

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**ORIGINAL APPLICATION NOS 1079/2014 & 138/2015**

**DISTRICT : MUMBAI**

**1) ORIGINAL APPLICATION NO. 1079 OF 2014**

Mrs Rohini Vijay Jagtap, )  
[maiden name Miss Rohini Sakharan )  
Kedare], working as Senior Office )  
Superintendent, in the office of Res.no. 2) )  
R/o: 14/2, Mahesh Niwas, )  
Samrat Ashok C.H.S, Sahakar Nagar Rd,) )  
Chembur, Mumbai 400 071. )...**Applicant**

**Versus**

1. The State of Maharashtra )  
Through Addl. Chief Secretary. )  
Home Department, Mantralaya, )  
Mumbai 400 032 [presently )  
Working at 30<sup>th</sup> floor, World Trade )  
Centre no. 1, Cuffe Parade, )  
Mumbai 400 005. )

21

2. The Director General of Police, )  
 M.S, Shahid Bhagatsing Road, )  
 Colaba, Mumbai 400 001. )
3. Shri Mohan M. Mankar, )  
 Working as Deputy Assistant to )  
 Inspector General of Police, )  
 In the office of D.G.P, )  
 Shahid Bhagatsingh Road, Colaba, )  
 Mumbai 400 001. )...**Respondents**

Ms Swati Manchekar, learned advocate for the Applicant.

Ms Neelima Gohad, learned Presenting Officer for Respondents no 1 & 2.

Shri A.V Bandiwadekar, learned advocate for Respondent no. 3.

## 2) ORIGINAL APPLICATION NO. 138 OF 2015

Shri Mohan M. Mankar, )  
 Working as Deputy Assistant to )  
 Inspector General of Police, )  
 In the office of D.G.P, )  
 Shahid Bhagatsingh Road, Colaba, )  
 Mumbai 400 039. )  
 R/o: Suhas Terrace, Bhandarwada, )  
 Malad [W], Mumbai – 64. )  
 Add for service of notice: )  
 Shri A.V Bandiwadekar, Advocate, )

Having office at 9, "Ram Kripa", )  
 Lt. Dilip Gupte Marg, Mahim, )  
 Mumbai 400 016. )... **Applicant**

**Versus**

1. The State of Maharashtra )  
 Through Addl. Chief Secretary, )  
 Home Department, Mantralaya, )  
 Mumbai 400 032 [presently )  
 Working at 30<sup>th</sup> floor, World Trade )  
 Centre no. 1, Cuffe Parade, )  
 Mumbai 400 005. )
2. The Director General & Inspector )  
 General of Police, [M.S], )  
 Having office at Old Council Hall, )  
 Shahid Bhagatsing Road, )  
 Colaba, Mumbai 400 039. )
3. Mrs Rohini Vijay Jagtap, )  
 [maiden name Miss Rohini Sakharam )  
 Kedare], working as Senior Office )  
 Superintendent in the office of )  
 Respondent no. 2, Director General )  
 of Police, [M.S], Mumbai. )

*pk*

4. The State of Maharashtra, )  
Through Principal Secretary, )  
General Administration Department,) )  
Having office at Mantralaya, )  
Mumbai 400 032. )

Shri A.V Bandiwadekar, learned advocate for the Applicant.

Ms Neelima Gohad, learned Presenting Officer for the Respondents no 1, 2 & 4.

Ms Swati Manchekar, learned advocate for Respondent no. 3.

**CORAM : Shri Rajiv Agarwal (Vice-Chairman)**

**DATE : 02.03.2016**

**ORDER**

1. Heard Ms Swati Manchekar, learned advocate for the Applicant in O.A 1079/2014, Ms Neelima Gohad, learned Presenting Officer for Respondents no 1 & 2 and Shri A.V Bandiwadekar learned advocate for Respondent no. 3 in O.A 1079/2014 and learned advocate Shri A.V Bandiwadekar for the Applicant in O.A no 138/2015, Ms Neelima Gohad, learned Presenting Officer for Respondent nos 1, 2 & 4 and Ms Swati Manchekar, learned advocate for Respondent no. 3 in O.A 138/2015.

