

THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION NO.04 OF 2015

Shri Vinayak Sadashiv Kulkarni)
Occu.: Technical Laboratory Assistant ,)
R/at : Gajanan Prasad Complex, Kalamba Road,)
Kolhapur.)...**Applicant**

Versus

1. The Joint Director, Technical Education))
Regional Office, Pune – 412, Shivaji)
Nagar, Pune.)
2. Shri A. D. Kurtadkar, Working as)
Technical Laboratory Assistant,)
Government Polytechnics, O/at.)
Ratnagiri, near Thiba Palace, Ratnagiri.)
3. Shri H. N. Gangade, Working as)
Technical Laboratory Assistant, Govt.)
Polytechnics, O/at. Shivaji Nagar, Ramwadi,)
Pen, Dist. Raigad.)
4. The Director of Technical Education,)
(M.S.), Mumbai, O/at. 3, Mahapalika)
Marg, Mumbai 1.)
5. The State of Maharashtra, through)
Principal Secretary (Technical), Higher &)
Technical Educations Department, O/at.)
Mantralaya, Mumbai 400 032.)...**Respondents**

Shri A. V. Bandiwadekar, Advocate for the Applicant.

Smt. Kranti Gaikwad, Presenting Officer for the Respondents 1, 4 and 5.

None for Respondent Nos.2 and 3.

CORAM : **SHRI A.P. KURHEKAR, MEMBER-J**

DATE : **18.06.2019**

J U D G M E N T

1. The challenge is to the impugned orders dated 02.01.2014 and 28.09.2017 whereby the demand of the Applicant for grant of deemed date of promotion has been rejected by the Respondent No.1.

2. Shortly stated facts giving rise to the application are as follows:-

The Applicant joined service as Laboratory Assistant by direct recruitment on 30.01.1995 on the establishment under the control of Respondent No.1. He contends that having completed three years continuous service on the post of Laboratory Assistant, he was entitled to promotion to the post of Technical Laboratory Assistant w.e.f. 30.01.1998. However, the Respondent No.1 failed to consider his case for grant of promotion. On 18.04.2002, he made representation to the Respondent No.1 for promotion on the post of Technical Laboratory Assistant (TLA) but in vain. Again, he submitted reminder on 13.03.2003 and 28.03.2005. Ultimately, it is only on 12.05.2005, the Respondent No.1 informed him that he can't be considered for promotion since there are no such instructions from the Government. However, later the Applicant came to know that his counterpart in Mumbai region i.e. Respondent Nos.2 and 3 have been promoted to the post of Technical Laboratory Assistant by order dated 27.02.2004. He, therefore, again made representation on 16.05.2005 and pointed out the instances of promotion of Respondent Nos.2 and 3 by Mumbai Region. The Applicant is serving as Laboratory Assistant in Pune Region which is under the control of Respondent No.1. It is only on 28.11.2013, the Applicant has been promoted to the post of T.L.A. The Applicant, therefore, again made representation on

05.12.2013 claiming deemed date of promotion from 30.01.1998 i.e. the date on which he has completed three years of service on the post of Laboratory Assistant. Ultimately, by impugned order dated 02.01.2014, the Respondent No.1 rejected the demand of Applicant for deemed date of promotion on the ground that before 2013, there exist no Recruitment and Promotion Rules and, therefore, the Applicant's request for deemed date of promotion can't be granted.

3. During the pendency of O.A., in pursuance of directions given by the Tribunal, the Respondent No.1 again considered the representation and rejected the request of the Applicant for deemed date of promotion. The Applicant, therefore, amended the O.A. and challenged the order dated 28.09.2017. The Applicant contends that in Pune Region also, two employees namely Shri V. B. Bhoir and Shri D. T. Bagav were promoted to the post of Technical Laboratory Assistant on 16.11.2005 but he has been subjected to discrimination by refusing deemed date of promotion. The Applicant, therefore, seeks relief of deemed date of promotion either from 30.01.1998 or from 27.02.2004 i.e. the date when the Respondent Nos.2 and 3 serving in Mumbai Region were promoted to the post of T.L.A. and prayed to set aside the impugned order dated 30.01.1998 and 27.02.2004.

