

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 306 OF 2010

DISTRICT : SOLAPUR

1. Mr Sampat Narayan Pawar,)
Police Sub-Inspector,)
R/o: 1510, Near Shaniwar Peth)
Post Office Miraj 416 410)
- 2, Mr Dilip Hanmantrao Mane)
Police Sub-Inspector,)
AT & Post Murbad, Dist-Thane.)
3. Shri Vijay Gulabrao Pawar,)
Police Sub Inspector,)
R/o: Sector 18, Asthavinayak Soc.)
E/18, Flat No. 312, New Panvel.)...**Applicants**

Versus

1. The State of Maharashtra)
Through the Addl. Chief Secretary,)
Home Department, Mantralaya,)
Mumbai.)
2. Director General of Police,)
Shahid Bhagatsingh Marg, Colaba,)
Mumbai.)...**Respondents**

PA

Shri S.N Pawar, applicant in person.

Shri N.K. Rajpurohit, learned Chief Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

Shri R.B. Malik (Member) (J)

DATE : 03.05.2016

PER : Shri Rajiv Agarwal (Vice-Chairman)

ORDER

1. Heard Shri S.N Pawar, applicant in person and Shri N.K. Rajpurohit, learned Chief Presenting Officer for the Respondents

2. This Original Application was filed by the Applicants, who were working as Police Sub-Inspectors seeking the following relief:-

“The Applicants most respectfully states that all the Applicants should receive deemed date from 30.4.2001 and seniority accordingly with relevant consequential benefits.”

3. The Applicant no. 1 argued personally on behalf of the Applicants. He stated that Applicants were promoted as Police Sub-Inspectors (PSI) on 19.5.2001 after they passed the qualifying examination in the year 2000-2001. They have been continuously working as PSI since then. They were,

however, confirmed on 15.11.2006. The Applicants are eligible to be given seniority from 19.5.2001 and not from the date of confirmation. The Applicant no. 1 contended that on the basis of Departmental Qualifying Examination held in 2000-01, a total of 601 persons were given regular promotion, while 284 persons including the Applicants were given temporary promotions. The Applicants were given regular promotions on 15.11.2006, but they should be treated as promoted on regular basis from 19.5.2001.

4. Learned Chief Presenting Officer (C.P.O) argued on behalf of the Respondents that there are three modes of appointment to the post of P.S.I under the Recruitment Rules, viz., the Police Sub-Inspector (Recruitment) Rules, 1995. 50% of the posts are filled by direct recruitment, 25% by selection of persons working in the Police Force on the basis of the Limited Departmental Examination and 25% by promotion on the basis of seniority subject to fitness who qualify in the departmental examination held by D.G.P. This departmental qualifying examination was held on 24th and 25th August, 2000. Two orders were issued, both on 30.4.2001 by which 601 Police Head Constables and Assistant Sub-Inspectors were promoted by giving them regular promotion in the promotion quota. 284 persons were given fortuitous / ad hoc promotion to meet acute shortage in the cadre of P.S.Is in the State till persons could be appointed by direct recruitment. The Applicants were found eligible for promotion on the basis of their seniority from 15.11.2006 in the promotion quota. As their promotion by order dated 30.4.2001 was fortuitous, till they were given regular

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promotion from 15.11.2006, the question of granting them deemed date of promotion from 30.4.2001 does not arise.

5. We find that the Applicants passed the departmental qualifying examination held in 2000. This is a requirement under Rule 3(a) of the Police Sub-Inspector (Recruitment) Rules, 1995. However, all those Assistant Sub-Inspectors/Head Constables who pass this qualifying examination are eligible to be appointed as P.S.I on the basis of seniority cum fitness. The Applicants were found fit to be promoted in 2001, but they could not be accommodated in the 25% promotion quota. Only 601 senior most persons, were given regular promotion. 284 persons, including the Applicants were given fortuitous promotion in the vacancies which were from Direct Recruits quota. The Applicants were fully aware that their promotion to the post of P.S.I by order dated 19.4.2001 was fortuitous and ad hoc. The Applicants were adjusted against vacancies from promotion quota by order dated 15.11.2006. This fact has been mentioned in para 2 of the affidavit in reply filed by the Respondent no. 2 on 27.7.2010 and there is no rebuttal from the Applicants. If the Applicants prayer is accepted, it is bound to adversely affect the persons, who are not party before us. It is not the case of the Applicants that their juniors were promoted before them, which will entitle them to be given deemed date of promotion. Their claim is simply that they should be given regular promotion from the date when they were given fortuitous promotion. When they were not eligible to get regular promotion for want of vacancies in 25% promotion quota and were adjusted against direct recruits quota, it is not

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understood as to how this request can be accepted. The Applicants have referred to the judgment in the case of **VIJAY SINGH CHARAK Vs. UNION OF INDIA & ORS : ALL INDIA SERVICES LAW JOURNAL 2008 (1)4**, Hon'ble Supreme Court has held that select list should be made year wise. Officers eligible for selection in a particular year should only be included in the select list. In the present case, the Applicants were not eligible to be included in the select list for the year 2001. This judgment is clearly distinguishable.

6. The Applicants have not been able to make out a case for giving them regular promotion from 30.4.2001 or the deemed date of promotion to the post of P.S.I from that date. This Original Application is accordingly dismissed with no order as to costs.

Sd/-
(R.B. Malik)
Member (J)

Sd/-
(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai
Date : 03.05.2016
Dictation taken by : A.K. Nair.