2. These Original Applications were heard together and are being disposed of by a common order as both the cases are closely inlinked and judgment in one O.A will have application in another O.A

3. The Applicant in O.A no 1079/2014 viz. Smt Jagtap was selected through Maharashtra Public Service Commission (M.P.S.C) as Junior Clerk and was appointed on 14.12.1982 on the establishment of the Respondent no. 2. The Respondent no. 3 (Applicant in O.A no 138/2015) was appointed as Junior Clerk on 23.6.1978, but he was not selected through M.P.S.C. In Mumbai, all Class-III posts are required to be filled on the recommendations of M.P.S.C. The Respondent no. 3 was therefore not appointed on regular basis. His appointment came to be regularized only on 23.3.1984. Another relevant fact is the date of passing of Post Recruitment Test (P.R.T), which is required to be passed by a Junior Clerk, within 4 years of appointment in three chances, for getting annual increments and for getting promotion. The Applicant passed P.R.T on 3.10.1986 (date of declaration of result). The Respondent no. 3 passed P.R.T on 14.3.1980, even before his services were regularized. The Respondent no. 3 was promoted as Senior Clerk on 1.10.1986, while the Applicant was promoted to that post on 29.2.1988. The Applicant was promoted as Head Clerk on 29.9.2000 and Office Superintendent on 1.4.2004. She was promoted to the

100

post of Senior Office Superintendent on 10.7.2008. In the meanwhile, the Respondent no. 3 was promoted in various posts and is presently posted as Deputy Assistant to the Inspector General of Police on 8.8.2008.

4. Learned Counsel for the Applicant (in O.A no 1079/2014) argued that the Applicant was appointed as Junior Clerk strictly in accordance with recruitment rules on 14.12.1982. She passed P.R.T in August 1985, which was the last date of examination, (though result was declared on 3.10.1986) within 4 years and thus maintained her seniority in the post of Junior Clerk from the date of appointment, i.e. 14.12.1982. The Respondent no. 3 was appointed without following due procedure on 23.6.1978. His services were regularized only w.e.f 23.3.1984. He is, therefore, junior to the Applicant. The fact that he was allowed to appear in P.R.T and passed the same on 14.3.1980 even when his appointment was irregular, will not make him senior to the Applicant. The Applicant cannot claim any seniority in the post of Junior Clerk before his regularization on 23.3.1984. Learned Counsel for the Applicant argued that a person does not become senior merely on the basis of passing P.R.T earlier. The Applicant has maintained her seniority and therefore, the Respondent no. 3 was junior to her. In the seniority list as on 1.1.1985, the Applicant was shown at Sr. No. 61, while the Respondent no. 3 was at Sr. No. 70. Learned Counsel for the

Applicant argued that the Applicant was not aware of this seniority list. All subsequent seniority lists showed the Respondent no. 3 as senior to her, showing his seniority on the basis of his initial irregular appointment from 23.6.1978, though, his date of appointment should have been shown as 23.3.1984. On that basis, the Respondent no. 3 was promoted to various posts, before the Applicant. Learned Counsel for the Applicant argued that the Applicant came to know in June-July, 2013, that in the seniority list of Clerical cadre, she was senior to the Respondent no. 3, and he was given promotions before her wrongfully superseding her at many levels. The Applicant made a representation to the Respondent no. 1 on 3.8.2013, followed by a reminder on 18.10.2013. The Applicant submitted one more application dated 16.1.2014. In August, 2014, the Applicant came to know that the Respondent no. 1 by letter dated 8.8.2014 had directed the Respondent no. 2 to take action in the matter of granting deemed date of promotion to the Applicant as per G.R dated 6.6.2002. Learned Counsel for the Applicant argued that the Applicant was eligible to be considered for promotion to the post of Senior Clerk in the year 1986 as she had passed P.R.T in August 1985 and also completed 3 years as Junior Clerk. She was also eligible for further promotions, before the Respondent no. 3. Though the Respondent no. 1 has directed the Respondent no. 2 to grant deemed date of promotion to the Applicant by letter dated 8.8.2014, the