4. Respondent Nos.1, 4 and 5 resisted the claim by filing Affidavit-in-Reply (Page Nos.70 to 79 of Paper Book) *inter-alia* denying the entitlement of the Applicant to the relief claimed. It is not in dispute that the Applicant was appointed as Laboratory Assistant on 30.01.1995 and was promoted to the post of T.L.A. on 28.11.2013. The Respondents sought to justify the rejection of the demand of the Applicant for grant of deemed date of promotion on the ground that before 22.02.2012 there exist no Recruitment and Promotion Rules and, therefore, in absence of rules there was no question of promotion of the Applicant to the post of T.L.A. After framing the Draft Recruitment

Rules only, the Applicant was promoted on 28.11.2013. The Respondents denied that the Applicant has been subjected to discrimination. As regard promotion of Respondent Nos.2 and 3, the Respondents contend that they are promoted wrongly and the same was objected by the Respondent No.4 i.e Director of Technical Education, Mumbai. The explanation of the Respondent No.1 was also called by letter dated 09.06.2004. The Respondent, therefore, contend that wrong order of promotion passed by the Joint Director of Mumbai in absence of Recruitment and Promotion Rules are apparently wrong and on the basis of such wrong orders, the Applicant cannot claim parity. The ground of discrimination is, therefore, unsustainable. In respect of alleged promotion of S/Shri Bhoir and Bagav, the Respondents contend that they were declared surplus, therefore, in terms of G.R. dated 10.09.2011, they were absorbed on vacant posts on similar pay-scale. The Respondents thus, denied that S/Shri Bhoir and Bagav were promoted to the post of T.L.A. as it was the case of absorption on similar pay-scale. The Respondents further contend that the Applicant had given benefit of 1st Time Bound Promotion w.e.f. 01.01.2007 and already availed benefit of the scheme. The Respondents with this pleading prayed to dismiss the O.A.

5. Shri A.V. Bandiwadekar, learned Advocate for the Applicant sought to contend that the Respondent Nos.2 & 3 who are serving in Mumbai Region were promoted to the post of T.L.A. on 27.02.2004 with the approval of Departmental Promotion Committee (DPC), and therefore, the ground raised by the Respondents that there exists no Recruitment Rules prior to 2012-2013 is unacceptable and raised the issue of discrimination to the Applicant. Secondly, two employees viz. S/Shri Bhoir and Bagav were also promoted to the post of T.L.A. on 16.11.2004 and this again shows existence of Recruitment Rules. On this line of submission, he urged that the Applicant having completed three years in the feeder cadre on 30.01.1998, he is entitled

to deemed date of promotion either from 30.01.1998 or from the date on which Respondent Nos.2 & 3 were promoted.

6. Per contra, Smt. K.S. Gaikwad, learned Presenting Officer reiterated the contentions raised in written statement and pointed out that there exists no R.Rs. prior to 2012-2013. The Applicant was promoted to the post of T.L.A. being found eligible in view of Draft Recruitment Rules of 2012-2013. She sought to explain that the Respondent Nos.2 & 3 who are serving in Mumbai Region were wrongly promoted and the explanation from the Joint Director for the same has been called for further appropriate action. As regard promotion to S/Shri Bhor and Bagav, it was not promotion but absorption on same salary having declared surplus in terms of G.R. dated 10.09.2018. The learned P.O, therefore, sought to contend that no case is made out of discrimination to the Applicant and relief sought for deemed date of promotion is not sustainable in law.

7. Having heard the submission advanced at the Bar, it emerges that the Applicant is seeking deemed date of promotion w.e.f. 30.01.1998 i.e. date of completion of three years service or w.e.f.27.02.2004 i.e. the date on which the Respondent Nos.2 and 3 serving in Mumbai Region were promoted. Thus, the grounds for deemed date of promotion relied by the Applicant are as follows:-

(A) Respondent Nos.2 and 3 who are serving in Mumbai Region were promoted to the post of T.L.A. on 27.02.2004 with approval of Departmental Promotion Committee.

(B) Two employees namely S/Shri Bhoir and Bagav were promoted to the post of T.L.A. on 16.11.2005.

(C) The Applicant having admittedly completed three years service on the post of Laboratory Assistant is entitled to promotion w.e.f. 30.01.1998.

8. Admittedly, the Applicant was appointed as Laboratory Assistant on 30.01.1995 but was promoted to the post of T.L.A. on 28.11.2013. The material question is whether there exist Recruitment Rules prior to 2012-2013 and the Applicant has been deprived of promotion at early stage. The foremost and basic contention of the Respondents is that prior to 2012 -2013 there exist no Recruitment Rules, and therefore, the question of considering the Applicant for grant of promotion did not arise.

