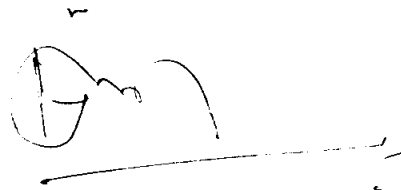


**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.1019 OF 2015**

**DISTRICT : MUMBAI**

1. Shri Janardan Vasant Patil, )  
Sitaram Building, G Block, )  
Room No.10, Paltan Road, )  
Mumbai 400 001. )
2. Shri Subhash Balkrishna Chawan, )  
3<sup>rd</sup> floor, A Wing, Commissioner of Police )  
Compound, Officers Quarters, B.T. Marg, )  
Mumbai 400 001. )
3. Shri Shivaji Manikram Pasalkar, )  
11 A/B, Third Floor, Police Camp, )  
Tardeo, Mumbai 400 034. )
4. Shri Pandurang Dashrath Khillari, )  
83/2476, Pantnagar Police Wasahat, )  
Pantnagar, Ghatkopar (E), )  
Mumbai 400 075. )
5. Shri Rajendra Mahadeo Sohani, )  
Prakash Bhavan, Shinde Chawl, )



- Room No.6, Gavdevi Road, Tembhi Pada, )  
Bhandup (W), Mumbai. )
6. Shri Sadashiv Tukaram Sawant, )  
A-401, Visamo, Co-op. Housing Society, )  
Plot No.100, Gorai-II, Borivali (W), )  
Mumbai. )
7. Shri Ram Mahadev Mangle, )  
Flat No.204, Plot No.4, Priyanka Heritage,)  
Sector-16A, Sanpada, Navi Mumbai. )
8. Shri Deepak Ganpat Girkar, )  
B-35, B Wing / 003, )  
R.M.M.M. Goregaon (E), )  
Mumbai 400 063. )
9. Shri Sambaji Ramchandra Mohite, )  
B/102, Rukhmini Co-op. Housing Society,)  
Sector 20, Eiroli, Navi Mumbai. )
10. Shri Raghunath Ramchandra Nimbalkar, )  
Building No.26/1, BDD Chawl, )  
Ganpat Jadhav Marg, Worli, )  
Mumbai 400 018. )
11. Shri Sanjay Abaji Bhosale, )  
1/60, Tardeo Police Officers Quarters, )  
Tardeo, Mumbai 400 034. )



12. Shri Sanjay Shivajirao Thakur, )  
C/102, Himgiri Co-op. Hsg. Society, )  
Veenanagar, L.B.S. Road, Mulund (E), )  
Mumbai. )
13. Shri Sanjay Narhari Rane, )  
Tejukay Mansion, 5/13, )  
Dr. Babasaheb Ambedkar Road, )  
Lalbaug, Mumbai 400 012. )
14. Shri Shatrughna Dinkar Rane, )  
B/70, Saraf Choudhary Nagar, )  
Kandiwalie (E), Mumbai 400 101. )
15. Shri Pradip Ghanshyam Chopade, )  
2/12, Officers Quarters, )  
Near Mittal Court, Somwar Peth, )  
Pune. )
- )...Applicants**

**Versus**

1. The State of Maharashtra. )  
Through Chief Secretary, )  
Mantralaya, Mumbai - 400 032. )



2. The Additional Chief Secretary, )  
 Home Department, )  
 Mantralaya, Mumbai 400 032. )
3. The Director General of Police, )  
 Maharashtra State, )  
 Shahid Bhagatsingh Road, )  
 Colaba, Mumbai. )...Respondents

**Mrs. Punam Mahajan, Advocate for Applicants.**

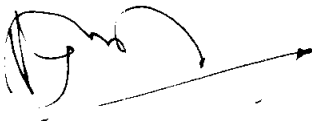
**Mrs. K.S. Gaikwad, Presenting Officer for Respondents.**

**P.C. : R.B. MALIK (VICE-CHAIRMAN)**

**DATE : 22 .08.2017**

### **JUDGMENT**

1. This is a deemed date of promotion related Original Application (OA) brought by as many as 15 Applicants, some of them being Police Sub Inspectors (PSIs) and others being Assistant Police Inspectors (APIs). The 1<sup>st</sup> Respondent is the State through the Chief Secretary, the 2<sup>nd</sup> Respondent is the State in Home Department and the 3<sup>rd</sup> Respondent is the Director General of Police.

