

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 760 of 2014 (DB)

Sudhakar S/o Ramkrushna Malve,
Aged about 43 years, Occ. Service,
R/o Amravati Central Prison,
District Amravati.

Applicant.

Versus

- 1) State of Maharashtra,
through Home Department,
Mantralaya, Mumbai.
- 2) The State of Maharashtra,
Additional Director General of Prisons and Inspector
General of Prison, Old Central Building No.2,
Pune-400 016.
- 3) Deleted.

Respondents.

Shri N.D. Thombre, Advocate for the applicant.

Shri S.A. Sainis, P.O. for the respondents.

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

JUDGMENT

Per : Anand Karanjkar : Member (J).

(Delivered on this 16th day of April,2019)

Heard Shri N.D. Thombre, learned counsel for the
applicant and Shri S.A. Sainis, learned P.O. for the respondents.

2. It is contention of the applicant that candidates Sr. No.30 Santosh Balaram Bhuyar, Sr. No.59 Nivrutti Bhavadu Gavali and Sr. No.67 Namdeo Sopan Aarsale were promoted subject to production of the caste validity certificate and appointed as Jailor class II. It is submitted that the candidate at Sr. No. 67 was unable to produce his caste validity certificate, therefore, his appointment and promotion is set aside. According to the applicant this one post is vacant till today, therefore, as per the result of the examination as the applicant was next to Sr. No. 67, the applicant is entitled to be promoted.

3. It is submitted that these facts were brought to the notice the respondents No.1 and 2, but they did not consider the case of the applicant, therefore, the action of the respondents No.1 and 2 is illegal. The applicant has produced on record Anx. AA-1 & AA-2, it is contended that this information was received by the applicant from the Respondents No.1 & 2, under RTI Act and this strongly supports case of the applicant that one post reserved for the Scheduled Tribe is vacant. In view of these facts it is submitted that the application be allowed with costs.

4. The learned P.O. has invited our attention to the judgment delivered by MAT D.B. Mumbai, in O.A. No.354/2014, on 24-9-2014. It is submitted that Jail Guard Sr. No.21, Shri Chandrakant Rambhau Sangale had challenged the select list on the ground that the

recruitment was not as per the norms fixed by the Government. It is submitted that in this O.A. direction is issued that the candidates Sr. No.11 and 20 who were promoted in open category, be adjusted in S.T. category and as this direction is complied, therefore, now there is no vacant post in S.T. category. The learned P.O. has invited our attention to the pleading of the applicant that Sr. No.30 Santosh Balaram Bhuyar, Sr. No.59 Nivrutti Bhavadu Gavali and Sr. No.67 Namdeo Sopan Aarsale were promoted subject to production of the caste validity certificate.

5. In view of the submissions, the situation emerges that as per the order in O.A. No.354/2014 the candidates Sr. No.11 & 20 are to be adjusted in S.T. category and Sr. No. 30 & 59 are already promoted in S.T. category, therefore, one more post is filled in. It is contended that now there is no post even for adjusting Sr.No.67 Aarsale in S.T. quota. It is pointed out that all these candidates were placed above the applicant in the select list. In view of this peculiar situation we are of the view that merely because promotion of Sr. No.67 Aarsale is set aside this will not confer right on the applicant to claim the promotional post, as there is no vacancy as per the reservation quota. If in this situation relief is granted to the applicant it will create more complications as judgment in O.A. No.354/2014 is

not challenged by any one. In result we hold that this application is devoid of any merit. Hence the following order.

6. The O.A. stands dismissed, no order as to costs.

(Anand Karanjkar)
Member(J).

(Shree Bhagwan)
Member (A).

Dated :- 16/04/2019.

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