

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD.

ORIGINAL APPLICATION NO. 499 OF 2016

DIST.: HINGOLI

Shri Bhagwant S/o Prashant Kapale,
 Age: 37 Years, Occu: Service
 As Senior Clerk, Treasury Office,
 Hingoli Taluka and Dist. Hingoli. --

APPLICANT

V E R S U S

1. The State of Maharashtra,
 Through its Secretary,
 Finance Department,
 Mantralaya, Mumbai-32.

(Copy to be served on the
 Chief Presenting Officer
 Maharashtra Administrative
 Tribunal, Mumbai Bench at Aurangabad).

2. Assistant Director,
 Audit and Finance Department,
 Aurangabad.
3. The Treasury Officer,
 District Treasury Office,
 Hingoli, Dist. Hingoli. --

RESPONDENTS

 APPEARANCE : Shri Manoj Shinde, Learned Advocate
 for the Applicant.

: Shri V.R. Bhumkar, Learned Presenting
 Officer for the Respondents.

CORAM: HON'BLE SHRI RAJIV AGARWAL, VICE CHAIRMAN (A)
AND
HON'BLE SHRI B.P. PATIL, MEMBER (J)

DATE : 04.08.2017.

ORAL ORDER

[Per- Hon'ble Shri Rajiv Agarwal, Vice-Chairman (A)]

1. Heard Learned Advocate Shri Manoj Shinde, for the Applicant and Shri V.R. Bhumkar, learned Presenting Officer for the Respondents.

2. The Applicant has filed this Original Application claiming that he was eligible to be promoted to the post of Deputy Accountant. However, his case was not placed before the D.P.C., as the Departmental Enquiry was started against him and a Criminal Case was also filed against him.

3. Learned Advocate Shri Manoj Shinde, for the applicant argued that in terms of G.R. dated 22.04.1996, the Applicant should have been promoted subject to the result of Departmental Enquiry and Criminal case pending against him. The Applicant has given an undertaking to that effect to the respondents that he is ready to undergo punishment, if imposed in the Departmental Enquiry and/or in the Criminal Case against him, in the promoted post. However, ignoring provisions of this G.R., the

respondents have not taken any action to consider the Applicant for promotion.

4. Learned Presenting Officer (P.O.) argued that the Departmental Enquiry was ordered against the applicant, in which the report of the Enquiry Officer has been received recently and considering nature of charges, it will not be proper to direct the Respondents have decided not to consider the Applicant for promotion. He has also stated that the F.I.R. is also filed against the Applicant by a female coworker and that case was also pending investigation. Considering the serious nature of the complaint against the applicant, the Respondents have not considered the case of the applicant for promotion.

5. We have carefully perused the case papers and also gone through the aforesaid G.R. dated 22.04.1996. This G.R. is not mandatory in character, that is to say that in every case where Departmental Enquiry/ Criminal Case is pending against a Government servant, he must be promoted subject to the outcome of the Departmental Enquiry/ pending Criminal Case. The authority has

discretion in suitable cases, considering the facts and circumstances to consider the employee for promotion and he can undergo the punishment in the promoted post. In the present case, the respondents have consciously decided not to consider the Applicant for promotion, considering the nature of charges against him in the Departmental Enquiry and the F.I.R. is filed against him.

6. We are of the opinion that it is not a fit case in which this Tribunal should interfere. This Original Application is dismissed with no order as to costs.

MEMBER (J)

Kpb/DB OA No 499 of 2016 RA 2017

VICE CHAIRMAN (A)