***MAHARASHTRA ADMINISTRATIVE* TRIBUNAL,**

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.491/2015. (D.B.)

Smt. Hema Vinay Rathod,
Aged about 31 years,
Occ- Service,
R/o Type-2, Qtr. No.22, Bldg. No.2,
Govt. Quarter, Ravi Nagar, Nagpur-1.

Applicant.

-**Versus-**.

1. The State of Maharashtra,
   Through its Secretary,
   Department of Finance,
   Mantralaya, Mumbai-32.

2. The Joint Director, Local Fund Audit,
   Lekha Kosh Bhavan, Civil Lines, Nagpur-1.

3. Smt. Minakshi Bhimrao Pawar,
   Senior Auditor,
   Office of Assistant Director of Local Fund Audit,
   Administrative Building No.2, 4th floor,
   B-Wing, Civil Lines, Nagpur-1. **Respondents**

Shri Bharat Kulkarni, the Ld. Advocate for the applicant.
Shri P.N. Warjukar, the Ld. P.O. for respondent No.1 & 2.
Shri S.C. Deshmukh, the Ld. Advocate for respondent No. 3.

Coram:-Shri J.D. Kulkarni, Vice-Chairman (J)
and
Shri Shree Bhagwan, Member (A)

JUDGMENT

(Delivered on this 27th day of April 2018.)

Per:-Vice-Chairman (J)

Heard Shri Bharat Kulkarni, the learned counsel for the applicant, Shri P.N. Warjukar, the learned P.O. for respondent Nos.1 and 2 and Shri S.C. Deshmukh, the learned counsel for respondent No. 3.

2. The applicant has claimed that the communication dated 29.9.2014 issued by respondent No.2, rejecting the request of the applicant for grant of deemed date of promotion to the post of Senior Auditor be quashed and set aside and respondent No.2 be directed to consider the applicant's claim for the said post with effect from the date on which her junior i.e. respondent No.3 Smt. Minakshi Bhimrao Pawar is promoted to the said post w.e.f. November 2013. She is also claiming arrears from the date of deemed date of promotion with interest.

3. From the impugned letter dated 29.9.2014, it seems that the Departmental Promotion Meeting (DPC) meeting was held on 16.11.2013 and in the said meeting, case of the applicant for promotion was not considered, since she did not

qualify, as per qualification clause for promotion to the post of Senior Auditor.

4. The applicant, after rejection of her claim again filed representation on 2.7.2014. But her grievance was not redressed and, therefore, she has filed this O.A.

5. The respondent Nos. 1 and 2 have filed their affidavit in reply and submitted that the Junior Auditor who has completed minimum three years of regular service in the post and who has passed the Maharashtra Accounts and Local Fund Audit, Group-C Service Departmental Examination or is exempted from passing the said examination, can only be considered for promotion. Though, the respondent No.3 is junior to the applicant in the seniority list of Junior Auditor, she has passed qualifying examination and was having requisite experience when the D.P.C. meeting was held for considering promotion. As against this, the applicant did not clear that examination on the date of D.P.C. meeting which was held on 16.11.2013 and, therefore, applicant's name was not considered.

6. The applicant filed rejoinder and tried to submit that the posts were available for VJ (A) (Female) category and, therefore, the applicant should have been considered.

7. The only material point to be considered is whether the claim of the applicant for promotion has been denied illegally.

8. From the impugned letter dated 29.9.2014, it was intimated to the applicant as under:-

> "आपल्या उपरोक्त संदर्भीय अर्जाचे अनुषंगाने कळविण्यात येते कि, स्थानिक निधी लेखा गट-क सेवा प्रवेश नियम २००८ मधील नियम क्र. ३ नुसार वरिष्ठ लेखापरीक्षक च्या पदावरील नियुक्ती,
>
> (१) ज्यांनी त्या त्या प्रादेशिक संवर्गातील कनिष्ठ लेखापरीक्षक हे पद धारण केलेले असेल.
> (२) त्या पदावर किमान ३ वर्ष इतकी सेवा केली असेल.
> (३) ज्यांना महाराष्ट्र लेखा व स्थानिक निधी लेखा गट-क सेवा विभागीय परीक्षा (भाग १ व भाग २) उत्तीर्ण होण्यातून सुट मिळाली असेल किवा ज्यांनी उक्त परीक्षा उत्तीर्ण केली असेल, अशा कनिष्ठ लेखापरीक्षकांच्या त्या त्या प्रादेशिक संवर्गातील व्यक्ती मधून योग्यतेच्या अधीनतेने व ज्येष्ठेच्या आधारे पदोन्नती द्वारे करण्यात येते."

9. The learned P.O. has invited our attention to the Recruitment Rules published on 2.12.2008 and particularly Rule 3 of the Rules, which clearly shows that in order to consider for promotion to the post of Senior Auditor, Junior Auditor must possess the requisite qualification i.e. three years' experience as a Junior Auditor and must have passed the examination called as, "Maharashtra Accounts and Local Fund Audit, Group-C Service Departmental Examination". Admittedly, the applicant has not cleared that examination when the D.P.C. meeting was held. The learned P.O. has also placed on record the minutes of the D.P.C. meeting dated 16.11.2013. The applicant has not fulfilled the basic condition of passing departmental examination which is stipulated as per Rule 3 of the Recruitment Rules and, therefore, on the date of D.P.C. meeting, she was not eligible for being considered for promotion. As against this, the respondent No.3, though junior to the applicant, was fulfilling all the conditions and, therefore, the respondent No.3 was promoted. We do not find any illegality in the order of promotion of respondent No.3 and consequently, in rejection of applicant's claim for deemed date of

promotion from the date when the respondent No.3 was promoted. Hence, we proceed to pass the following order:-

ORDER

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

(Shree Bhagwan)
Member (A)

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

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