MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO. 528/2019(D.B.)

Rajeshkumar Ramkrushna Gathe,
Aged 47 years. Occ : Service,
R/o C/o Additional Superintendent
Of Police, Washim.

Applicant.

Versus

1) State of Maharashtra,
through its Additional Chief Secretary,
Home Department,
Mantralaya Mumbai

2) Director General of Police,
Having its office Near Regal
Theatre, Kulaba, Mumbai.

Respondents

Shri S.P.Palshikar, Ld. Counsel for the applicant.
Shri A.M.Khadatkar, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri Shree Bhagwan, Vice-Chairman and
Hon'ble Shri M.A.Lovekar, Member (J).
Dated: - 25th July 2022

JUDGMENT

Per :Member (J).

Judgment is reserved on 18th July, 2022.

Judgment is pronounced on 25th July, 2022.

Heard Shri S.P.Palshikar, learned counsel for the applicant and Shri A.M.Khadatkar, learned P.O. for the respondents.

2. Case of the applicant is as follows.

The applicant joined service as Constable in August, 1991. In the year 1999 he passed the examination conducted by M.P.S.C. and joined as P.S.I. in March 2000. His record is unblemished. His caste is "Thakur" which is recognised as Scheduled Tribe. His caste claim is pending for verification before the Scrutiny Committee, Amravati since 2013. By order dated 29.10.2007 (Annexure A-1) the applicant was given promotion to the post of API. But it was deferred and actually given by order dated 29.11.2014 (Annexure A-5). By order dated 09.12.2011 (Annexure A-2) several batchmates of the applicant including one U.G.Patkar who were promoted to the post of A.P.I. in 2007, were promoted to the post of P.I. Gopal Thakur, another batchmate of the applicant whose caste is also "Thakur" and who was not actually promoted to the post of A.P.I. inspite of order of promotion issued on 29.10.2007, approached Aurangabad Bench of this Tribunal. O.A.No.640/2019 filed by him was allowed on 29.09.2011 with certain directions (Annexure A-3) and he was promoted to the post of A.P.I. The applicant submitted representation dated 31.10.2011 (Annexure A-4) to respondent no.2.

Ultimately, he was actually promoted to the post of A.P.I. on 29.11.2014 and only since then he is working as A.P.I. On the basis of Circular dated 01.09.2014 (Annexure A-6) issued by respondent no.2 the applicant made representation dated 7.11.2014 (Annexure A-7) to respondent no.2 that in view of said Circular he be promoted to the post of PI though his caste verification was pending. By order dated 22.06.2015 (Annexure A-8) Gopal Thakur was promoted to the post of P.I. though his caste certificate was to be verified and validated. On 08.09.2015 the applicant again made representation (Annexure A-9) to respondent no.2 to promote him to the post of P.I. One Dilip Thakur whose caste is also "Thakur" and whose caste claim was pending for verification, was promoted to the post of P.I. by order dated 13.01.2016 (Annexure A-10). The applicant was repeatedly seeking parity but to no avail. Thereafter, by communication dated 21.08.2017 (Annexure A-11) the applicant was called upon to furnish his Caste Validity Certificate. At this point of time also verification of caste claim of the applicant was pending. By communication dated 13.12.2018 (Annexure A-12) he was asked to remain present before Scrutiny Committee on 04.01.2019. Accordingly, he remained present before the Scrutiny Committee. Because he did not receive any communication thereafter, he applied under the Right to

Information Act and received information (Annexure A-13) that one Sunil Wankhede whose case was identical was promoted to the post of P.I. though he was junior to the applicant by 5 years. The applicant then made representation (Annexure A-14) dated 19.06.2018 to respondent no.2 citing therein identical case of one Sunil Ramteke. Respondent no.2 promoted 500 APIs to the post of PI by order dated 10.06.2019 (Annexure A-15). On 12.06.2019 the applicant again made representation (Annexure A-16) to the concerned authority to promote him to the post of PI and grant deemed date of promotion as API. However, his grievances were not redressed. Hence, this application for following reliefs-