9. Needless to mention that the employee has no vested right of promotion to the particular post but requirement is that the employee's case deserves to be considered for promotion whenever he becomes due, subject to the fulfilment of eligibility criteria, vacancy etc. It goes without saying that the promotions are required to be effected according to Recruitment and Promotion Rules. The employee is entitled to deemed date of promotion where he is superseded though entitled to the promotion and fulfilled the eligibility in accordance to Recruitment Rules.

10. True, the Respondent Nos.2 & 3 who are serving in Mumbai Region were promoted to the post of TLA on 27.02.2004 in view of recommendation of DPC. In this behalf, it may be noted that the Applicant is serving in Pune Region and there is no common seniority list at State level. The seniority list is maintained region-wise. In this behalf, the perusal of minutes of DPC (Page Nos.41 and 42 of P.B.) reveals that the DPC found Respondent Nos.2 & 3 eligible for promotion to the post of TLA. However, there is no reference of any Recruitment Rules in the minutes of DPC. The absence of reference of Recruitment Rules in the minutes of DPC also indicates existence of any such Recruitment Rules at the relevant time. Furthermore, the Respondent No.4 i.e. Director of Technical Education, M.S. had already called for the explanation of Joint Director of Technical Education, Mumbai for giving promotions wrongly to Respondent Nos.2 & 3 in absence of Recruitment

Rules. The Respondent No.1 has placed on record the copy of Show Cause Notice dated 09.06.2004 as well as 13.02.2015 (Page Nos.80 and 84 of P.B.) whereby explanation is called. True, no further action seems to have been taken in this behalf for cancellation of promotion given to Respondent Nos.2 & 3, but the fact remains that the promotion was given without existence of Recruitment Rules. This being the position, the promotions given wrongly to Respondent Nos.2 & 3 cannot be relied upon as a ground of discrimination. Otherwise, it would be amounting to perpetuating the wrong which I am afraid is not permissible in law.

11. In this behalf, the learned P.O. rightly referred to the Judgment of Hon'ble Supreme Court in **AIR 1995 SC 705 (Chandigarh Administration Vs. Jagjit Singh)**. The Hon'ble Supreme Court while dealing with the similar issue held that the question of discrimination cannot be raised on the basis of wrong order passed in favour of another employees. Para Nos.8, 9 and 10 of the Judgment which are material are as follows :

“8. We are of the opinion that the basis or the principle, if it can be called one, on which the writ petition has been allowed by the High Court is unsustainable in law and indefensible in principle. Since we have come across many such instances, we think it necessary to deal with such pleas at a little length. Generally speaking, the mere fact that the respondent authority has passed a particular order in the case of another person similarly situated can never be the ground for issuing a writ in favour of the petitioner on the plea of discrimination. The order in favour of the other person might be legal and valid or it might not be. That has to be investigated first before it can be directed to be followed in the case of the petitioner. If the order in favour of the other person is found to be contrary to law or not warranted in the facts and circumstances of his case, it is obvious that such illegal or unwarranted order cannot be made the basis of issuing a writ compelling the respondent authority to repeat the illegality or to pass another unwarranted order. The extraordinary and discretionary power of the High Court cannot be exercised for such a purpose. Merely because the respondent authority has passed one illegal/unwarranted order, it does not entitle the High Court to compel the authority to repeat that illegality over again and again. The illegal/unwarranted action must be corrected, if it can be done according to law indeed, wherever it is possible, the Court should direct the appropriate authority to correct such wrong orders in accordance with law but even if it

cannot be corrected, it is difficult to see how it can be made a basis for its repetition. By refusing to direct the respondent authority to repeat the illegality, the Court is not condoning the earlier illegal act/order nor can such illegal order constitute the basis for a legitimate complaint of discrimination. Giving effect to such pleas would be prejudicial to the interests of law and will do incalculable mischief to public interest. It will be a negation of law and the rule of law. Of course, if in case the order in favour of the other person is found to be a lawful and justified one it can be followed and a similar relief can be given to the petitioner if it is found that the petitioners' case is similar to the other persons' case. But then why examine another person's case in his absence rather than examining the case of the petitioner who is present before the Court and seeking the relief. Is it not more appropriate and convenient to examine the entitlement of the petitioner before the Court to the relief asked for in the facts and circumstances of his case than to enquire into the correctness of the order made or action taken in another person's case, which other person is not before the case nor is his case. In our considered opinion, such a course –