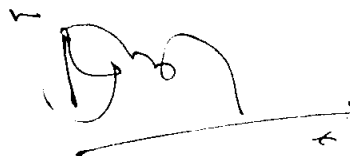


2. I have perused the record and proceedings and heard Mrs. Punam Mahajan, the learned Advocate for the Applicants and Mrs. K.S. Gaikwad, the learned Presenting Officer (PO) for the Respondents.

3. The grievance of the Applicants is that, though they had passed the limited departmental examination in the year 2002 and in 2003, they were given ad-hoc promotions but for regular promotion, they had to wait till 30<sup>th</sup> January, 2010. In Para 6.8 of the OA, these details in respect of each of the Applicants have been furnished.

4. At this stage itself, it may be mentioned that, according to the Applicants in their category of Police Personnel, the vacancies were there, but still they were kept waiting and languishing, and therefore, now at least they are entitled to the deemed dates. They claimed the said deemed dates for the post of PSIs from the date of passing of the departmental examination or at least the dates of ad-hoc promotions. Some of the Applicants came to be given regular promotions by the orders dated 15.10.2010, 27.12.2010 and 20.7.2011.

5. At Annexure 'A-1' (Page 26 of the Paper Book (PB)), there is a Home Department instrument dated 5<sup>th</sup>

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July, 1994. It lays down broadly so speaking three sources of appointments to the post of the PSIs. 50% posts are to be filled by nomination by way of direct selection through Maharashtra Public Service Commission (MPSC), 25% posts are to be filled up through departmental promotion examination again through MPSC and the remaining 25% by way of promotion from amongst the Police Hawaldars who have put in five years continuous service or seven years' service with breaks. For them, there would be a departmental examination. The 2<sup>nd</sup> Division Bench of this Tribunal of which I was also a Member decided a fasciculus of OAs, the leading one being **OA 1215/2013 (Shri Jaganath T. Andhale and 8 Ors. Vs. The State of Maharashtra and 2 Ors. Vs. The State of Maharashtra and 2 Ors. and 2 other OAs, dated 4.7.2014) (Per : the Hon'ble Acting Chairman)**. A passage from the 9<sup>th</sup> Paragraph from that order would be appropriate for the purpose of having clarity of understanding in the matter, which I reproduced below.

"9. We have carefully perused the material on record and considered arguments on behalf of the Applicants and the Respondents. It is seen that 25% of the posts for recruitment of PSI are to be filled by promotion. Relevant Rule viz. Rule 3(a) of the Police Sub-Inspector (Recruitment) Rules, 1995 has been



reproduced in para 4 above. At the time when the Applicants were promoted unamended rules were in operation and the Applicants in the present case are covered by the unamended rule. The rule has two components, i.e. (i) who are eligible to be promoted and (ii) Departmental Qualifying Examination. It is seen that the Applicants were eligible to be promoted on the basis of qualifying service and the seniority.”

It was made clear that 25% of the posts for recruitment to PSIs were to be filled up by promotion for which Police Sub Inspector (Recruitment) Rules, 1995 were relied upon and in Para 4 of the said order, the same was reproduced. The said Para 4 needs to be reproduced herein.

“4. It will be instructive to examine the relevant rules and the Government Resolutions (G.Rs) and Circular etc in the field. Rule 3(a) of the Police Sub-Inspector (Recruitment) Rules, 1995 before amendment read as follows:-

“3. Appointment to the post of Sub-Inspector of Police in the Police Force in the State of Maharashtra shall be made either:-

(a) by promotion of a suitable person on the basis of seniority subject to fitness from amongst the persons holding the posts of



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Havaldar and Assistant Sub Inspector in the Police Force, who have completed not less than five years continuous regular service or seven years broken service and who qualify in the departmental examination held by the Director General of Police in accordance with rules laid down in the Government Resolution No. PSB 0390/CR-408/POL 5A, dated 5<sup>th</sup> July, 1994”.