1) ***direct the respondent no.2 to consider case of the applicant for grant of deemed date as Assistant Police Inspector, as on 29.10.2007 when order <u>Annexure A-1</u> was issued;***
2) ***further be pleased to direct respondent no.2 to consider case of the applicant for further promotion to the Post of Police Inspector with effect from 2011 when batchmates and juniors were promoted;***
3) ***further be pleased to direct respondent no.2 to issue aforesaid order immediately by granting him all consequential and monetary benefits arising therefrom;***

3. Reply of respondent no.2 is at pp.93 to 111. It contains following averments-

(1) Though the applicant's promotion order was issued on 29.10.2007 effect could not be given to it because his Caste Certificate was pending for verification.

(2) The judgment of Hon'ble Bombay High Court dated 25.08.2011 on which the applicant is relying has been challenged in the Hon'ble Supreme Court by filing SLPs (Civil) Nos.33356 to 33370/2011, on 16.12.2011.

(3) Aforesaid judgment of the High Court was relied upon by Aurangabad Bench of this Tribunal in O.A.No.640/2009 and another O.A. filed by Gopal Thakur and Bhaskar Shinde, respectively while directing that they be given promotion subject to the outcome of SLPs.

(4) There were several cases were promotions were withheld for want of Caste Validity Certificates. Considering these facts and judgment of the High Court dated 25.08.2011, Circular dated 01.09.2014 (Annexure A-6) was issued.

(5) Circular dated 01.09.2014 has been withdrawn by issuing a Circular dated 21.07.2016 based on Government letter dated 24.05.2016.

(6) In the DPC for the year 2016-2017 case of the applicant for promotion to the post of PI was considered and deferred because he had not submitted Caste Validity Certificate.

(7) Similarly, in DPC of 2018 -2019 it was found that the applicant was promoted to the post of A.P.I. because of policy of reservation in promotion adopted by G.R. dated 25.05.2004. This G.R. has been quashed and set aside by judgment dated 04.08.2017 passed by the Bombay High Court in Writ Petition No.2797 of 2015. The State of Maharashtra has challenged the order dated 04.08.2017 in the Supreme Court by filing SLP No.28306 of 2017. Though the said SLP is admitted, effect and implementation of order dated 04.08.2017 has not been stayed.

(8) In view of the aforementioned facts, G.A.D., Government of Maharashtra has issued a letter dated 29.12.2017 (Annexure R-1) stating therein as follows-

> **३. सदर प्रकरणी दिनांक १५.११.२०१७ रोजी झालेल्या सुनावणीच्यावेळी मा.सर्वोच्च न्यायालयाने मा.उच्च न्यायालयाच्या दि.०४. ०८.२०१७ च्या आदेशास स्थगिती देण्याबाबत अथवा परिस्थिती जैसे थे ठेवण्याबाबत कोणतेही आदेश पारित केले नाहीत. त्यामुळे दि.२७.१०. २०१७ पासून राज्यातील सर्व स्तरावरील पदोन्नतीची प्रक्रिया पुर्णपणे ठप्प झाली आहे. मा.उच्च न्यायालयाने पदोन्नतीतील आरक्षण अवैध ठरविले असल्याने सर्वच स्तरावरील पदोन्नतीची प्रक्रिया स्थगित न ठेवता, खुल्या**

