

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 595 OF 2015

DISTRICT : PUNE

Shri Sham Bhimaji Maskare,)
Occ : Kamatini (Class-IV, Group-C))
R/at: Somatwadi, at Post-Kusur,)
Tal-Junnar, Dist-Pune.)...**Applicant**

Versus

1. The State of Maharashtra)
Through the Secretary,)
Tribal Development Department)
Mantraaya, Mumbai.)
2. The Commissioner,)
Tribal Development,)
Division Nasik, Adivasi Bhavan)
Nasik.)

lh

3. The Additional Commissioner,)
Tribal Development,)
Warden Complex, 9th floor)
Opp. MIDC Office,)
Wagale Estate, Rd.No. 16,)
Thane[W].)...**Respondents**

Shri K.R Jagdale, learned advocate for the Applicant.

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

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

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

DATE : 11.03.2016

PER : Shri Rajiv Agarwal (Vice-Chairman)

ORDER

1. Heard Shri K.R Jagdale, learned advocate for the Applicant and Shri K.B. Bhise, learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicant seeking promotion to the post of Clerk-cum-Typist, Group 'C' from Group 'D' post w.e.f 10.9.2014, when his juniors were promoted.

3. Learned Counsel for the Applicant argued that the Applicant was appointed to Group 'D' post on 23.12.1999 at Government Ashram School, Borbet, Tal-Gaganbavda, Dist-Kolhapur. The Applicant submitted his S.S.C, H.S.C, B.A, MSCIT and Marathi & English Typewriting Certificates during 13.5.2011 to 10.10.2012. The Respondent no. 3 published the final seniority list of Group 'D' employees as on 1.1.2014 on 25.3.2014. The name of the Applicant was at Sr. no. 49. However, there was no entry about his having passed MSCIT and Marathi and English Typing Examinations. One Shri Lade P.S., who was at Sr.No. 51 was promoted on 10.9.2014, though there was no entry about passing Marathi/English Typing Examinations against his name. Learned Counsel for the Applicant argued that the Applicant has been overlooked for promotion though he was fully eligible. He had made a number of representations dated 26.5.2015, 28.5.2015 and 3.6.2015 to the Respondents but to no avail.

4. Learned Presenting Officer argued on behalf of the Respondents that this Original Application is premature. The representations of the Applicant are being considered by the Respondents and appropriate decision will be taken in due course of time.


5. This Tribunal by interim order dated 18.1.2016, directed the Respondents to consider the

RK

representations dated 4.4.2015, 26.5.2015, 28.5.2015 and 3.6.2015 filed by the Applicant within a period of four weeks. However, the Respondents have not done so. This is indeed a sorry state of affairs when simple directives of this Tribunal are ignored by the senior officers of the Government. The Applicant has placed on record copy of mark sheet of B.A examination of University of Poona of 1996, English Typing Examination Certificate of 40 w.p.m passed in May 1996, Marathi Typing Examination Certificate of 40 w.p.m passed in November 1995, MSCIT Certificate examination passed in January 2010 on record. He has placed a copy of letter dated 13.5.2011 addressed to the Respondent no. 3 on record where all these Certificates along with S.S.C (March 1991) and H.S.C (March 1993) Certificates were also enclosed. This fact is stated in para 6.4 of the Original Application. In the affidavit in reply dated 19.11.2015, it is stated that:-

“6. With reference to paras 6.1 to 6.5, the contents therein are admitted as they are factual in nature.”

It is absolutely clear that D.P.C in its meeting held on 14.7.2014 should have taken cognizance of all these documents which were admittedly submitted by the Applicant to the Respondent no. 3 on 13.5.2011. If the seniority list as on 1.1.2014 did not contain these details



against the name of the Applicant, he cannot be faulted for this. In view of the clear admission by the Respondents, we are unable to comprehend as to why the Respondents are dragging their feet. The Applicant appears to be fully eligible for promotion to Group 'C' post on the basis of his qualifications. His juniors have been promoted ignoring him. The Respondents are not taking any action on his representations though this Tribunal had directed them to do so. In the circumstances, we have no choice, but to fix a time table for considering the case of the Applicant for promotion.

6. The case of the Applicant will be placed before an appropriate D.P.C /Review D.P.C within one month from the date of this order, and if found fit for promotion, he will be promoted within 2 weeks thereafter. The Applicant may seek granting of deemed date of promotion thereafter. This Original Application is allowed in these terms with no order as to costs.

Sd/-

(R.B. Malik)
Member (J)

Sd/-

(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai

Date : 11.03.2016

Dictation taken by : A.K. Nair.