

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.810 OF 2016

DISTRICT : PUNE

Mrs. Nirmala Parshuram Koli,)
Adult, Indian Inhabitant,)
Presently working in Rural Hospital, Paud,)
Talukar Mulshi, District Pune, office of the)
Deputy Director, Public Health Services,)
3rd floor, New Administrative Building,)
Pune 411 001)...**Applicant**

Versus

1. The Director, Health Services,)
Arogya Bhavan, Dental College,)
Building, St. George Hospital,)
C.S.T. Mumbai 400 001)

2. The Deputy Director,)
Public Health Services,)
3rd floor, New Administrative)
Building, Pune 411 001)

3. Shri Sushant Khade)
Adult, Indian Inhabitant)
Presently working as Office)
Superintendent, Regional Mental)
Hospital, Yerwada, Pune 6) **...Respondents.**

Mr. D.B. Khaire, learned Advocate for the Applicant.

Ms. Archana B.K., learned Presenting Officer for the Respondent.

CORAM : **Justice Mridula Bhatkar (Chairperson)**
Ms. Medha Gadgil (Member) (A)

DATE : **22.06.2023.**

J U D G M E N T

1. Learned Advocate for the Applicant has submitted that Applicant was appointed in ST category in the year 20.12.1989 and thereafter was promoted to the post of Senior Clerk on 14.10.1998. Thereafter on 06.11.2001 the Applicant was promoted to the post of Assistant Superintendent. However, the Applicant herself requested for her transfer to Pune and opted for reversion for posting at Pune. So the Applicant was reverted to the post of Senior Clerk on 06.12.2002. It is the case of the Applicant that she was eligible and high in seniority to Respondent No.3, Mr. Sushant Khade, but was not maintained by the Respondents. On 03.07.2009 the Caste Scrutiny Committee invalidated the ST certificate of the Applicant. However, on 31.03.2010 the Applicant got the certificate of SBC category from the Caste Scrutiny Committee. The Applicant has submitted that her claim should have been considered in SBC category. She was not promoted in the year 2009, but was promoted to the post of Assistant Superintendent in the year 2012. It is submitted that her junior Mr. Sushant Khade, Respondent no.3 was promoted in SBC category in the year 2009 which is unjust and illegal and her rightful claim as per her seniority was declined by the Respondents.

2. Learned P.O. has submitted that on account of invalidation of the ST certificate of the Applicant on 03.07.2009 the claim of the Respondent No.3 in SBC category was rightly considered and he was promoted to the said category. Moreover, the Applicant

was reversed so she was pushed down in the seniority list. Therefore, Mr. Khade was rightly given promotion in the year 2009 against the post available for reserved category in SBC. After acquiring SBC certificate in the year 2010 the Applicant does not create any right to claim backdated seniority.

3. Considered the submissions of learned Advocate and learned P.O. Learned Advocate has submitted that he is not pressing amendment prayer on account of laches. At the outset we say that the prayers made are on misconception of facts and law. Earlier applicant was appointed in ST category. Applicant's ST certificate was invalidated by the Caste Scrutiny Committee on 03.07.2009. Thereafter she got the SBC certificate on 31.03.2010. Therefore on 19.05.2009, Mr. Khade was rightly promoted who belong to SBC category. At the relevant time the Applicant was not holding the SBC certificate. Hence, Mr. Khade was rightly given promotion. Moreover, it is to be noted that the applicant was earlier promoted to the post of Assistant Superintendent on 06.11.2001. However, she was reverted to the lower post as per her request and therefore she was pushed down in the seniority list.

4. In view of above, as there is not merit in O.A., the same stands dismissed.

Sd/-
**(Medha Gadgil
Member (A))**

Sd/-
**(Mridula Bhatkar, J.)
Chairperson**

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