Respondent no. 2 is dragging his feet and not taking any steps to remove the injustice which has been done to the Applicant. Learned Counsel for the Applicant prayed that the Respondent nos 1 & 2 may be directed to implement order dated 8.8.2014 within a given time frame.

5. Learned Counsel for the Applicant in O.A no 138/2015 argued that the Applicant was appointed as Junior Clerk on 23.6.1978 as non M.P.S.C candidate from S.C category. The Applicant was granted permission to appear for P.R.T in 1979 and he passed the same on 14.3.1980. By G.R dated 23.3.1984, the Applicant's services were regularized w.e.f the same date. The Applicant was promoted a Senior Clerk on 1.10.1986. Thereafter, he was promoted as Head Clerk on 16.2.1996, Office Superintendent on 10.6.1999, Senior Office Superintendent on 9.3.2003 and Deputy Assistant to the Inspector General of Police on 8.8.2008. In O.A no 19 of 2008, by order dated 30.7.2009, this Tribunal had directed the Respondent no. 2 to issue order to appoint the Applicant as Deputy Assistant to I.G.P. Now the post of Senior Deputy Assistant to I.G.P has fallen vacant on 1.1.2015 and the Applicant is eligible to be promoted to that post. Learned Counsel for the Applicant argued that the Respondent no. 3 (Applicant in O.A no 1079/2014) is claiming seniority over the Applicant after 26 years in the cadre of Senior Clerk. The Respondent no. 3 did not make representation to the Respondent no. 2 but directly

dm



approached the Respondent no. 1. A proposal was sent by the Respondent no. 2 to the Respondent no. 1 who sought the view of the Respondent no. 4, i.e. the General Administration Department. By order dated 8.8.2014, the Respondent no. 1 directed the Respondent no. 2 to grant deemed date of promotion to the Respondent no. 3. The Respondent no. 2 granted deemed date of promotion on 1.10.1986 in the post of Senior Clerk. The present O.A has been filed challenging the aforesaid order dated 10.2.2015.

6. Learned Counsel for the Applicant argued that the Applicant had passed P.R.T examination on 14.3.1980. He was promoted as Senior Clerk w.e.f 1.10.1986. At that time there was no requirement that an employee had to work for 3 years before he could be considered for promotion to the higher post. The Applicant's services were regularized w.e.f 23.3.1984. When the Applicant was promoted as Senior Clerk the Respondent no. 3 was not eligible to be promoted as she passed P.R.T only on 3.10.1986. As the Applicant was promoted as Senior Clerk before the Respondent no. 3, he became her senior, as such the Respondent no. 3 has no claim to be granted deemed date of promotion from the date of promotion of the Applicant. Learned Counsel for the Applicant made following submissions in support of his claim:-

- (a) The Applicant has not challenged the seniority for last 26 years. Now, she cannot be allowed to disturb the settled position. There are various judgments of Hon'ble Supreme Court and High Court in this regard. Supreme Court judgments are equally applicable to Government authorities, as regards delay.
- (b) The Applicant exerted undue pressure on the Respondent no. 2 by directly approaching the Respondent no. 1 regarding her claim of seniority. This amounts to indiscipline. The Respondent no. 2 was required to take independent decision in the matter. However, the Respondent no. 1 has exerted due pressure on the Respondent no. 2 forcing him to issue the impugned order dated 10.2.2015, which should be quashed and set aside only on that ground.
- (c) The Respondent no. 2 has passed the impugned order dated 10.2.2015, without considering the representation dated 25.11.2014 submitted by the Applicant. In fact, there is no mention of the said representation in the impugned order.
- (d) Learned Counsel for the Applicant argued that the Applicant was promoted pursuant to order of this Tribunal in earlier O.A no 19/2008 by judgment

dated 30.7.20009. The issue cannot be reopened now.