barring exceptional situations would neither be advisable nor desirable. In other words, the High Court cannot ignore the law and the well-accepted norms governing the writ jurisdiction and say that because in one case a particular order has been passed or a particular action has been taken, the same must be repeated irrespective of the fact whether such an order or action is contrary to law or otherwise. Each case must be decided on its own merits, factual and legal, in accordance with relevant legal principles. The orders and actions of the authorities cannot be equated to the judgments of the Supreme Court and High Courts nor can they be elevated to the level of the precedents, as understood in the judicial world. (What is the position in the case of orders passed by authorities in exercise of their quasi-judicial power, we express no opinion. That can be dealt with when a proper case arises.)

9. *Coming back to the facts of this case, if only the High Court had looked to the facts of this case instead of looking to the facts of some other case, we are sure, it would have dismissed the writ petition in view of the several facts stated hereinbefore. The High Court fell in grave error in allowing the writ petition on the said ground and in importing the theory of discrimination in such a situation. Question of discrimination could have arisen only if two findings were recorded by the High Court, viz., (1) the order in favour of Prakash Rani was a legal and valid one and (2) the case of the writ petitioners was similar in material respects to the case of Prakash Rani but she has not been accorded the same treatment. No such findings have been recorded by the High Court in this case.*

10. *The appeal is accordingly allowed and the judgment under appeal set aside. The respondents shall pay the costs of the appellants, which are assessed at Rs10,000. SLP (C) No. 15931 of 1994.”*

11. Suffice to say, the promotions given to Respondent Nos.2 & 3 being found without having Recruitment Rules cannot be the ground of discrimination much less to grant deemed date of promotion to the Applicant with retrospective effect and giving effect to such plea would be prejudicial to the interest of law and the same will be negation of law and the Rule of law as mandated by the Hon'ble Supreme Court in **Chandigarh Administration's** case (cited supra).

12. As regard the ground of promotion to S/Shri Bhoir and Bagav, the perusal of record reveals that they were in fact not promoted but absorbed on the post of T.L.A. w.e.f. 16.11.2005 having declared surplus. It is crystal clear from the order dated 16.11.2005 (Page Nos.62 and 63 of P.B.) that those two employees were declared surplus, and therefore, in terms of G.R. dated 10.09.2001, they were absorbed. Furthermore, material to note that they were already in service on similar pay scale, but having found surplus, they were absorbed on the post of T.L.A. on vacant post. This being the position, the order of absorption of S/Shri Bhoir and Bagav cannot be termed as promotion, and therefore, the submission advanced by the learned Advocate for the Applicant is totally misconceived and the question of discrimination did not arise.

13. Here, it would be useful to refer Circular dated 06.06.2002 which is at Page No.195 of P.B. whereby guidelines were issued by Government while considering the demand of the employee for grant of deemed date of promotion and has also illustrated the examples in which the question of grant of deemed date can arise. It would be appropriate to reproduce relevant portion of the Circular, which is as follows :

“२. कर्मचा-याला ज्या पदाचा मानीव दिनांक दयावयाचा आहे त्या पदावर त्याला प्रत्यक्ष पदोन्नती मिळणे आवश्यक आहे. परंतु सेवेमध्ये असताना त्याला जर प्रत्यक्ष पदोन्नती मिळाली नाही तर पदोन्नतीचा मानीव दिनांक देताना महाराष्ट्र नागरी सेवा (सेवेच्या सर्वसाधारण शर्ती) नियम १९८१ मधील नियम ३२ मधील तरतूदी शिथिल करणे आवश्यक ठरते. अशाप्रकरणी मात्र पूर्वीप्रमाणेच सामान्य प्रशासन विभाग आणि वित्त

विभाग यांची मान्यता घेणे आवश्यक राहिल. अशा अनुषंगाने आणखी नमूद करण्यात येते की, मानीव दिनांकाची प्रकरणे सर्वसाधारण पणे ज्या कारणांमुळे उदभवतात ती कारणे सोबतच्या परिशिष्ट - अ मध्ये दिलेली आहेत. ती विचारात घेऊन मानीव दिनांकाची प्रकरणे उदभवणार नाही याची दक्षता शासनाच्या सर्व विभागांनी व विभाग प्रमुखांनी घ्यावी. अशी दक्षता घेऊनही मानीव दिनांक देण्याची प्रकरणे उदभवल्यास त्या प्रकरणाची तपासणी/ उपरोक्त आदेशातील तरतुदी आणि सोबतच्या परिशिष्ट - ब मधील मुद्दे विचारात घेऊन करावी व त्यांची पूर्तता होत असल्यास मानीव दिनांक प्रधान करण्यास परिच्छेद 9 मधील प्राधिकारांतर्गत मंजूरी देण्यात यावी.

