

**THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.561 OF 2015

DISTRICT : JALGAON

Shri Harish Subhash Thakur,)
Raisuni Nagar, Shirsoli Road,)
Jalgaon, Dist. Jalgaon.) **...Applicant**

Versus

1. The State of Maharashtra,)
Through the Additional Chief Secretary,)
Home Department, Mantralaya,)
Mumbai 32.)
2. The Director General of Police,)
Shahid Bhagatsingh Marg (M.S.),)
Mumbai.)
3. The Commissioner of Police,)
CBD - Belapur, Near Konkan Bhavan,)
Navi Mumbai.) **...Respondents**

Shri R.M. Kolge, learned Counsel for the Applicant.

Shri K.B. Bhise, learned Presenting Officer for the Respondents.

CORAM : SHRI RAJIV AGARWAL, VICE-CHAIRMAN

DATE : 29.02.2016.

J U D G M E N T

1. Heard Shri R.M. Kolge, learned Counsel for the Applicant and Shri K.B. Bhise, learned Presenting Officer for the Respondents.
2. This O.A. has been filed by the Applicant seeking direction to the Respondents to consider his case for grant of deemed date of promotion as Assistant Police Inspector with effect from 02.08.2013, when he was promoted along with his junior officers to that post, but he could not join that post as he was not relieved.
3. Learned Counsel for the Applicant argued that the Applicant was promoted as Assistant Police Inspector (A.P.I.) by order dated 02.08.2013. At that time he was working as Police Sub Inspector (P.S.I.). The Applicant was not relieved to join the promotional post as he had not submitted his Caste Validity Certificate for Scheduled Tribe (S.T.) Category. The Applicant was relieved on 26.02.2015 and joined duties as

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A.P.I. on 12.06.2015 and is working in Buldhana District from 13.06.2015. Learned Counsel for the Applicant argued that the Applicant had submitted a representation dated 03.06.2015 to the Respondent No.2 to give him deemed date of promotion w.e.f. 02.08.2013, i.e. the date on which the promotion orders were issued. Learned Counsel for the Applicant argued that the matter of his Caste Certificate Validation is pending before the Schedule Tribe Scrutiny Committee, Nandurbar, since February, 2010. It is not the fault of the Applicant that validity certificate is not yet issued in his favour. Learned Counsel for the Applicant argued that the Respondents may be directed to consider his representation dated 03.06.2015 and the Applicant may be granted deemed date of promotion as A.P.I. from 02.08.2013.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that the Applicant has failed to produce Caste Validity Certificate. Learned P.O. contended that it is the responsibility of the Applicant to produce Caste Validity Certificate under the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of Caste Certificate) Act, 2000, which came into force on 18.10.2001. No appointment and / or promotion could be made without production of a Caste Validity Certificate under sub-section (2) of Section 6 of the said Act. The promotion order dated

02.08.2013 issued by the Respondent No.2 also stipulated that the backward class candidates, should be relieved to join promotional post only on production of Caste Validity Certificate. The Applicant was, therefore, not relieved to join promotional post immediately. He was relieved on 26.02.2015, but the Applicant has still not produced that Caste Validity Certificate. Learned P.O. argued that the case of the Applicant for deemed date of promotion would be considered once he produces Caste Validity Certificate. Learned P.O. contended that in Full Bench judgment of Hon'ble Bombay High Court in the case of **Arun Vs. State of Maharashtra Mh. L. J. 2015 -1 -457** it has been held that a backward class candidate has no right to be appointed, much less promoted, unless he produces the Caste Validity Certificate. Here the Applicant has already been promoted and the question of deemed date of promotion can be decided as and when he produces the Caste Validity Certificate.

5. The important issue here is whether a Government servant is absolved of all responsibility from producing a Caste Validity Certificate, when he is appointed on the basis of his backward class status and he is seeking promotion on the basis of his caste / tribe status. The Applicant has stated in para 6(A) of his O.A. that :-

".....that the Applicant's caste validity certificate is pending for verification for which the Applicant is not



responsible for the same which purely a administrative reasons.....”

It appears that the matter of verification of caste certificate of the Applicant was sent by the Director, Maharashtra Police Academy, Nashik to the Scheduled Tribe Certificate Scrutiny Committee, Nandurbar on 26.02.2010. The Applicant's name was included in the promotion order dated 02.08.2013. He was actually relieved on 26.02.2015 by the Police Commissioner, Navi Mumbai to join on promotional post. However, the Applicant has not mentioned anything regarding efforts made by him to obtain Caste Validity Certificate in the O.A. He is under the impression that he has no responsibility in matter. However, under the 2000 Act, which came into force on 18.10.2001, it is the responsibility of the Applicant for a Government post, to produce Caste Certificate as well as Caste Validity Certificate at the time of appointment only. The Applicant was appointed as P.S.I. in 2010. He, therefore, cannot shirk the responsibility of producing Caste Validity Certificate within a reasonable time period. Hon'ble Bombay High Court (Full Bench) in the case of **Arun Vs. State of Maharashtra, reported in Mh. L. - J. 2015- 1- 457**, have held in para 63 (c) of the judgment that :

“63(c) After coming to force of the said Act on 18.10.2001, no appointment and / or promotions could be made without production of a Caste Validity Certificate

under Sub Section (2) of Section 6 of the said Act, but it is a fact that some such appointments have been made.”

6. The Applicant's case appears to one such case, where he has been appointed and also promoted without production of Caste Validity Certificate, which violates Section 6(2) of the 2000 Act. The Applicant has to produce the Caste Validity Certificate, if he wants to receive the benefits of reservation in promotion on the basis of his Schedules Tribe Status. The Applicant has already been promoted, so the main grievance of the Applicant does not survive. Now his case of deemed date of promotion can definitely wait till he produces the Caste Validity Certificate. It will be violating the letter and spirit of the 2000 Act, if any, directive is given to the Respondents to consider his case for grant of deemed date of promotion from S.T. Category, when he has not yet submitted the Caste Validity Certificate.

7. Having regard to the aforesaid facts and circumstances of the case, this O.A. is dismissed with no order as to costs.

Sd/-
(RAJIV AGARWAL)
VICE-CHAIRMAN

Place : Mumbai
Date : 29.02.2016
Typed by : PRK