

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.302 OF 2023

DISTRICT : SOLAPUR
Sub.:- Promotion

Shri Swapnil D. Waghmare.)
Age : 50 Yrs, Occu.: Service,)
R/at Post – Kem, Tal.: - Karmala,)
District : Solapur.)...**Applicant**

Versus

1. The State of Maharashtra.)
Through Chief Secretary,)
Home Department, Mantralaya,)
Mumbai – 400 020.)
2. The Director General of Police,)
Having office near Regal Theatre,)
Kolaba, Mumbai.)
3. Superintendent of Police (Railway),)
Pune, having office at GVH5+QHM,)
Mumbai Highway, Shivajinagar,)
Pune – 411 005.)
4. The Commissioner of Police,)
Navi Mumbai, having office at)
Sector – 10, Opp. RBI, CBD Belapur,)
Navi Mumbai – 400 614.)...**Respondents**

Shri Vaibhav Ugle, Advocate for Applicant.

Ms. S.P. Manchekar, Chief Presenting Officer for Respondents.

CORAM : Smt. Justice Mridula Bhatkar, Chairperson
Debashish Chakrabarty, Member-A

DATE : 22.11.2023

JUDGMENT

1. The learned Advocate for Applicant states that Applicant who is Police Sub-Inspector seeks promotion to the post of Assistant Police Inspector. Applicants case is that because of pending Departmental Enquiry and Criminal Case, he was not considered for promotion to post of Assistant Police Inspector.

2. The learned Advocate for Applicant states that Applicant made representation to Respondent No.4 on 18th August, 2022 for promotion to post of Assistant Police Inspector and payment of dues for the Suspension Period. The learned Advocate for Applicant states that Applicant made another representation on 2nd March, 2023 to Respondent No.4 requesting for payment of his dues for the Suspension Period from 13.10.2017 to 22.04.2019 and besides requesting for promotion from the post of Sub-Inspector Inspector to post of Assistant Police Inspector.

3. The learned Advocate for Applicant states that in 2018-2019, the Applicant had Criminal Case under Prevention of Corruption Act 1988 and was declared 'Unfit' by DPC. Then in 2019-2020, Applicant was declared 'Unfit' again by DPC. At the time of the DPC of 2020-2021 which was conducted on 09.02.2022, the Annual Confidential Report of the Applicant were considered from 2013-2014, as Annual Confidential Reports (ACR) of 2018-2019 and 2019-2020 were 'Not Available' as he was under 'Suspension Period'.

4. The learned Advocate for Applicant referred to the judgment passed in OA No.318 of 2021 by MAT, Bench Nagpur on 20.10.2022 and also to DGP, Maharashtra State Order dated 26.10.2021 to submit that as per the case of Applicant be also considered for promotion to post of Assistant Police Inspector. The learned Advocate for Applicant further stated that Applicant has submitted his 'Assets and Liabilities Certificate'

on 02.12.2021. The learned Advocate for Applicant submits that his case be considered as per guidelines in GAD GR dated 15.12.2017.

5. The learned CPO submits that the 'Assets and Liabilities Certificate' was received by the office of Director General of Police on 11.07.2022 while the DPC of 2020-2021 was conducted much earlier on 09.02.2022. The Applicant however was not considered fit to be promoted to the post Assistant Police Inspector.

6. The learned CPO relied on Affidavit-in-Reply dated 06.07.2023 filed on behalf of Respondent No.2. She explained the discrepancy in the ACRs of Applicant for year 2017-2018 as seen in 'Evaluation Sheet' of the Applicant. The DPC for year 2018-2019 the grading to be '7'; DPC for year 2019-2020 the grading is recorded as 2.5 and in DPC of year 2020-2021 it is mentioned as 6.1. Learned CPO then referred to Short Affidavit of DGP, Maharashtra State wherein it is stated that in the meeting of DPC for the year 2018-2019 which was held on 30.07.2019 the eligibility of total 2031 Police Sub-Inspectors were examined as per their ACRs. At the time of DPC for the year 2018-2019, 'Criminal Case' was registered against the Applicant and it was pending trial. The learned CPO also submitted that as per ACR Copy submitted by 'ACR Branch' of the officer of DGP, Maharashtra State, the gradation ACRs of Applicant for 2017-2018 was recorded as 7 in the 'Evaluation Sheet'. The meeting of DPC for year 2020-2021 was held on 09.02.2022 wherein eligibility of total 1400 PSIs was evaluated as per their ACRs. At the time of this DPC for year 2020-2021, as per records submitted by 'ACR Branch', the ACR of the Applicant in which gradation recorded as 5.3 by 'Typographical Mistake', it was mentioned as 6.1 instead of 5.3 for the year 2017-2018.

7. Learned CPO then submitted that during the above referred DPC's for 2018-2019, 2019-2020 and 2020-2021, the Applicant was not found eligible for promotion due to the post of Assistant Police Inspector to

pendency of Criminal Case registered against him under 'Prevention of Corruption Act, 1988'. In all the 3 DPC's, the Applicant was found 'Unfit'.

8. Learned CPO then pointed out that Criminal Case under Prevention of Corruption Act 1988 was still pending trial. However, in the meanwhile punishment of withholding 'One Increment for Two Years' has also been imposed on Applicant in Departmental Enquiry. The Order of Punishment in Departmental Enquiry was passed on 28.03.2023 and therefore it will have to be undergone by Applicant.

9. We have gone through the papers. The learned Advocate for the Applicant has placed before us 'Evaluation Sheets' of DPC held in 2018-2019, 2019-2020 and 2020-2021. The 'Evaluation Sheet' indicates stark variances in the grading given to the Applicant for the year 2017-2018. Also the Applicant has been declared 'Unfit' in the DPC of 2018-2019, 2019-2020 and 2020-2021 and thus results were not kept in 'Sealed Cover Envelope'.

10. The O.A.No.302 of 2023 therefore stands disposed off with following directions :-

- (i) The stark variance in grading shown of ACR of 2017-2018 in Evaluation Sheets of DPC to be corrected with approval of Competent Authority and thereafter considered at the time of review DPC.
- (ii) The ACR of 2019-2020 which shown as 'N.A.' in DPC of 2020-2021 must be written by Reporting Officer and Previsioning Authority and considered at the time of review DPC.
- (iii) The payment Salary and Allowances for Suspension Period be paid to the Applicant within Four Weeks as per decision

to be taken by 'Competent Authority' under Rule 72 of the MCS (Joining Time, Foreign Service and Payments during Suspension, Dismissal and Removal), Rules, 1981.

(iv) No order as to Costs.

Sd/-
(DEBASHISH CHAKRABARTY)
Member-A

Sd/-
(MRIDULA BHATKAR, J.)
Chairperson

Mumbai

Date : 22.11.2023

Dictation taken by :

S.K. Wamanse.

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