परिशिष्ट - अ

मानीव दिनांक देण्याची प्रकरणे उदभवण्याची कारणे

१. गोपनीय अहवालातील प्रतिकूल शेरे वेळेवर न कळविणे, त्यांची वस्तुनिष्ठ प्रतवारी न होणे, विभागीय पदोन्नती समितीच्या बैठकीच्या वेळी अदययावत गोपनीय अहवाल उपलब्ध नसणे व त्यामुळे त्यांची प्रकरणे खुली ठेवणे.
२. सेवाजेष्ठता यादी अदययावत नसणे, शिवाय सर्व अधिका-यांना /कर्मचा-यांना सेवाजेष्ठता यादी वेळीच उपलब्ध न झाल्यामुळे अधिकारी /कर्मचारी यांना सेवा ज्येष्ठता यादीतील त्यांचे स्थान माहित नसणे.
३. विभागीय परीक्षा उत्तीर्ण / अनुत्तीर्ण झाल्याच्या कारणास्तव तसेच उत्तीर्ण होण्यापासून सूट मिळाल्यानंतर परीक्षा नियमांनुसार सेवाज्येष्ठता यादीत वेळीच सुधारणा न करणे.
४. मागासवर्गीयांच्या पदोन्नती संदर्भातील आरक्षण धोरणाची काटेकोरपणे अंमलबजावणी न करणे.
५. पदोन्नतीसाठी विचार करताना विभागीय चौकशी प्रलंबित करणे, काही कालावधीनंतर विभागीय चौकशीचा निर्णय घेऊन त्यामध्ये निर्दोष सूटणे वा किरकोळ शिक्षा होणे.
६. पदोन्नतीसाठी विचार झालेला असताना अधिकारी / कर्मचारी निलंबित असणे व त्यांनंतर तो अंशतः किंवा पूर्णतः दोषमुक्त होणे.
७. भ्रष्टाचार /लालचुपत प्रकरणी न्यायालयात गुन्हा दाखल असल्याने पदोन्नती न देणे व निर्दोष सुटल्यानंतर मानीव दिनांक देणे.
८. निवडसूच्यांना आयोगाची मान्यता न घेणे, परिणामी दीर्घकाळ पदोन्नती तात्पुरत्या स्वरूपात चालू राहणे - पदोन्नत्या नियमित झाल्याशिवाय मानीव दिनांकाचा विचार करणे शक्य नसते.
९. पदोन्नतीच्या नियमित कोटयाखेरीज नामनिर्देशनाकरिता असलेल्या कोटयातील पदांवर पदोन्नत्या दिल्या जातात व भविष्यात पदोन्नतीसाठी उपलब्ध होणा-या पदांवर त्या समायोजित केल्या जात नाहीत.

परिशिष्ट - ब

मानीव दिनांक देण्याबाबतच्या प्रस्तावाची तपासणी करताना लक्षात घ्यावयाचे मुद्दे.

- १) सेवाकनिष्ठ कर्मचा-यास पदोन्नती देण्यात आली, त्यावेळी संबंधित कर्मचा-यांचा कोणत्या कारणास्तव विचार झालेला नाही. यास जबाबदार कोण व त्याविरुद्ध करावयाची कार्यवाही.
- २) अर्जदाराचे निवडसूचीच्यावेळी अस्तित्वात असलेल्या सेवाज्येष्ठता यादीतील स्थान, त्यास सेवाकनिष्ठ (पदोन्नतीसाठी आरक्षण असल्यास त्याच्या आधारे) असलेल्या त्याच्या प्रवर्गतील कोणत्या कर्मचा-यास नियमित पदोन्नती दिली आहे.
- ३) सेवाकनिष्ठ कर्मचा-यास पदोन्नती देण्यात आली त्या दिनांकास (निवडसूचीत) अर्जदार गोपनीय अहवाल व इतर आवश्यक त्या अटीनुसार पदोन्नतीस पात्र आहे किंवा कसे? याबाबतची पात्रता विभागीय पदोन्नती समितीमार्फत तपासून घेण्यात यावी व ते जर पदोन्नतीस पात्र ठरले तरच मानीव दिनांक देण्यात यावा.

