IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO 360 OF 2014

DISTRICT : PUNE

Shri Subhash Natu Pol,)
Occ : Service, residing at Room No.13)
Block-H, In front of Banglow No. 5,)
P.W.D Colony, Jail Road, Yerwada,)
Pune 411 006.)...**Applicant**

Versus

1. The State of Maharashtra)
   Through Principal Secretary,)
   Water Resources Department,)
   Mantralaya, Mumbai.)
2. Regional Promotion Committee)
   Irrigation Research &)
   Development, Pune 411 001.)
3. The Superintending Engineer,)
   /Director [Zonal Officer],)
   Irrigation Research & Development)
   Circle, Pune 411 001.)

4. Soil Survey Officer,)
Irrigation Research & Development)
Circle [Zonal Office], Pune 411 001.)...**Respondents**

Shri A.M Misal, learned advocate for the Applicant.

Shri A.J Chougule, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)
Shri R.B. Malik (Member) (J)

DATE : 25.01.2016

PER : Shri Rajiv Agarwal (Vice-Chairman)

O R D E R

1. Heard Shri A.M Misal, learned advocate for the Applicant and Shri A.J Chougule, learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicant claiming deemed date of promotion in the post of Superintendent.

3. Learned Counsel for the Applicant argued that the Applicant was promoted from the post of First Clerk to the post of Superintendent by order dated 5.9.2012.

He was working at Pune at that time and after promotion, he was given a posting in Solapur district. The Applicant, therefore, by representation dated 18.9.2012, requested that he may be posted at Pune as his son was getting education in Pune. By another letter dated 21.12.2012, the Applicant renewed his request for posting on promotion at Pune. By order dated 29.4.2013, the Applicant was given a posting in Pune as Superintendent. By representation dated 3.7.2013, the Applicant sought deemed date of promotion from 5.9.2012, when he was first promoted as Superintendent, as the Respondents had not considered his representations for posting in Pune, which were fully justified. Learned Counsel for the Applicant contended that the Applicant should have been given posting at Pune when he was promoted as Superintendent by order dated 5.9.2012 and therefore, he is eligible for deemed date of promotion on 5.9.2012 in the post of Superintendent.

4. Learned Presenting Officer (P.O) argued that the Applicant was promoted as Superintendent by order dated 5.9.2012 and was posted in Solapur district. The Applicant, however, refused the promotion by his representation dated 21.12.2012 and requested that he may be considered for promotion and posting at Pune in the future meeting of the Departmental Promotion Committee. As the Applicant had himself forgone the

promotion by order dated 5.9.2012, the question of granting of deemed date of promotion does not arise.

5. We find that the Applicant was promoted by order dated 5.9.2012 as Superintendent and posted to Solapur. On 18.9.2012, he submitted a representation, that he may be posted at Pune on promotion in view of the fact that his son was studying in Pune. Further, by representation dated 21.12.2012, he made following submissions:

> " आता पुन्हा विनंती करण्यात येते की, मी सोलापूर येथे जाण्यास इच्छूक नसल्याने माझी सोलापूर येथील पदस्थापना रद्द करण्यात यावी व पुणे मुख्यालयातील अधीक्षकांच्या रिक्त जागा भरण्याकरीता पुणे परिमंडळ स्तरीय विभागीय पदोन्नती निवड समितीची बैठक आयोजीत केली जाईल तेंव्हा मला अधीक्षकपदी पुणे मुख्यालयात रिक्त असलेल्या पदावर सामावून घ्यावे, ही विनंती."

It is quite clear that the Applicant has forgone his promotion as he was not ready to go to Solapur. He further requested the Respondents to consider his case in the meeting of the Departmental Promotion Committee for posting him in a vacancy in Pune. Once the promotion order of a Government servant is cancelled on the ground of his foregoing the same, the question of grant of deemed date of promotion does not arise. The Applicant did not have a right to be posted in Pune on promotion. In fact, no Government servant can insist that he should be posted in a particular district or city.

We are unable to find any ground on which the application of the Applicant for deemed date of promotion can be considered.

6. Having regard to the aforesaid facts and circumstances of the case, this Original Application is dismissed with no order as to costs.

Sd/- Sd/-

(R.B. Malik) 25-01-16 **(Rajiv Agarwal)**
Member (J) **Vice-Chairman**

Place : Mumbai
Date : 25.01.2016
Dictation taken by : A.K. Nair.

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