

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION NO.933 OF 2015

(Subject : Promotion)

Shri Shyamal Kumar Mukherjee)
Public Works Department, Mantralaya,)
R/o. 1502 Glen Ridge, Hiranandani Garden,)
Powai, Mumbai 400 076) **....Applicant.**

Versus

1. The State of Maharashtra,)
Through the Chief Secretary,)
General Administration Department,)
Mantralaya, Mumbai 400 032)

2. The Additional Chief Secretary,)
Public Works Department,)
Mantralaya, Mumbai 400 032) **....Respondents**

Shri M.R. Patil, the learned Advocate for the Applicant.

Shri A.J. Chougule, the learned Presenting Officer for the Respondents.

CORAM : SHRI J.D. KULKARNI, VICE-CHAIRMAN
SHRI P.N. DIXIT, MEMBER(A)

DATE : 12.12.2018.

PER : SHRI J.D. KULKARNI, VICE-CHAIRMAN

J U D G M E N T

1. Heard Shri M.R. Patil, the learned Advocate for the Applicant and Shri A.J. Chougule, the learned Presenting Officer for the Respondents.

2. Applicant in this case is claiming the posting to the post of Principal Secretary w.e.f. 23.07.2014. He was appointed as Secretary on 18.01.2010 as per requirement the Secretary who has worked on the said point for five years is entitled to be promoted to the post of Principal Secretary. Admittedly, Applicant got retired on 31.12.2014. Therefore he has not completed five years of service as the Secretary before retirement.

3. It is the case of the Applicant that his posting to the post of Secretary was delayed and therefore he could not complete five years service on the post of Secretary due to shortfall of 18 days for such completion. It is not known as to why the Applicant did not immediately challenge his late appointment order to the post of Secretary. Prima facie, we are of the view that the Applicant is not entitled to be considered for the post of Principal Secretary since he has not completed five years service on the post of Secretary.

4. Learned Advocate Shri M.R. Patil for the Applicant submits that the applicant was in fact recommended for the post of Secretary in 2009 through Departmental Promotion Committee meeting but the order was issued late. However this aspect cannot be considered in this O.A. Learned Advocate submits that he may be permitted to withdraw the O.A. with liberty to file necessary documents and file fresh O.A.

5. We however make it clear that filing of fresh O.A. will be subject to merits on the point of limitation that may arise in the said O.A. Since Applicant wants to withdraw the O.A., we pass the following order :-

ORDER

O.A. stands withdrawn with liberty to file fresh O.A. subject to point of limitation.

No order as to costs.

Sd/-

Sd/-

(P.N. Dixit)
Member(A)

(J.D. Kulkarni)
Vice-Chairman

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