

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 163 OF 2015

(Subject – Reversion)

DISTRICT: AURANGABAD

Shri Sharad s/o Uttamrao Wange,)
Age: 52 years, Occu. : Service,)
(As PSI, Wireless (Traffic) A'bad Rural Police))
R/o : C/o Mr. S.B. Pawar, Near Mahadev)
Temple, Himayat Baug, Aurangabad.)

.. APPLICANT

V E R S U S

- 1) **The State of Maharashtra**)
- 2) **The Additional Director General**)
& Director of Police (Wireless),)
M.S., Pune.)
- 3) **The Superintendent of Police,**)
Aurangabad Rural, Aurangabad.)

.. RESPONDENTS

APPEARANCE : Shri A.S. Deshmukh, Advocate for Applicant.

: Shri M.S. Mahajan, Chief Presenting Officer
for Respondents.

CORAM : **J.D. KULKARNI, VICE CHAIRMAN**
AND
: **SHRI ATUL RAJ CHADHA, MEMBER (A)**

DATE : **24TH AUGUST, 2018.**

ORAL ORDER**[Per : J.D. Kulkarni, Vice Chairman]**

1. Heard Shri Avinash S. Deshmukh, learned Advocate for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.
2. The applicant in the present Original Application has challenged the impugned order 11.03.2015 (Annexure 'A-11' issued by the respondent No. 2, the Additional Director General & Director of Police [Wireless], M.S., Pune.
3. Vide impugned order the promotion granted to the applicant for the post of Police Sub Inspector [Wireless] was taken out and he was posted on demoted post of Head Wireless Operator / ASI [Wireless].
4. The applicant entered in the service of State Government in Home Department as a directly recruited Wireless Operator / Head Constable on 1.2.1990. At the time of entry, the applicant's caste was 'Dhanwar', which came under S.T. Category. The applicant was never asked to produce Caste Validity Certificate. 'Dhanwar' caste was

initially under the S.T. Category till issuance of the Government Resolution dated 25.05.1990. Vide G.R. dated 25.5.1990 the Government took a policy decision whereby the status of the persons like the applicant belonging to 'Dhanwar' caste was changed from S.T. Category to NT-C Category. Once the applicant was appointed under S.T. Category he never took advantage of that category and his category was changed only because of the policy decision taken by the Government. The applicant was subsequently promoted on the post of Police Sub Inspector [Wireless]. However, vide the impugned order dated 11.3.2015 he was suddenly demoted and, therefore, the applicant has filed the present Original Application.

5. Respondent No. 2 tried to justify the order of demotion of the applicant. It is stated that the applicant was appointed to the post of Wireless Operator on the reserved post from S.T. Category and he availed the benefit of reserved category. He submitted Caste Certificate of 'Dhanwar' caste, which comes under S.T.

category at that time. He was asked to submit Caste Validity Certificate from time to time, but did not submit the so and finally instead of Caste Certificate for S.T. category, the applicant produced Caste Validity Certificate to the effect that he belongs to NT-C category and, therefore, his seniority in the post of Wireless Operator was re-fixed as on 15.6.1995, as per the G.R. dated 30.6.2004 {Exhibit 'R-3', page 77). The applicant, therefore, lost his seniority in the post of Head Wireless Operator and Police Wireless Sub Inspector (Traffic) and, therefore, he was rightly reverted to the post of Head Wireless Operator vide impugned order.

6. We have perused the G.R. dated 30.6.2004 (Exhibit 'R-3', page-77) from which respondents have placed reliance. It is material to note that the title of the said G.R. is as under: -

“अनुसूचित जमातीच्या राखीव जागांवर सरळसेवा / पदोन्नती झालेल्या बिगर आदिवासी अधिकारी / कर्मचा-यांना शासकीय / निमशासकीय सेवेत संरक्षण देणेबाबत.”

We are doubtful as to whether the said G.R. can be made applicable to the case of the applicant.

7. From the admitted facts on record, we are satisfied that when the applicant was appointed, his caste falls within the category of S.T. The applicant belongs to caste 'Dhanwar', which was under S.T. category as per the Government Resolution of 1976 [Annexure 'A-1', page-20] at the time of appointment and, therefore, the applicant was not appointed as a candidate from S.T. category. Subsequently, the Government took a policy decision vide Government Resolution dated 25.5.1990 [Annexure 'A-3', page-26] and as per the said G.R. the caste 'Dhanwar' has been included in the caste 'Dhangar', which comes under NT-C category. It is not the case of the respondents that the applicant obtained the certificate by fraud or by not showing his proper caste. At the time of appointment, he was admittedly under ST category and was accordingly promoted. It is not the case that the applicant has wrongly shown his caste under NT-C or ST category. It is because of the policy decision taken by the Government that the applicant's caste was included under the NT-C category and for such reason the applicant cannot be

blamed at all. Through his representation the applicant tried to bring to the notice of the respondent authorities that he was not at all responsible for the result as aforesaid. However, his representation has not been considered properly. Therefore, the reasons given for reverting the applicant are not proper. The applicant has not played any role in getting promotion order. On the contrary, he was considered for promotion as per his own merits and seniority. He, therefore, should not have been reverted as has been done by the impugned order dated 11.3.2015 (Annexure 'A-11', page-62 of paper book of O.A.).

8. Learned Presenting Officer invited out attention to the caste certificate submitted by the applicant at Exhibit 'R-1', page-75, in which the applicant's caste has been shown as 'Dhanwar' under S.T. category. It is material to note that this certificate is dated 16.3.1982 and at that time admittedly the caste 'Dhanwar' was included under S.T. category. The applicant has, therefore, entered the service through proper channel and after getting his caste

verified and he never misled the competent authorities. His caste was converted to NT-C category in view of the policy decision taken by the Government for which the applicant was not at all responsible. Hence, we pass the following order: -

ORDER

- (i) The present Original Application is allowed.
- (ii) The impugned order dated 11.3.2015 (Annexure 'A-11', page-62) passed by respondent No. 2 is hereby quashed and set aside.
- (iii) There shall be no order as to costs.

MEMBER (A)

VICE CHAIRMAN

PLACE : AURANGABAD.

DATE : 23rd AUGUST, 2018.

O.A.NO.163-2015(DB)-HDD-2018-Reversion