- (e) In Government Circular dated 30.4.1981 there is no provision to grant deemed date of promotion to the Respondent no. 3 retrospectively from 1.10.1986.
- (f) When the D.P.C was held in 1985 to consider promotion of eligible Junior Clerk to the post of Senior Clerk, the Applicant was found eligible as he had passed P.R.T examination. Others, including Respondent no. 3 were rightly not considered as they had not passed P.R.T examination on that date. The Respondent no. 3 had, thus lost seniority to the Applicant.

7. Learned Presenting Officer (P.O) argued on behalf of the Respondents (except Respondent no. 3 in both O.As) that the order dated 10.2.2015 granting deemed date of 1.10.1986 for promotion as Senior Clerk to the Applicant in O.A no 1079/2014 is legally correct (for sake of convenience, the Applicant in O.A no 1079/2014 is referred to as the Applicant and the Applicant in O.A no 138/2015 is referred to as the Respondent no. 3 hereinafter). The Applicant was appointed as Junior Clerk on the recommendations of M.P.S.C on 14.12.1982. The Respondent no. 3 was initially appointed as Junior Clerk on 23.6.1978, but

without recommendation of M.P.S.C. His appointment was irregular. His appointment came to be regularized by G.R dated 23.3.1984 w.e.f the date of issuance of the G.R. As such, the Respondent no. 3 was definitely junior to the Applicant. P.R.T is required to be passed by a regularly appointed Junior Clerk. Somehow, the Respondent no. 3 passed P.R.T before his service was regularized. However, that will not make him senior to the Applicant, who passed P.R.T within 4 years of appointment and within 3 chances, thus maintaining her seniority from the date of initial appointment. The Respondent no. 3 could not have been promoted before the Applicant, who was senior to her. In any case, the Applicant is fully eligible to be given deemed date of promotion in the post of Senior Clerk from the date on which her junior namely the Respondent no. 3 was so promoted. The Applicant was eligible to be promoted as Senior Clerk in 1985, as her date of passing P.R.T has to be taken as the last day of examination and not the date of declaration of result of P.R.T. Learned Presenting Officer argued that before the impugned order dated 10.2.2015 was passed, a memorandum was issued to the Respondent no. 3 on 15.11.2014 and he was heard before the order granting deemed date of promotion to the Applicant was passed. Learned P.O stated that there is no factual basis to state that the Respondent no. 2 was pressurized by the Respondent no. 1 in any manner. In such matters, it is a general practice to seek guidance

from higher offices and General Administration Department is often consulted in service related matters. There is nothing irregular or malafide in this regard. Learned P.C argued that the matter of granting further deemed date of promotion to the post of Office Superintendent is under consideration and orders will be issued in due course of time. Learned P.O argued that there is no substance in O.A no 138/2015, which deserves to be dismissed.

8. The issue of limitation is examined first Prima facie, the O.A no 1079/2014 is within limitation, as it is seeking implementation of letter dated 8.8.2014 issued by the Respondent no. 1 regarding deemed date of promotion in various posts to the Applicant. The Applicant is seeking implementation of instructions contained in the aforesaid letter. The order dated 10.2.2015, impugned in O.A no 138/2015 is issued in pursuance of this letter. The Respondent no. 3 has challenged the order dated 10.2.2015 as time barred. These facts are mentioned in para 6.20, 6.21, 6.28, 6.29, 6.30 etc of the O.A no 138/2015.. The Applicant has claimed that she was not aware of her seniority vis-à-vis the Respondent no. 3 as on 1.1.1985, where she was shown senior to the Respondent no. 3. In subsequent seniority lists she was shown junior to the Respondent no. 3 on the basis of date of his initial (irregular) appointment on 23.6.1978. She came across seniority



list of 1985 only in 2013 and immediately made representations. The Applicant has made this averment in para 6.8 of her O.A no 1079/2014. It is stated that:-

“And the seniority lists published thereafter from time to time never mentioned the date of regularization of services of the Respondent no. 3 or of any of the employees whose temporary services were regularized and only date of their appointment are shown and accordingly their seniority position is shown.” (emphasis supplied).

