

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 706 of 2014 (DB)**

Sau. Bharti Vijay Dhande,  
Aged about 54 years, Occ. Service,  
R/o Plot No.48, Old Jagruti Colony,  
Near Friends Colony,  
Katol Road, Nagpur-13.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Principal Secretary,  
Social Welfare Department,  
Mantralaya, Mumbai-32.
- 2) The Commissioner of Social Welfare,  
Commissionerate of Social Welfare,  
3 Church Road, M.S., Pune.
- 3) The Assistant Commissioner of Social Welfare,  
1<sup>st</sup> floor Administrative Building No.1,  
Civil Lines, Nagpur.
- 4) Shri S.S. Sadafale,  
Social Welfare Inspector,  
O/o the Assistant Commissioner,  
Social Welfare, District Bhandara.
- 5) Shri C.B. Ingole,  
Social Welfare Inspector,  
O/o the District Social Welfare Officer,  
Zilla Parishad, Bhandara.
- 6) Shri S.S. Wagh,  
Social Welfare Inspector,  
O/o the Assistant Commissioner,  
Social Welfare, Gondia, District Gondia.
- 7) S.V. Jadhav,  
Social Welfare Inspector,  
O/o the Assistant Commissioner,  
Social Welfare, Kolhapur, District Kolhapur.

- 8) Shri S.S. Kshatriya,  
Social Welfare Inspector,  
O/o the Assistant Commissioner,  
Social Welfare, Nashik, District Nashik.

**Respondents.**

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**S/Shri D.M. Kakani, G.K. Bhusari, Advocates for the applicant.**

**Shri A.M. Ghogre, P.O. for respondent nos. 1 to 3.**

**None for respondent nos. 4 to 8.**

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**Coram :- Shri Shree Bhagwan,  
Member (A) and  
Shri Anand Karanjkar, Member (J).**

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**JUDGMENT**

**Per : Anand Karanjkar : Member (J).**

**(Delivered on this 3<sup>rd</sup> day of May,2019)**

Heard Shri D.M. Kakani, learned counsel for the applicant and Shri A.M. Ghogre, learned P.O. for respondent nos. 1 to 3. None for respondent nos. 4 to 8.

2. The applicant was appointed in service as Junior Clerk in the year 1986. The applicant was promoted vide order dated 25/07/2011. It was mentioned in her promotion order that she was promoted in S.C. category, but it was informed by the applicant that she was candidate of open category and therefore correction be made in the office record. The copy of the application moved by the applicant was forwarded by the Assistant Commissioner, Social Welfare, Nagpur to the Head Office.

3. The applicant thereafter went to join the promotional post of Senior Clerk which was in Zilla Parishad, Nagpur, but she was not allowed to join. Thereafter revised order was issued and as per the revised order the applicant joined on 25/08/2011. In spite of intimation given by the applicant the office record was not corrected.

4. The applicant was thereafter promoted vide order dated 01/02/2014 on the post of Social Welfare Inspector. It was promptly informed by the applicant that she was candidate of open category and as at that time as per the requirement the applicant had not completed three years service as Senior Clerk, consequently her promotion order was set aside vide order dated 28/03/2014.

5. Thereafter, the respondent authorities promoted the respondent nos. 4 to 8 vide order dated 12/09/2014, at that time the applicant was not considered. It is submitted by the applicant that when DPC was held in the month of September, 2014 the applicant had completed three years service as Senior Clerk and consequently she was eligible for the promotion. It is submitted that the Committee did not consider the applicant eligible for the promotion and though the respondent nos. 4 to 8 were juniors to the applicant, they were promoted. In this background the applicant is claiming to cancel promotion orders of respondent nos. 4 to 8 and seeking direction to

the respondent authorities to promote the applicant on the post of Social Welfare Inspector in open category with deemed date.

6. The respondent nos. 1 and 2 have filed their reply and contended that at the time of DPC the applicant had not completed three years service as a Senior Clerk and consequently she was not considered for the promotion. It is submitted that on 22/09/2014 the applicant had completed only 2 years, 9 months service and consequently she was not promoted. The respondent nos. 1 and 2 have justified the promotions of respondent nos. 4 to 8 and refusal of promotion to the applicant.

7. During course of hearing the respondent nos. 1 and 2 were directed to produce the service book of the applicant and accordingly the original service book of the applicant was produced before the Bench and extract of the service book relevant entry is placed on the record. It is at page no.50 of the P.B. On perusal of this entry in the service book it is mentioned that as per the order dated 23/08/2011 the applicant resumed the duty as Senior Clerk in the Residential Girls School on 25/08/2011. The copy of the joining report of the applicant dated 25/08/2011 is also placed on record. On perusal of both the documents it is crystal clear that on 22/09/2014 the applicant had completed three years of service. In the reply of respondent nos. 1 and 2 though it is mentioned that the applicant

joined the post of Senior Clerk on 08/11/2011, but it is apparently wrong. On page no.42 i.e. reply of the respondent nos. 1 and 2 the part of the seniority list is reproduced. It appears that the respondent no.4 Shri Sadafale joined on 25/07/2011 as Senior Clerk, the respondent no.5 Shri Ingole joined on 08/08/2011 as Senior Clerk, the respondent no.6 Shri Wagh joined on 26/08/2011, the respondent no.7 Shri Jadhav joined on 30/08/2011 subsequent to the applicant. Thus, it is clear that the two candidates, respondent nos. 6&7 had joined the service as a Senior Clerk after the applicant. Consequently as per the extract of the seniority list placed on record, they were juniors to the applicant. The respondent no.8, Shri Kshatriya joined the duty on the same day i.e. on 25/08/2011. Thus, it is established by the applicant that though the respondent nos. 6&7 joined the service as Senior Clerk after her joining, therefore, they were juniors to her and without considering this aspect wrong seniority list was prepared by the respondent nos. 1&2 and promotion was denied to her. In view of this fact, we are compelled to allow the application. Hence the following order –

### **ORDER**

The O.A. is allowed. The respondent nos. 1&2 are directed to hold DPC to decide the claim of the applicant for the promotion on the post of Social Welfare Inspector considering her

joining date as 25/08/2011. The respondent nos. 1&2 shall revert the junior most person as per the seniority if the post is not available and shall promote the applicant with deemed date. The respondent nos. 1&2 shall comply this order within a period of two months. No order as to costs.

**(Anand Karanjkar)**  
**Member(J).**

**(Shree Bhagwan)**  
**Member (A).**

**Dated :- 03/05/2019.**

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