This Rule is amended on 29<sup>th</sup> June, 2013 and now reads as follows:-

“(a) by promotion of a suitable person on the basis of seniority, subject to fitness from amongst the persons holding the post of Police Constable or Police Nasik or Police Havaldar or Assistant Police Sub-Inspector in the Police Force having not less than ten years continuous regular service from the date of appointment in the Police Force and who qualify in the departmental examination held by the Director General of Police as per the Examination Rules prescribed by the Government by special or general order, from time to time.”

6. The case of the Applicants in the above referred OAs was that, they could not clear the departmental

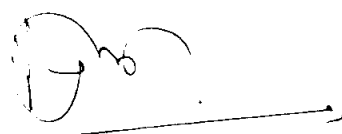




qualifying examination because from 2002-2013, the said examinations were not held.

7. The Applicants as hinted already, appeared for the departmental promotional examination conducted by the Department in the 25% quota in the year 2002. The OA has taken an historical survey in respect of the Rules, examinations, etc. right from 1990 onwards, but I do not think it necessary to delve there into and for the present, I can safely proceed on the basis of whatever has been already mentioned above and a few facts that would follow.

8. The Applicants appeared at and successfully cleared the examination in the year 2002. In Para 6.10 of the OA, the Applicants have set out the details of the vacancies in the cadre of PSI during 2002-2009 in so far as their category was concerned. According to them, for the years 2002, 2003, 2004, 2005, 2006, 2007, 2008 and 2009, the vacancies in 25% quota of their category were 576, 654, 847, 744, 786, 703, 550 and 518 respectively. According to the Applicants, the 3<sup>rd</sup> Respondent – Director General of Police did not fill these vacancies from their category of the promotees and instead of getting ad-hoc promotions in 2003. They reiterate that they were entitled for regular promotion from the date of passing of the

  
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departmental examination and they have questioned the stand of the 3<sup>rd</sup> Respondent that there were no regular vacancies and hence, ad-hoc promotions were given.

9. At this stage itself, it needs to be mentioned that on 15.3.2017, the learned PO furnished the details of the vacancies for the period from 2001-2009. The same needs to be noted here for its sheer significance.


वर्ष	रिक्त पदे	भरलेली पदे	नियुक्तीचा दिनांक	परिक्षेचे वर्ष
२००१	६०१	<u>१७</u> ५८४	<u>३०.०४.२००१</u> ३०.०४.२००१	१९९२-९५
२००२	१०३	१०३	०१.०१.२००२	२०००
२००३	९४	९४	०१.०१.२००३	
२००४	१५१	<u>१२६</u> २५	<u>०१.०१.२००४</u> ०१.०६.२००४	
२००५	७२	७२	०१.०१.२००५	
२००६	११९	११९	०१.०१.२००६	
२००७	१२६	१२६	०१.०१.२००७	
२००८	४९	<u>६</u> ४३	<u>०१.०१.२००८</u> २०.१०.२००८	२००२
२००९	--	--	--	--

10. Much as the Respondents would want to contend that, there were no vacancies, but ultimately it comes about that the vacant posts were there, but they had been

filled up by ad-hoc promotions. The matter may become clearer as the discussion progresses.

11. It needs to be repeated that the perusal of Para 6.10 of the OA would show the existence of vacancies during the period relevant hereto. In reply to enquiry under Right to Information Act furnished to Mr. Shaikh Mohammed Giyasoddin Hamad Fayajoddin, dated 20.2.2010 (Annexure 'A-6', Page 86-87 of the PB) again the details of vacancies have been furnished at Serial No.8 for the periods 2002 and 2009 to be 2304, 2615, 3387, 2974, 3145, 2810, 2201 and 2072 respectively.