In the affidavit in reply dated 15.4.2015, the Respondent no. 3 has not denied this contention. In the affidavit in reply dated 17.11.2015, in para 12, these facts are not denied by the Respondent no. 2 also. It appears that the Applicant was under the impression that the Respondent no. 3 was senior to her as he was appointed as Junior Clerk before her on 23.5.1978. This was the date mentioned in the seniority lists issued from time to time though the date of regularization of services of the Respondent no. 3, i.e. 23.3.1984 should have been shown as the date of his initial appointment. The contention of the Applicant in this regard appears to be plausible. The Respondent no. 3 has relied on a number of judgments, regarding not disturbing seniority after considerable period has lapsed. Though the judgments are given in the context of jurisdiction of the courts,

learned Counsel for the Respondent no. 3 argued that they are equally applicable to the Government who cannot revive a issue which has already been settled. These judgments are discussed below:-

(1) **O.A no 783 of 2011**, judgment dated 25.2.2015. It was held that if delay is condoned in filing O.A, it may not necessarily guarantee for the success of action. This Tribunal declined to exercise discretionary powers to disturb status quo, which has become settled for close to three decades. Learned Counsel for the Respondent no. 3 argued that in the present case also, the status quo which was established two and a half decades ago should not have been disturbed by the Respondents no 1 & 2.

While going through this judgment, it is seen that the Applicants therein were seeking seniority after almost three decades. They had not utilized the opportunity to move the High Court between April 1989 till early 1990s. Several other persons were also involved.

In the present case, it is a straight dispute between the Applicant and the Respondent no. 3, no other person is involved. Also, the Applicant has made out a plausible case, explaining delay. In any case, matter has already been decided by the competent authority and it would hardly be proper to overturn the decision merely because

the authority has decided to entertain a matter after 26 years. This case is clearly distinguishable.

(2) **O.A no 1009/2014**, judgment dated 23.11.2004. This Tribunal has declined to change the inter-se seniority between two officers from 1984 in the year 2004 due to delay and latches. It is seen that in that case, it was observed by this Tribunal that:-

“It is not necessary to refer to these citations in detail. Suffice it to bear in mind that the ratio of this two cases is that placement given in the seniority list cannot be disturbed after a long lapse of time and rights flowing from such ranking cannot be denied merely because there are some delay in joining.” (emphasis supplied).

In this case, the challenge to the seniority was merely on the ground that the senior person has joined the post after some delay as compared to the junior person in the seniority list. The Applicant never challenged the seniority list before this Tribunal though he was fully aware of the facts. In the present case, the Applicant has stated that she was not aware that she was senior to the Respondent no. 3 as correct information was not disclosed in the seniority lists. The case is clearly distinguishable.



(3) Hon. Supreme Court judgment in the case of **M.S Vankani & others Vs. State of Gujarat & others in Civil Appeal no. 2439 of 2010.**

In this case, the dispute was between two batches of Range Forest Officers viz. 1979-81 batch (non graduates) and 1980-81 batch (graduates). The seniority was decided and confirmed by the Government of Gujarat in favour of 1980-81 batch on 12.10.1982 as reflected in various seniority lists published from time to time. In 1993, this position was reversed. This was ultimately challenged before the Hon. Supreme Court which upheld the seniority of 1980-81 batch. It is clear that in this case, dispute was between two batches of Range Forest Officers. The batch of 1979-81 has been making repeated representations challenging the decision to place them above 1980-81 batch, though the Government had decided the matter in 1982 and 1987. Hon. Supreme Court did not uphold order issued in 1993 reversing earlier decisions. It is mentioned that:-