> प्रवर्गातील रिक्त पदे तातडीने भरण्याबाबत विविध प्रशासकीय विभाग तसेच खुल्या प्रवर्गातील अधिकारी /कर्मचा-यांकडून शासनास निवेदने प्राप्त झाली आहेत. तसेव मा.सर्वोच्च न्यायालयात राज्य शासनाने दाखल केलेली विशेष अनुज्ञा याचिका क्र.२८३०६/२०१७ अद्याप प्रलंबित आहे, ही बाब विचारात घेता, याबाबत विधी व न्याय विभागाचे अभिप्राय घेण्यात आले. त्या विभागाने दि.२८.१२.२०१७ रोजी दिलेल्या अभिप्रायानुसार खुल्या प्रवर्गातील कर्मचा-यांना पदोन्नती देण्यास कोणतीही वैधानिक अडचण नसल्याचे अभिप्राय दिले आहेत. त्यानुसार तुर्तास पदोन्नतीच्या कोटयातील खुल्या प्रवर्गातील रिक्त पदे निव्वळ तात्पुरत्या स्वरुपात सेवाजेष्ठतेनुसार मा. सर्वोच्च न्यायालयाच्या निर्णयाच्या अधिन राहून भरण्यात यावीत. अशी कार्यवाही करतांना सेवाजेष्ठता यादीमधील मागासवर्गीय अधिकारी /कर्मचारी यांना पदोन्नती देण्यापूर्वी ते, दि.२५.५.२००४ च्या शासन निर्णयातील तरतूदीनुसार आरक्षणाचा लाभ मिळून सेवाजेष्ठता यादीत वरच्या स्थानावर आले नाहीत, याची खात्री प्रत्येक प्रशासकीय विभागाने करावी.

In view of these directions the applicant was not promoted to the post of P.I. in DPC of 2018-2019.

(9) It was communicated to the applicant, by letter dated 23.03.2018, that his request for grant of deemed date of promotion to the post of A.P.I. could not be granted because of pendency of SLPs mentioned above.

(10) Circular dated 05.11.2009 issued by G.A.D. following policy decision taken by the State Government making production of Caste Validity Certificate by persons belonging to

the category of ST before getting promotion is still valid and not quashed.

(11) Corrigendum dated 28.05.2001 (Annexure R-1) issued by Tribal Development Department, Government of Maharashtra deals with the following subject-

> **''अनुसूचित जमातीकरिता राखीव असलेल्या पदावर नियुक्ती झालेल्या कर्मचा-यांचे जमातीचे दाखले तपासणे.''**

It further states-

> **तसेच पदोन्न्ती देण्यात येणा-या सर्व अनुसूचित जमातीच्या कर्मचारी/अधिकारी यांना पदोन्नती देण्यापूर्वी त्यांच्या जमातीच्या प्रमाणपत्रांची तपासणी करण्यात यावी. त्याशिवाय त्यांना पदोन्नती देण्यात येऊ नये.**

(12) Circular dated 05.03.2005 (Annexure R-3) issued by Department of Social Justice, Cultural work and Special Assistance, Government of Maharashtra states-

> **अनुसूचीत जाती, विमुक्त जाती, भटक्या जमाती, इतर मागासवर्ग व विशेष मागासप्रवर्गाच्या उमेदवारांना शासन सेवेत, निमशासकीय सेवेत, शासन अंगीकृत संस्थांमध्ये पदोन्नतीपूर्वी जाती प्रमाणपत्राची पडताळणी करुन वैधता प्रमाणपत्र सादर करण्याबाबत मार्गदर्शक सूचना.**

It further states-

> **ज्या मागासवर्गीय कर्मचारी व अधिका-यांची जाती प्रमाणपत्राची पडताळणी अद्यापही झालेली नाही व सद्यस्थितीत पदोन्नतीच्या क्षेत्रात**

(Zone of Consideration) येत असतील असे अधिकारी व कर्मचा-यांचे पदोन्नतीच्या प्रक्रियेपूर्वी ६ महिने अगोदर सर्व प्रशासकीय विभागाने जाती प्रमाणपत्रे, जात प्रमाणपत्र पडताळणी समितीकडे पाठवून वैधता प्रमाणपत्रे प्राप्त करुन घ्यावी व नंतरच त्यांना पदोन्नती देण्यात यावी. तसेच सरळ सेवेने भरती प्रकरणी उमेदवाराने जाती प्रमाणपत्राची वैधता ६ महिन्यात सादर करणे आवश्यक राहील.