12. In Para 6.13 of the OA, a Chart has been furnished to indicate that the departmental promotion examinations for the period from 1993 to 2010 was such that the examinations were held in 1993, 1995, 1998, 1999, 2002, 2003, 2005, 2006, 2007 and 2010. However, in as much as in 2002, the Applicants had cleared the examinations, it would become very clear that, when they were in the zone of consideration, the said examinations were held only thrice and in the 4<sup>th</sup> examination, they got through.

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13. In order to complete the discussion with regard to the facts, the case of the Applicants is that in the fasciculus of OAs 1215/2013 and others, this Tribunal had held that the ad-hoc promotions given to the Applicants therein would have to be treated as regular promotions. The Respondents have very heavily relied upon a certain Rule 90 of the Maharashtra Police manual, 1959 (Vol.-1) which is sometimes referred to as 'Bombay Police Manual'. Para 10 of the said Judgment of this Tribunal needs to be fully reproduced, so as to obviate the necessity of paraphrasing.

**“10.** The Respondents have claimed that the Applicants were promoted on ad-hoc basis for a short period as P.S.I as per the provision of Rule 90 of the Maharashtra Police Manual 1959 Vol-I (sometime referred to as Bombay Police Manual). This reads:-

“90. Officiating appointments of Sub-Inspectors of Police:- (1) In order to enable him to make appointments by promotion, Deputy Inspector General will maintain in their offices a list of Head Constables qualified for such appointments on the following principles:-

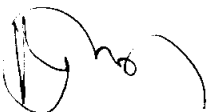


- (a) The list of qualified Head Constables should be maintained range wise.
- (b) (i) Seniority should be fixed according to the date of passing the qualifying examination.  
(ii) Inter se seniority of qualified Head Constables passing the examination at the same time should be fixed according to the date of their substantive promotion to the rank of Head Constables in the lowest grade.
- (c) The lists should be prepared every year and the new comers on the list should be placed below the Head Constables already on the list.

(2) The above principles are also applicable in the case of qualified Armed Head Constables.

(3) In case of emergency, i.e. when Sub-Inspectors in charge of Police Stations are sent out on deputation for quelling disturbances, riots, etc, the Deputy Inspector General may appoint the Senior Head Constables of such Police Stations as Sub-Inspectors subject to the following conditions:-

- (a) The power should be exercised in cases of emergencies only.
- (b) Appointments should be made on the initial pay of the Sub-Inspector's grade.

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- (c) The appointments should be made for a maximum period of two months.
- (d) Such appointments should not be made, if the vacancies are for less than one month.
- (e) The I.G.P and the Government should be informed of the appointments, as soon as they are made.”

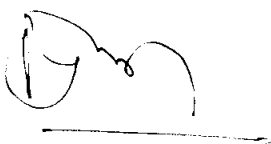
It is seen that this Rule 90(1) & (2) are not statutory in nature. They are based on circular issued by Inspector General of Police dated 13.2.1958. They are neither issued in exercise of powers of rule making under the Bombay Police Act nor under Article 309 of the Constitution. Rule 90(3) is based on G.R dated 13.5.1948. Note below Rule 90(1) (c)(i) will support the Applicant's case. As the Respondents did not hold the Departmental Qualifying Examination after 2001 and till 2013, it can be held that the Applicants were not able to appear for the examination for reasons beyond their control. They cannot be made to lose seniority in absence of any express provision in the Recruitment Rules or giving them fair opportunity to pass the said examination. Moreover, Rule 90(3) provides that power of ad hoc promotion may be applied only in case of emergency, when Sub-Inspectors in charge of Police Stations are sent out on deputation for



quelling disturbances and riots etc for a maximum period of two months. This rule will not permit promotion for more than two months on all vacant posts of P.S.I in the Commissionerate. Such promotions must be treated in the nature of regular promotions under the Recruitment Rules read with G.R dated 1.11.1977. It is the case of the Applicants that their promotions as P.S.I, were based on seniority and fitness in the cadre of A.S.I. This is not denied by the Respondents. There is enough material on record to hold that these promotions were in the nature of regular promotions. Though the Applicants had given some undertaking that they will not approach any Court, if reverted, such an undertaking cannot be held to be legally binding. As such, the Applicants could not have been reverted without giving them opportunity of being heard.”

