

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 25 OF 2018

DISTRICT: - AURANGABAD.

Sachin S/o Ramesh Salve,
Age-38 years, Occupation : SERVICE,
Jail Officer, Class I
Open Prison, Paithan
District Aurangabad.

.. APPLICANT.

V E R S U S

- 1. The State of Maharashtra,**
Through : Secretary
Home & Prison Department,
Mantralaya, Mumbai.
- 2. The Additional Director General of
Police & Inspector General of
Prisons,**
Maharashtra State, Pune.
- 3. The Deputy Inspector General of
Prison Aurangabad (Rural),**
Aurangabad.
- 4. Mr. B.R. More,**
Age : major, Occu: Service,
R/o. Aurangabad,
Jail Superintendent,
District : Aurangabad.
- 5. Mr. C.A. Indurkar,**
Age : major, Occu: Service,
R/o. Bombay,
Jail Superintendent, Byculla Jail,
District : Bombay.

.. RESPONDENTS.

APPEARANCE : Shri. S.D. Joshi, learned Advocate
for the applicant.

: Shri M.P. Gude – learned Presenting
Officer for the respondent Nos. 1 & 2.

: Shri Santosh B. Bhosale, learned
Advocate for respondent Nos. 4 & 5.

**CORAM : JUSTICE M.T. JOSHI, VICE CHAIRMAN
AND
: ATUL RAJ CHADHA, MEMBER (A)**

DATE : 13TH DECEMBER, 2018.

O R A L O R D E R

[Per : Justice M.T. Joshi, Vice Chairman]

1. Heard Shri S.D. Joshi, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for the respondent Nos. 1 to 3 and Shri Santosh B. Bhosale, learned Advocate for respondent Nos. 4 & 5.
2. With consent of both the sides, the present case is taken up for final disposal.
3. By the present Original Application the applicant is claiming following reliefs : -

B) The respondents be directed to grant deemed date of promotion to the applicant as Superintendent of Jail / Prisons from 25.5.2013 when Mr. R.H. Pawar is promoted with all consequential benefits.

b-1) The respondent Nos. 1 to 3 may kindly be directed to grant deemed date of promotion to

the applicant as Jail Superintendent from 25.5.2010, the date on which Mr. B.R. More is granted promotion, with all consequential benefits.”

4. The pleadings of the applicant, as well as, affidavit in reply of the respondents would show that Maharashtra Prison Department (Executive Officers Qualifying Examination) Rules, 1977 and more particularly rule No. 3 would show that Jailors, Group-I or Group-II or in the cadre of Superintendent of District Prisons Class-II has to pass the departmental examination detailed therein within five years from the date of his appointment and within three chances. So far as employee from Scheduled Caste, Scheduled Tribe and Denotified Tribes and Nomadic Tribes is concerned, he shall be given one more chance and one more year to pass the examination. Failing the same the officer loses his / her seniority. For the purpose of record rules 3 is put hereunder:-

“3.(1)Every person appointed directly to any post in the cadres of Jailors Group I or Group II or in the cadre of Superintendents of District Prisons, Class II after commencement of these rules, shall be required to pass the Examination in accordance with these rules within a period of

five years from the date of his appointment and within three chances.

A candidate from (1) Scheduled Caste, Scheduled Tribe and Denotified Tribes and Nomadic Tribes, shall be given one more chance and one more year to pass the examination.

(2) Every person working in any post in the cadre of Jailors, Group-I or Group-II or in the cadre of Suptds. of District Prisons Class-II on the date of commencement of these rules, shall be required to pass the examination within three years and within three chances.

(3) Save as otherwise provided in sub-rule (6), no Executive Officer shall hereafter be promoted in a regular vacancy in any higher cadre, unless he has passed the Examination.

(4) An Executive Officer who does not pass the Examination within the period prescribed under sub-rules (1) and (2) above or within the period extended under rule 11 will lose his seniority to all those who have passed the Examination.

(5) Subject to the loss of seniority under sub-rule (4) and Executive Officer shall be allowed to pass the Examination in any number of chances.”

5. The present applicant was appointed as Jailor in Grade-II cadre in the year 2005. He passed the necessary examination in the year 2008 within three chances. In the circumstances, he become eligible for promotion in the year 2008 and has not lost his seniority. However, he was promoted in the year 2011. In the meantime many ineligible officers were promoted.

6. More particularly in affidavit in reply on behalf of respondents sworn by Shri Rajendra Tanbaji Dhamne, Deputy Inspector General of Prisons, Central Region, Aurangabad has averred in paragraph No. 3 as under: -

“3.

..... I humbly submit that, prior to 2015 the provisions laid down in Maharashtra Prison Manual 1979, regarding the promotions of the executive officers to the rank of jailor group 1 to superintendent were not followed. I most humbly submit that, at relevant time, while issuing the promotion orders, the Departmental Promotion Committee had considered the seniority of the officers, the gradation of Annual Confidential Report's and whether they have undergone suspensions or the punishment of stoppage of increments etc. As per the

provisions laid down in Maharashtra Prison Manual 1979 page no. 1016 Rule no. 3 Sub Rule 4 have been adhered to. In 2015 the department for first time published the first seniority list of Jailor Group-I in strict adherence to rule no. 3, Sub Rule 4. Similarly on 31st October 2017 the provisional seniority list has been published by the Department and invited objections from the officers at state level.

.....
 *I say and submit that the Respondent No. 1 had not followed the Rule 3 of Sub Rule 4 and 5 before 2015 and several officers had given promotion (sic.) though they were ineligible for the promotion to post of Jailor Group-I to Superintendent of Prisons, Class II.”*

7. It is thus clear that the respondents have promoted many ineligible officers and the applicant was deprived of the promotion within time.

8. In the circumstances, the present Original Application will have to be allowed. In the result, the following order: -

ORDER

(i) The present Original Application is allowed without any order as to costs.

(ii) The concerned respondents are directed to consider the fact that the present applicant has passed the departmental examination in the year 2008 and with effect from the date of passing of the examination he become eligible for promotion. In the circumstances, suitable deemed date of promotion shall be granted to him firstly in the cadre of Jailors, Group I, as well as, subsequent promotion to the post of Deputy Superintendent of Prison as per the rules and necessary benefits arising therefor shall also imparted to him.

(iii) All these exercise be completed within a period of three months from the date of this order.

MEMBER (A)

VICE CHAIRMAN

PLACE : AURANGABAD.

DATE : 13TH DECEMBER, 2018.

O.A.NO.25-2018(DB-Promotion)-HDD-2018