४) मानीव दिनांक हा एकास - एक तत्वावर देण्यात यावा.

५) ज्या निवडसूचीच्या आधारे ज्या प्रवर्गाच्या कर्मचा-यास/अधिका-यास मानीव दिनांक देण्यात आला आहे, त्या प्रवर्गाच्या सर्वात सेवाकनिष्ठ कर्मचा-याचे नाव संबंधित निवडसूचीतून कमी करून, पुढील निवडसूचीत रिक्त पदे व त्या प्रवर्गाच्या वाटयाला येणा-या पदांमध्ये प्रमाणात समावेश करणे आवश्यक असते.’’

14. Obviously, the Applicant's case does not fall within the illustrations given in the Circular dated 06.06.2002. True, the instances given in Circular are illustrative and not exhaustive as sought to contend by the learned Advocate for the Applicant. There may be cases which do not fall in the illustration given in Circular dated 06.06.2002. In the present case, the main ground raised by the Respondents is absence of Recruitment Rules prior to 2012-2013. In fact, the Applicant was promoted on the basis of Draft Recruitment Rules in 2013. In fact the Recruitment Rules are finally approved in 2019. The Rules are "The Instructor (Laboratory Assistant) (Technical) Group 'C' in the Government and Non-Government Aided Institutes under the control of Director of Technical Education (Recruitment) Rules, 2018" and published in the Gazette on 9th January, 2019. There is absolutely nothing on record to show that prior to 2012-2013, there exists any such Draft Recruitment Rules in practice and despite the same, the Applicant is deprived of promotion. We cannot proceed and determine the issue of grant of deemed date of promotion on the assumption or conjuncture. As such there is no denying that the Rules are finally approved in 2018. Suffice to say, there being no Recruitment Rules at the relevant time, the question of deemed date of promotion to the Applicant does not survive and the stand taken by the Respondents in this behalf cannot be faulted with.

15. Shri A.V. Bandiwadekar, learned Advocate for the Applicant sought to place reliance on the Judgment of Hon'ble High Court in ***Writ Petition No.2260/2018 (State of Maharashtra Vs. Vasant A. Balel) decided on 26.06.2018.*** It pertains to issue of withdrawal of promotion and reversion to

the original post consequent to recovery of pay enjoyed by the employee and of no assistance to the Applicant in the present facts and circumstances. The reliance on the Judgment of Hon'ble High Court in ***Writ Petition No.9051/2013 (State of Maharashtra Vs. Smt. Meena A. Kawalekar) decided on 28th April, 2016*** is also misplaced, as it is arising from the issue of consideration of initial temporary service for the benefit of time bound promotion scheme. As such, these Judgments being arising in different context are of no assistance to the Applicant in the present situation.

16. As stated above, the employee has no vested right of promotion to the particular post, but his case deserves to be considered for promotion whenever he becomes due subject to fulfilment of eligibility criteria, vacancy, reservation position, etc. In so far as deemed date of promotion is concerned, the employee is entitled to deemed date of promotion where he is superseded though entitled to promotion and fulfilled the eligibility criteria in accordance to Recruitment Rules. In the present case, as concluded above, prior to 2012-2013, no Recruitment Rules were in place. Therefore, grant of deemed date of promotion on the basis of wrong promotion given to the Respondent Nos.2 & 3 on the ground of parity does not survive, particularly in view of the action initiated by Respondent No.4 for giving promotions wrongly to Respondent Nos.2 & 3. The seniority is being maintained region-wise and there is no case of the Applicant that the person junior to him in Pune Region is promoted. This being the factual position, the claim of deemed date of promotion is devoid of merit.

17. The totality of aforesaid discussion leads me to sum-up that the claim of the Applicant for deemed date of promotion is clearly unsustainable in law and O.A. being devoid of merit, deserves to be dismissed. Hence, the following order.

ORDER

The Original Application is dismissed with no order as to costs.

Sd/-
(A.P. KURHEKAR)
Member(J)

Place : Mumbai
Date : 18.06.2019
Dictation taken by : V.S. Mane.