14. It is, therefore, very clear that no sustenance could be had by the Respondents from the Rules in the Police Manual because after-all, the efficacy thereof is much weaker when compared with the Act, statutory Rules and such other instruments.

15. The Applicants then filed another OA because the representations made after the Judgment of the Tribunal in OA Nos.1215/2013 and others did not yield any result.

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They were not even replied to. This OA was OA 1019/2013 and it sought the relief of considering the Applicants for the deemed date of promotion to the post of PSI from the date of result of the Examination of 2002 or from the date in the year 2003 when ad-hoc promotions were given. Increments were also sought along with the directions to consider the representations of the said Applicants. During the pendency of the said OA, the 3<sup>rd</sup> Respondent responded to the representation of the two of the Applicants therein by the communication of 10.11.2014 thereby rejecting the request for grant of deemed date and thereupon the said OA 1019/2013 was disposed of as infructuous reserving the rights of the Applicants to agitate and challenge the decision of the 3<sup>rd</sup> Respondent by way of an appropriate remedy which apparently could be this OA.

16. A grievance is voiced that a representation made by the 1<sup>st</sup> Applicant on 23<sup>rd</sup> December, 2014 has not been responded to, till the filing of this OA (Annexure 'A-13'). As already indicated above, the case of the Applicants is that, though there were sufficient vacancies in the year 2002 and thereafter, in so far as quota of the Applicants was concerned, they had been given the deemed date (regular promotion) only in 2010 and this statement is based on information received under RTI. That aspect of the matter





has already been discussed hereinabove. It is alleged in Para 6.20 that, the Respondents were deliberately withholding the relevant information and therein detailed Charts are set out to indicate that vacancies for the relevant category were always there. On such and similar facts, the relief sought is for direction to the 3<sup>rd</sup> Respondent to grant deemed date of promotion to the Applicants in the cadre of PSI from the year 2002 when they passed the examination or the date on which they were granted ad-hoc promotion as PSI with consequential benefits.

17. At this stage, it will be appropriate to peruse the Affidavit-in-reply which in this matter is filed only by the Respondent No.3. Now, the issue relating to the service conditions including promotion, etc. is naturally for the Government to decide but then, somehow or the other, the State has decided to keep a safe distance away in the matter of filing of the reply in this matter. One can, therefore, safely proceed on the basis of constructive admission arising out of absence of traverse and hold that the Government has admitted the claim of the Applicants. But I shall prefer not to rest my conclusion on that ground only and decide this OA. The Affidavit-in-reply on behalf of Respondent No.3 is filed by a Desk Officer Ms. Anjali E.



Varadkar. According to her, the cases of the Applicants fall under Rule 3(a) of Police Sub Inspector (Recruitment) Rules, 1995 which have been framed under Section 5 of the Maharashtra Police Act and to which a result has already been made above. It is pleaded that, there were "lots of vacancies" from 25% and 50% quota of selection on the basis of limited departmental examination and nomination respectively, and therefore, it was decided to fill up the said vacancies "in-exigencies of services" of this post by giving ad-hoc promotions as 'stop-gap arrangement', and therefore, this is significant ad-hoc promotions were given under Rule 19(3) of the Police Manual. As already observed hereinabove by reproducing a passage from the Judgment in the matter of **Jaganath Andhale** (supra) that reliance on Police Manual in the matter relating to service conditons, promotion, etc. is misplaced. It is not really necessary for me now to repeat it all over again. It is, further, pleaded that, unless the regular promotion to the post of PSI was given to those who were earlier given ad-hoc promotions, they cannot claim promotion with effect from the date of ad-hoc promotion. In that connection, a reference is made to Full Bench Judgment of this Tribunal in **OA 240/2009 (Dr. R.A. Gaikwad and others Vs. State of Maharashtra and others, dated 30.03.2010)**. The issues have been culled

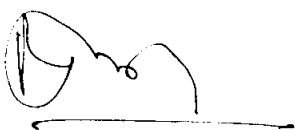


out on which the Larger Bench reference was made. It is not necessary for me to enter into the finer details thereof.