“ The decision taken by the Government in deputing the non-graduates (1979-81 batch) to a two year training course and graduates (1980-81 batch) to a one year training is in compliance with Rule 10 of 1969 Rules and Rule 18 of the 1974 rules and the seniority of both batches has been rightly settled vide orders dated 12.10.1982 and 5.3.1987 and the

26

Government has committed an error in unsettling the seniority under its proceedings dated 29.9.1993.”

It is clear that order dated 29.9.1993 was found to be wrong based on the rule position. In the present case, the Government has taken a decision which appears to be based on interpretation of rules. The case is clearly distinguishable.

**(4) P. Srinivas Vs. M. Radhakrishna Murthy & others : 2004 S.C.C (L & S) 424:**

In this case, Hon'ble Supreme Court held that inter se seniority based on performance during selection cannot be disturbed after a long lapse of time and rights flowing from such ranking cannot be denied merely because there was some delay in joining. It is clear that both the persons had been selected in the same selection process and one joined later than another, though he performed better than him. The facts are entirely different here. The Applicant, herein, did not know the correct date of appointment (regularization) of the Respondent no. 3 and was under the impression that he was senior to her. The case is distinguishable.

**(5) S.B. Dogra Vs. State of Himachal Pradesh & others (1993) 23 Administrative Tribunal Cases 358:**

It was held by Hon'ble Supreme Court that Tribunal ought not to have disturbed the seniority after such a long lapse of time when respondent had not challenged it before the same when it was finalized in 1979.

In the present case, the Applicant has explained the reasons as to why she could not challenge the seniority list earlier. The Government has already considered her request for placing her senior to the Respondent no. 3. The delay in challenging seniority after a long lapse of time has been explained. The case is distinguishable.

**(6) Vijay Kumar Kaul & others Vs. Union of India & others (2012) 7 SCC 610.**

It was held that claim of seniority must be put forth as in the meantime interest of third party ripen and any interference is likely to cause anarchy. In the present case, no third party is involved. There is no risk of causing anarchy. The Applicant has successfully explained the reasons for delay. The case is clearly distinguishable.

**(7) Dr A.K Mitra, D.G. C.S.I.R and another Vs. D. Appa Rao & another: (1998) 9 SCC 492.** It was held by Hon. Supreme Court that the Tribunal should not have allowed to reopen the issue which was already settled in 1972. No provision of law or any other material was

2

shown to support the decision of the Tribunal. In the present case, there appear to be legal case to grant seniority to the Applicant over the Respondent no. 3. The facts are different and do not apply to this case.

**(8) State of Uttaranchal & another Vs. Dinesh Kumar Sharma in Civil Appeal no 5573 of 2006.**

In this case, Hon. Supreme Court overturned the decision of Uttaranchal High Court asking the Government to consider the case of the Respondent for seniority from 1995-96 which was rejected in 2002. It is seen that Hon. Supreme Court found that the order of the State Government was legal and proper. In the present case also, Government has passed order based on legal position. It cannot be challenged on the ground of delay which has been explained satisfactorily.

**(9) Union of India & others Vs. M.K. Sarkar (2010) 2 SCC 59:**

It was held by Hon. Supreme Court that when a stale or dead issue/dispute is considered and decided, date of such decision cannot furnish a fresh cause of action for reviving dead issue or time barred dispute.

In the present case, the Applicant has satisfactorily explained reasons for delay in approaching the Government for redressal of her grievances. The issue

involved in this case is very much alive, viz promotion to a higher post. The case is clearly distinguishable.

