

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 232 of 2016 (SB)**

Pradeep Kumar S/o Devidan Susatkar,  
aged about 49 years, Occ. Service,  
r/o Ashirwad Apartments Flat no.202,  
Jatharpeth, Akola.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Secretary,  
Social Welfare & Special Assistance Department  
having its office at Mantralaya, Mumbai-400 032.
- 2) Commissioner Social Welfare Department  
having its office at 3, Church Road,  
Maharashtra State, Pune.

**Respondents**

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**Shri S.P. Palshikar, Advocate for the applicant.**

**Shri A.M. Ghogre, learned P.O. for respondents.**

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**Coram :- Hon'ble Shri J.D. Kulkarni,  
Vice-Chairman (J).**

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**JUDGMENT**

**(Delivered on this 2<sup>nd</sup> day of August,2018)**

Heard Shri S.P. Palshikar, learned counsel for the  
applicant and Shri A.M. Ghogre, learned P.O. for the respondents.

2. The applicant has entered into government service as a Social Welfare Inspector on 14/02/1992 and was posted at Beed. He was due for promotion for the post of Senior Social Welfare Inspector. He belongs to Schedule Tribe (S.T.) and his caste is Takankar. In 2010 two persons senior to the applicant got retired on superannuation and therefore the applicant was due for promotion for the post of Senior Social Welfare Inspector. However, he was not promoted. Ultimately, the applicant was promoted on the said post on 25/06/2013. He, therefore made a representation to respondent no.2 and requested that he be granted deemed date of promotion to the post of Senior Social Welfare Inspector from 2010. His representation was however rejected vide communication dated 01/03/2016 (wrongly mentioned as 09/03/2016) by the respondent no.2 and hence this petition. The applicant is claiming that the communication dated 01/03/2016 rejecting deemed date of promotion from 2010 to the post of Senior Social Welfare Inspector be quashed and set aside.

3. The respondent nos. 1 and 2 filed reply-affidavit. It is stated that the meeting of the Divisional Promotion Committee was held in the year 2010 and thereafter on 12/03/2012 and 12/06/2013 to fill up the vacant post of Senior Social Welfare

Inspector by promotion from the cadre of Social Welfare Inspector. As far as the seniority in the Schedule Tribe (ST) category is concerned, the name of one Shri S.J. Saidane and Shri H.A. Iste were at sr.no.91 and 105 of the seniority list and the applicant was at sr.no.111 in the seniority list. The employees who were senior to the applicant were considered. Thereafter in the meeting dated 12/03/2012 Shri S.J. Saidane who was senior to the applicant was promoted. But Shri H.A. Iste was not considered since the criminal case under Prevention of Corruption Act was pending against him. The applicant was at sr. no.1 in the waiting list. Shri Saidane though considered for promotion, did not submit caste validity certificate. The applicant has never objected for the seniority list. In the year 2013, Shri Saidane and applicant were held eligible for promotion and accordingly vide order no.1520, dated 25<sup>th</sup> June,2013 promotion order was issued in favour of Shri Saidane as well as the applicant. No junior to the applicant has been promoted and therefore there was no question of granting deemed date of promotion to the applicant.

4. The learned P.O. submits that the applicant is claiming deemed date of promotion from 2010, but in fact he was never promoted in 2010 and the said non selection for promotion was

never challenged by the applicant and therefore he cannot claim deemed date of promotion. I have perused the Minutes of the Meeting placed on record by the respondents so also the affidavit filed by respondent nos. 1&2. Admittedly in 2010 and 2012 the name of the applicant was not considered at all since he did not come in the zone of consideration. Two persons were senior to him in S.T. category, i.e., Shri S.J. Saidane and Shri H.A. Iste and they were considered for promotion. Shri Saidane though selected, did not produce the caste validity certificate and Shri Iste was not considered at all due to the pendency of the case under the Prevention of Corruption Act. It was necessary for the applicant to challenge the Divisional Promotion Committee (DPC) of 2010 and 2012 for not considering his name for promotion, but he did not do so. Admittedly, Shri Saidane and Shri Iste were senior to the applicant and therefore there was no question of granting promotion to the applicant at that time. Ultimately vide order dated 28/06/2013 Shri Saidane was again promoted along with the applicant. In the representation dated 03/12/2014 (Annex-A-7) also it is nowhere stated that any person junior to the applicant had been promoted. If the caste validity certificate is not produced, the employee can be promoted on submission of such

certificate, but thereby he will not lose his seniority. Even pendency of the criminal case also does not debar the concerned person to be considered for promotion and at the most cases of such employees are to be kept in sealed covered and therefore even though criminal case was pending against Shri Iste, at that time he was senior to the applicant and there was no reason to consider the case of the applicant in the year 2010 and 2012. In the year 2013, however, the case of the applicant has been considered since he was under the zone of consideration and as per Annex-A-6, dated 28/06/2013, the applicant has been promoted along with Shri Saidane.

5. Vide impugned communication dated 1/3/2016 (Annex-A-1,P-16) the applicant's claim has been rejected as under :-

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depk&; kl Mkoy.; kr ; ouu R; k depk&; kl dfu"B vl yY; k depk&; kl  
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depk&; kl Mkoy.; kr vkysul rsrj T; k rkj [kl R; kph inktlurh >kyh vl rh rh  
rkjh[k R; kP; k use.kudhph ekaho rkjh[k Eg.kuu useuu ns; kr ; bdy\*\* vl suem vkgs

rFkfi] Jh-i-h-Mh-I q rdj ; kauh 2010 i kl uu ekaho fnukad ekfxrysh vkgs  
i jarw 2010 e/; s R; kulk Mkoyuu R; kP; ki s'kk dfu"B vl yY; k vuw tekrrh  
I dxkrrhy dkskR; kgh depk&; kl inktlurh ns; kr vkysy ul Y; kus Jh-i-h-Mh-  
I q rdj ; kulk inktlurhpk ekaho fnukad ns; kpk i z u mnHkor ukgh\*\*

6. The aforesaid communication seems to be legal and proper. The applicant has not challenged his non promotion in the year 2010 and the persons promoted in 2010 were not junior to the applicant and therefore the deemed date of promotion has been rightly rejected to the applicant and therefore I do not find any illegality in the impugned communication. Hence, the following order :-

**ORDER**

The O.A. stands dismissed with no order as to costs.

**Dated :- 02/08/2018.**

**(J.D. Kulkarni)  
Vice-Chairman (J).**

dnk.