instead of Halba Koshti.

5. The learned counsel for the applicant restricted his prayer to the extent of seeking direction/clarification that the pendency of O.A. No.144/2010 should not be treated as hurdle in considering the case of the applicant for the next promotion, if he is otherwise found eligible.

6. In the reply, it is nowhere stated that any interim relief is operating in O.A. No. 144/2010 precluding the department from considering the case of the applicant for next promotion for which he is otherwise entitled to. Neither from the reply nor from the contention advanced by the learned P.O., we

could gather that any interim relief is granted in O.A. No. 144/2010, thereby the department cannot take up the case of the applicant for consideration for promotion to the next higher post. In that view of the matter, it needs to be clarified that the pendency of O.A. No. 144/2010 shall not be considered as hurdle in the way of the applicant seeking promotion to the next higher post.

7. As has been happened in large number of cases, those employees who could not prove that they belong to the caste Halba Koshti, their services were protected in terms of G.R. dated 15.6.1995. In the reply, it is stated that because of failure on the part of the applicant to produce the caste validity certificate as belonging to Halba Koshti, his case for promotion from the post of Head Wireless Operator to Police Sub-Inspector (Wireless) was considered from Open category and accordingly, he was promoted to the said post w.e.f. 17.6.2007. The problem faced by the department appears to be that the applicant has produced the caste certificate showing that his caste is Koshti which falls under the S.B.C. category. It is known fact that the large number of employees who could not establish their caste as Halba Koshti, were able to produce the certificate showing their caste as Koshti i.e. S.B.C. In this case and as has been clarified in the reply, while promoting the applicant from the post of Head Wireless Operator to the post of Police Sub-Inspector (Wireless), he was placed in Open category. In that view of the matter, the department could have proceeded to consider the claim of the applicant by placing him in Open category. Since this issue has not been agitated, we refrain from dwelling into the same. Fact remains that for one or the other reason and for no fault on the part of the applicant, the issue of considering of his case for next promotion has been kept in abeyance and, therefore, we feel it is necessary to issue necessary directions to the respondents.

8. The O.A. is disposed of with the following directions/clarifications:

(i) The pendency of O.A. No. 144/2010 shall not be treated as hurdle in considering the case of the applicant for promotion to the next higher post, if he is otherwise found eligible or fit for promotional post.

(ii) The respondent No.2 shall issue necessary guidelines which have been sought from them by the respondent No.3 by its communication dated 10.8.2013 (Annexure A-6). It should be ensured that the guidelines whatever may deem fit are issued within three months from the date of receipt of this order.

(iii) On receipt of the same, respondent No.3 shall take necessary steps in accordance with law.

(Justice M.N.Gilani)
Member (J)

(B. Majumdar)
Vice-Chairman