**(10) O.A no 19/2008**

This was an earlier O.A filed by the Applicant. The Respondent no. 3 was seeking promotion to the post of Deputy Assistant to I.G.P. The Applicant was not a party to this O.A. Her claim was never considered in this O.A. This O.A does not appear to be relevant in the present O.As.

9. After considering all the case laws cited by the Respondent no. 3, it emerges that the Applicant has successfully explained the reasons for delay, no third party rights are created and the Government has decided the claim of the Applicant vis-à-vis the Respondent no. 3 based on the rule position. The claim of the Respondent no. 3 that the orders of the Government dated 8.8.2014 and consequent order dated 10.2.2015 should be quashed on the ground of delay cannot be accepted.

10. The Respondent no. 3 has raised objection that the Applicant submitted her representation to the Respondent no. 1 directly and not to the Respondent no. 2. The representation of the Applicant dated 3.8.2013 addressed to the Respondent no. 1 is at Exhibit-H (page 47 of the Paper Book). Though it is addressed to the Respondent no. 1, it is submitted through proper

24

channel. All other representation are also submitted through proper channel. A Government servant has a right to seek redressal of grievances from the Government. The Applicant had not approached the Government by-passing the Respondent no. 2. Objection of the Respondent no. 3 appears to be misplaced. Learned Counsel for the Respondent no. 3 argued that the Respondent no. 1 should have allowed the Respondent no. 2 to take a decision in this regard. He has gone to the extent of calling directions of the Respondent no. 1 as malafide. It is seen that the Respondent no. 2 himself has sought guidance in this regard from the Respondent no. 1. In Government, lower functionaries routinely seek guidance from the higher functionaries. In the present case, the Respondent no. 1 sought advise from the General Administration Department. I am unable to see as to how this can be called malafide or interference by the Respondent no. 1. In any case, the matter of grant of deemed date of promotion has been decided by a detailed and reasoned order by the Respondent no. 2. The Respondent no. 3 was given opportunity to be heard before that order was passed. The order is based on correct appreciation of facts and law. There is no doubt that the Applicant was senior to the Respondent no. 2 and based on the date of P.R.T Examination, she was eligible to be considered for promotion as Senior Clerk in 1985. She has correctly been given deemed date of promotion of 1.10.1986, when

24

the Respondent no. 3, who was junior to him was so promoted. This order dated 10.2.2015 is legal and proper and invites no interference by this Tribunal. Government Circular dated 30.4.1981 has been relied upon to determine the date on which the Applicant has passed the P.R.T. It is provided that the increments which are stopped due to failure to pass P.R.T, will be released from the date next to the last date of examination on passing P.R.T examination. Clearly, the last date of examination of P.R.T has to be the date on which a candidate is reckoned to have passed the examination, regardless of the date of actual declaration of result. The Respondent no. 2 has rightly concluded in order dated 10.2.2015 that the Applicant was eligible to be promoted as Senior Clerk in August, 1985, when the Respondent no. 3 was considered for promotion as Senior Clerk.

11. The order dated 10.2.2015 cannot be assailed on facts or law. The O.A no 138/2015 is, therefore, dismissed. As regards O.A no 1079/2014, the Respondent no. 1 has informed by letter dated 16.2.2016 that the matter regarding grant of deemed date of promotion to the Applicant in the post of Office Superintendent is under consideration of the Government. The same may be decided within one month from the date of this order. It is needless to say that case of the Applicant for promotion to the post of Senior Deputy Assistant to I.G.P may be duly considered on the

JK

basis of her seniority vis-à-vis the Respondent no. 3. The Original Application is allowed in these terms with no order as to costs.

Sd/-  
**(Rajiv Agarwal)**  
**Vice-Chairman**

**Place : Mumbai**

**Date : 02.03.2016**

**Dictation taken by . A.K. Nair.**

H:\Anil Nair\Judgments\2016 1. March 2016\O.A 1079.14 and C.A 138.15 Decmed date of promotion challenged SE.0316.doc