18. Then the issue of limitation is raised. In my opinion, if the present OA is placed in its proper perspective, there is no vice of limitation which vitiates this OA. The Respondents have merely pointed out to various dates and then have sprang the objection of limitation on the face of Applicants. The above discussion must have made it clear that, in a proper context, the time had not begun to run, and therefore, the issue of limitation is not an undoing of the Applicants. The Respondents in the Affidavit-in-reply filed on 16.8.2016 (Para 3) have at least conceded that, no issue of limitation arose (Page 234 of PB).

19. Similarly, it is frivolous for the Respondents to set up a plea of estoppel on the elementary tenets of law. Apart from everything else, it cannot be said by any stretch of imagination that the Respondents relied upon any representation of the Applicants so as to alter their position.

20. In Para 13, it is pleaded that, as per Rules 3(a) read with Rule 4 of PSI (Recruitment) Rules, the

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promotions to the qualified persons had got to be given only on the basis of availability of the vacancies. Now, even if it is true, I have already mentioned above, as to how the case of the Respondents of there being no vacancies is not quite acceptable.

21. Para 15.1 of the Affidavit-in-reply reads as follows :

**“15.1** Although there were vacancies from the promote quota of 25% yet, it is also factually correct that the Departmental Qualifying Examination for promotion to the post of P.S.I. were held in the month of August, 2000.”


22. It is, therefore, very clear that the repeated refrain of the Respondents of there being no vacancies is belied by their own word on oath which is quoted hereinabove.

23. Then, there is a detailed reference to a Writ Petition No.465/2009 (filed by Mr. M.R. Farande) for the self-same post for the self-same quota. It appears that, in the said Writ Petition, consent terms were filed. It is the case of the Respondents that a Review Petition thereagainst is pending and in that sense, the matter is subjudice. As to this aspect of the matter, I find that there



is no stay granted by the Hon'ble High Court. Not only this OA, but the OAs before it were also heard and decided in this very Tribunal including OA 1215/2013 whereagainst a Writ Petition 8926/2015 is filed and is pending, but there also, there is no stay, and therefore, in my opinion, whatever has been pleaded and if I have correctly understood it, I would find that no case is made out for staying the present OA.

24. In the Affidavit filed by the Respondents on 16.8.2016, in Para 3 thereof, while dealing with OA 1019/2013, it was pleaded that the said OA had become infructuous and that was what this Tribunal held. In my opinion, the said order will have to be studied in the context of the circumstances surrounding the same. The decision adverse to the two Applicants therein had been taken by the Respondents and in that sense, the said OA had become infructuous and was disposed of, but it was with liberty. In Para 5 thereof, it was again pleaded that the Applicants were initially not given regular promotion and the regular promotions were given only in January, 2010 and then again, there is a reference to Larger Bench order of this Tribunal in OA 240/2009. The Respondents have not furnished on record a copy thereof, although it was pleaded in the said Paragraph that it would be done, if



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and when directed by this Tribunal. Very obviously, if they relied thereupon, they ought to have furnished a copy thereof.

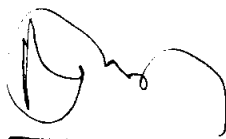
25. If the idea behind the stand of the Respondents is to suggest that the issue of promotion is within their discretion and that despite existence of vacancies, they can continue ad-hocism, then in the context of the constitutional safe-guards to the public services and the servants, such a stand cannot survive. In any case, it cannot be claimed that the service condition of promotion, deemed date, etc. is judicially inscrutable. I have already mentioned above as to how the Respondents themselves have admitted all about the existence of "lots of vacancies" for which, a reference to Para 17 hereof and Para 3.3 at Page 169 of the PB will be apposite. In such a state of affairs, the issue remains as to why the regular promotions should not have been given and if they were not given, how can the prayer for the grant of deemed date be blocked. In my view, everything does not go in the name of discretion.

