

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO.859 OF 2021**

Nayan Gurunath Kabadi, )  
C/o. The Commissioner of Police, Mumbai 1 )  
And Residing at 2, Matru Sadan, )  
Off Ram Maruti Rd. Thane 400 602 ) **....Applicant**

**Versus**

1) The State of Maharashtra, )  
Through Chief Secretary, )  
G.A.D. Mantralaya, Mumbai 400 032 )  
2) The Commissioner of Police, Mumbai )  
D.N. Road, Mumbai 400 001 )  
3) The Additional Chief Secretary, )  
Home Department, Mantralaya, )  
Mumbai 32 )  
4) Shital Shivaji Dalvi, A.O., Desk IV, )  
Office of C.P. Mumbai 400 001 ) **....Respondents**

Applicant in person.

Ms. K.S. Gaikwad, learned Presenting Officer for the Respondents.

**CORAM : JUSTICE MS. MRIDULA BHATKAR, CHAIRPERSON  
MS. MEDHA GADGIL, MEMBER(A)**

**DATE : 17.02.2022**

**PER : JUSTICE MS. MRIDULA BHATKAR, CHAIRPERSON**

### **J U D G M E N T**

1. The Applicant party in-person submits that his Departmental Enquiry (D.E.) was concluded in March, 2021 and the meeting of the Departmental Promotion Committee (D.P.C.) was held on 17.08.2021 for considering his name for promotion to the post from Junior Clerk to Senior Clerk. The party in-person submits that the D.P.C. kept its decision of promotion in a sealed envelope because an offence under Sections 406, 420, 120(b) of Indian Penal Code was registered against the Applicant as there was Criminal case No.16 of 2002 under Section 406, 420, 120(b) of the Indian Penal Code pending against the Applicant.

2. The Party in-person has filed this Original Application based on Government Resolution (G.R.) dated 15.12.2017. According to party in-person, clause 9 of the said G.R. states that the minutes of the D.P.C. which are kept in sealed envelope should be opened after two years of original meeting of the D.P.C. He further submits that as the D.P.C. was held in 17.08.2021, by virtue of clause 9 of the G.R. dated 15.12.2017, now a fresh cause of action arose. Therefore he has filed the present O.A. and prays that the sealed envelope should have been opened and he should be promoted.

3. The learned P.O. for the Respondents pointed out that earlier similar relief was pressed by the Applicant by filing O.A.No.360/2020 which was rejected on 18.08.2020 on the ground of limitation. In the order dated 18.08.2020 it was held that the cause of action arose in the year 1992-1993. The Applicant should have been promoted to the post of Senior Clerk when he cleared his examination of Post Recruitment Training (PRT) Examination. In 1991 he was having three years of experience and he was a candidate of Maharashtra Public Service Commission (M.P.S.C.) appointed to the post of Junior Clerk and at that time 80 to 90 posts were vacant. The learned P.O. pointed out that

same relief was claimed in the earlier matter in O.A.No.360/2020. As the relief claimed was found barred by limitation the matter was dismissed by order dated 18.08.2020 on the same ground. The learned P.O. further submits that the Criminal case is still pending and the applicant is retiring on 28.02.2022.

4. We have considered clause 6 and clause 9 of the said G.R. Clause 6 pertains to the disciplinary enquiry. Admittedly, in the present case D.E. is over and Applicant is on admonition. However, clause 9 pertains to not only the disciplinary action, but also pendency of the criminal case and whether two years period is mentioned against the applicant wherein the criminal case is still pending. Moreover, we pointed out sub clause (g) of clause 9 of the said G.R. The applicant has received time bound promotion and drawing the salary equivalent to the Senior Clerk since December, 2000. We have already held earlier his claim is time barred and we do not find any ground to entertain his application. We interpret that the date of the original D.P.C. after the conclusion of the D.E. is 13.08.2021. But however as per clause 6 after six months from the date of D.P.C. the case is to be reviewed.

5. The Applicant also relied on clause 6 of the said G.R., wherein the sealed envelope is to be opened six months after the D.P.C. and it is to be reviewed and if at all the suspended officer is restored and if it is found that no disciplinary action is going on against him then after opening the sealed envelope if the applicant is found eligible he is to be promoted. The case of the Applicant falls under clause 6, hence to be reviewed.

6. The applicant has submitted the written submissions and has also argued the matter. In the written submission the applicant has discussed the merit of economic offences case. We do not want to go into merit of the case as it is uncalled in view of our earlier order. In

written submission in many paragraphs he has stated about the merits of his case, the criminal case and about his defense in the said case.

7. In view of the above, we dismiss this O.A. However we direct the Respondents to review the applicant's case as per clause 6 of the G.R. dated 15.12.2017.

Sd/-

**(Medha Gadgil)**  
**Member(A)**

Sd/-

**(Mridula Bhatkar, J.)**  
**Chairperson**

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