

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No.686 of 2022 (D.B.)**

Abhijit S/o Arvind Bhujbal,  
aged 43 years, Occ. Service,  
R/o Raikwar Bunglow, Kanhartoli,  
Gondia, Tq. & Dist. Gondia.

**Applicant.**

**Versus**

(1) The State of Maharashtra,  
Through its Additional Chief Secretary,  
Home Department, Mantralaya, Mumbai-32.

(2) The Director General of Police,  
Having its Office Near Regal Theater,  
Kolaba, Mumbai.

**Respondents.**

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**Shri S.P. Palshikar, Advocate for the applicant.**

**Shri M.I. Khan, learned P.O. for the respondents.**

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**Coram :- Hon'ble Shri Justice M.G. Giratkar,  
Vice Chairman.**

**Dated :- 26/02/2024.**

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**JUDGMENT**

Heard Shri S.P. Palshikar, learned counsel for the applicant and Shri M.I. Khan, learned P.O. for the respondents.

2. As per the M.A.T., Principal Bench, Mumbai office order / letter No.MAT/MUM/JUD/1350/2023, dated 21/11/2023, the Hon'ble Chairperson, M.A.T., Principal Bench, Mumbai has given direction to

this Tribunal to decide the Division Bench matters if the matter is covered by the Judgments of Hon'ble Supreme Court, Hon'ble High Court and the Benches of the M.A.T. etc.

3. As per the submission of learned counsel for applicant, this O.A. is covered by the various Judgments of the Hon'ble Supreme Court in the case of the ***Union of India Vs. K.V.Jankiraman And Others reported in (1991) 4 SCC 109***, decided on 27.08.1991 and in the case of ***Union of India And Others Vs. Anil Kumar Sarkar(2013) 4 SCC 161***, decided on 15.03.2013 and also the Judgment of the Hon'ble Bombay High Court, Bench at Aurangabad in the case of ***Ashok Madhukar Nand Vs. State of Maharashtra & Ors., 2024 (1) Mh.L.J.,134***. Hence, the matter is heard and decided finally with the consent of learned counsel for both the parties.

4. The case of the applicant in short is as under –

The applicant was initially appointed on the post of Police Sub Inspector (PSI) on 01/01/2009. Thereafter, the applicant was promoted on the post of Assistant Police Inspector (API) on 02/08/2013. Thereafter, the applicant was due for promotion, but one social worker lodged a complaint on 10/03/2013. The departmental enquiry was conducted. The disciplinary authority has taken a decision of punishment of stoppage of increment for one year. The applicant filed appeal before the Appellate Authority, i.e., before the

Additional Director General of Police, Mumbai. As per the order dated 25/07/2022, the Additional Director General of Police, Mumbai modified the order passed by the Disciplinary Authority instead of stoppage of increment for one year, the applicant was given strict warning.

5. The applicant was / is due for promotion for the post of Police Inspector, but the respondents have not promoted him on the ground that pendency of criminal case against him. Hence, the applicant approached to this Tribunal for the following reliefs –

*“(8) (i) direct the respondent No.2 to grant deemed date of promotion in favour of the applicant as a Assistant Police Inspector (API) as of 02/08/2013 by granting him all consequential and monetary benefits arising therefrom;*

*(ii) further be pleased to direct the respondents to consider the case of the applicant in the forthcoming departmental promotion committee as of Police Inspector with a further direction to issue the order of promotion as a Police Inspector forthwith and by granting him all consequential and monetary benefits arising therefrom;”*

6. The O.A. is strongly opposed by the respondents. It is submitted that the criminal case is registered for the offence punishable under Sections 323,504,395 r/w 34 of the Indian Penal Code (IPC) and therefore the applicant is not promoted on the post of Police Inspector. It is also submitted by the respondents that Crime

no.596/2016 was registered against the applicant for the offence punishable under Sections 419,420,384,120-B,468, 470, 471, 201 of the Indian Penal Code and r/w Section 66 (c), 66 (d), 72 and 75 of the Indian Telegraph Act. Therefore, the applicant is not entitled for promotion. Hence, the O.A. is liable to be dismissed.

7. During the course of submission the learned counsel for the applicant has submitted that only warning was given by the Appellate Authority and therefore the result of departmental enquiry shall not be obstacle for promotion to the applicant.

8. The learned counsel for applicant has pointed out the N.C. report along with the pursis. As per the N.C. report, offence punishable under Sections 323,504,395 r/w 34 of IPC is non-cognizable offence and therefore summary was submitted to the Court for non-cognizable offence. The learned counsel for applicant submits that even the criminal case is pending it cannot be a ground to deny for promotion.

9. The learned counsel for applicant has pointed out the Judgment of the Hon'ble Supreme Court in the case of the ***Union of India Vs. K.V.Jankiraman And Others reported in (1991) 4 SCC 109***, decided on 27.08.1991 and in the case of ***Union of India And Others Vs. Anil Kumar Sarkar(2013) 4 SCC 161***, decided on 15.03.2013 and also the Judgment of the Hon'ble Bombay High Court,

Bench at Aurangabad in the case of ***Ashok Madhukar Nand Vs. State of Maharashtra & Ors., 2024 (1) Mh.L.J.,134.***

10. Heard learned P.O. Shri M.I. Khan. As per his submission because of the pendency of criminal case, the applicant is not entitled for promotion.

11. As per the report submitted by the CID, the non-cognizable offence report is submitted to the Court, because, the offence punishable under Sections 323,504,395 r/w 34 of IPC is non-cognizable offence. Even other criminal case is pending that cannot be a ground to deny the promotion in view of the cited Judgments in the case of the Hon'ble Supreme Court in the case of the ***Union of India Vs. K.V.Jankiraman And Others reported in (1991) 4 SCC 109***, decided on 27.08.1991 and in the case of ***Union of India And Others Vs. Anil Kumar Sarkar(2013) 4 SCC 161***, decided on 15.03.2013 and also the Judgment of the Hon'ble Bombay High Court, Bench at Aurangabad in the case of ***Ashok Madhukar Nand Vs. State of Maharashtra & Ors., 2024 (1) Mh.L.J.,134.***

12. The respondents cannot deny the promotion if the applicant is eligible for the same. Pendency of criminal case or departmental enquiry cannot be a ground to deny the promotion in view of above cited Judgments. Hence, the following order –

**ORDER**

(i) The O.A. is allowed.

(ii) The respondents are directed to promote the applicant on the post of Police Inspector, if he is eligible for the same subject to the decision of criminal case.

(iii) The respondents are directed to give the seniority to the applicant on the date on which his juniors are promoted. However, it is made clear that the applicant is not entitled for any arrears.

(iv) The respondents shall accordingly modify the seniority list, if the applicant is promoted as per his eligibility.

(v) No order as to costs.

**Dated** :- 26/02/2024.

**(Justice M.G. Giratkar)**  
**Vice Chairman.**

\*dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 26/02/2024.