26. Mrs. Mahajan, the learned Advocate for the Applicants told me and in my opinion, quite rightly that the only ground on which the Applicant could be denied deemed date was that, there were no vacancies. That fact



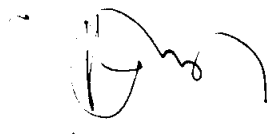
has already been belied by the above discussion. There is material in the form of replies received under Right to Information Act which needs to be perused carefully and which in my opinion, would result in a finding for the Applicants.

27. The learned PO placed reliance upon a Judgment of the Hon'ble Supreme Court in **State of U.P. and others Vs. Ashok Kumar Srivastavs and another : Civil Appeal No.6967/2013 arising out of SLP (C) No.31481/2010, dated 21<sup>st</sup> August, 2013** with particular reference to Para 8 of the said unreported Judgment of the Hon'ble Apex Court. In Para 8, the Rule that was relevant to be considered in that particular matter was reproduced and it will become very clear that the principles laid down are that, the seniority of the candidates was to be determined from the date of the order of substantive appointment. Now, here in this particular OA, despite existence of vacancies, ad-hocism was resorted to, but the ad-hoc appointments of the Applicants were to the posts that were not ad-hoc. They were not even created, but they were permanent. Therefore, **Ashok Kumar Srivastava's** principles when applied hereto, in my opinion, would result in a finding for the Applicants rather than the Respondents.

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28. The learned PO then relied upon a Division Bench Judgment of the Hon'ble Bombay High Court in a fasciculus of Writ Petitions, the leading one being **Writ Petition No.465/2009 with Civil Appeal (L) No.12663/2014 (Mahesh R. Farande and Ors. Vs. The State of Maharashtra and Anr. And other Writ Petitions and CAs, dated 28<sup>th</sup> June, 2016)**. The facts therein were such that this Tribunal was held to have unjustifiably granted grace marks to the candidates on the plea of unsatisfactory state of examination centres. Because of that particular course of action, a somewhat anomalous situation arose whereby those who actually scored on their own merit were placed below those that got through with the help of grace marks. It was in this factual scenario that Their Lordships still did not interfere with the ultimate conclusions drawn by this Tribunal because that would have further complicated the matter because all except six candidates had by then retired. In my opinion, it is, therefore, quite clear that there is no factual parity between the matter before Their Lordships and the present OA.

29. The learned PO Smt. K.S. Gaikwad who tried her brilliant best to salvage the case of the Respondents had to contend that there would be no dispute about the fact





situation about the vacancies, but the only point would be as to whether the deemed date can be considered which according to her, could be given only from January, 2010 when regular promotions were given. As to this submission of the learned PO, I find that from 2003 to 2010, the Applicants worked continuously. There was no reversion in actual fact, and therefore, I need not examine the hypothetical case of what would have happened even if the reversion by way of nominal breaks was there. In so far as 1956 Rules and Rule 90 thereof are concerned, it bears repetition that the said Rule does not have the efficacy of statutory Rules. I have sufficiently discussed this aspect of the matter with the help of the observations in an earlier OA. The learned PO sought to contend that the Applicants have fortuitous promotions. Now, this in my view, is nobody's case and it cannot be examined only on the basis of submissions at the Bar. Mrs. Mahajan's submission that, ad-hoc promotions and ad-hoc appointments are two different things, is in my opinion clearly acceptable. In that view of the matter, therefore, for the foregoing, I conclude that, in the context of the present facts, a case is made out for the relief that the Applicants have sought.

A handwritten signature in black ink, appearing to be 'Dm', is written below the text. There are some faint horizontal lines below the signature.

30. The Respondent No.3 is hereby directed to grant deemed date of promotions to the Applicants in the cadre of Police Sub Inspectors from the date of their first appointment on ad-hoc basis and grant all benefits consequential thereto. Compliance within eight weeks from today. The Original Application is allowed in these with no order as to costs.

Sd/-

**(R.B. Malik)**  
**VICE-CHAIRMAN**  
**22.08.2017**

22-8-17

Mumbai

Date : 22.08.2017

Dictation taken by :

S.K. Wamanse.