(13) Home Department's letter dated 28.06.2012, also mandates that promotions should not be given unless a C.V.C. is given by the employees (Annexure R-4).

(14) In view of ratio laid down by the Hon'ble Supreme Court in "Chairman and Managing Director, FCI Vs Jagdish Balram Bahira & Others- SCC Online SC 1735 this application is liable to be dismissed.

(15) Basic grievance of the applicant is about non implementation of promotion order dated 29.10.2007. Thus, this application is hit by laches/barred by limitation.

(16) With regard to case of Sunil Wankhede following points need to be taken into account-

The promotion order dated 13.01.2016 giving promotion to the post of P.I. was issued in view of the Circular dated 1.09.2014 issued by this office. However, later on the said Circular has been cancelled

vide Circular dated 21.07.2016 as per the orders of the State Government.

(ii) The promotion that was given to A.P.I. Shri Sunil Bhaurao Wankhede, who belongs to the S.T. to the post of P.I. vide this office order dated 28.07.2017 has been cancelled vide this office order dated 23.02.2018 as the applicant had not submitted a C.V.C. {Caste Validity Certificate}

(iii) A.P.I. Shri Sunil Bhaurao Wankhede has filed a Writ Petition No,1448 of 2018 before the Hon'ble High Court, Bench at Nagpur in view of cancellation of his promotion to the post of P.I. and pendency of his C.V.C. claim. The Hon'ble High Court, Bench at Nagpur has passed order dated 27.03.2018 as under :

"Till the caste claim of the petitioner is decided by the Committee, the petitioner be allowed to continue on the post of P.I. and shall not be demoted to the post of A.P.I. on the ground of non-production of the Caste Validity Certificate, as in our considered view for no fault on the part of the petitioner he cannot be made to suffer."

In compliance with the aforesaid order dated 27.03.2018 of the Hon'ble High Court in the case of Shri Wankhede, this office has stayed this office order dated 23.02.2018 about cancellation of promotion given to the

applicant to the post of P.I., for a period of six months or till the Caste Certificate is verified by the Caste Scrutiny Committee. This office has also communicated to the Dy. Commissioner and Dy. Chairman of the S.T. Caste Verification Committee, Amravati vide this office letter dated 30.10.2019 to take decision on the claim of Shri Wankhede at the earliest.

The case of the applicant herein has been kept Open by the D.P.C. since the applicant has not yet submitted a C.V.C.

(17) There is no Unarmed Police Officer by name Sunil Ramteke as asserted by the applicant.

(18) The applicant has made very vague averments, he has not given the details of 500 persons, who he is claiming to be junior to him, as to whether all of them do not have C.V.C. and still they have been promoted. The State Government is not giving promotions to any employees, who have not given C.V.C.

4. While issuing order of promotion of the applicant and others on 29.10.2007 (Annexure A-1) to the post of API it was specified –

पोलीस उपनिरीक्षकांच्या पदोन्नत्या व पदोन्नतीवर सहाय्यक पोलीस निरीक्षक म्हणून पदस्थापना.

खालील सारणीतील अ.क्र.१ ते २९८ वर नमुद पोलीस उपनिरीक्षकांना त्यांच्या नावासमोर दर्शविलेल्या ठिकाणी त्यांनी कार्यभार ग्रहण केल्याच्या तारखेपासून सहाय्यक पोलीस निरीक्षकाच्या पदावर स्थानापन्न व तात्पुरती (**Provisional**) पदोन्नती देण्यात येत आहे. ज्या पोलीस उप निरीक्षकांचे प्रकरणी अनुसूचित जाती/जमाती वैधता प्रमाणपत्र प्राप्त झाल्याची अभिलेखावर नोंद नाही. त्यांचे नावापुढे पदोन्नतीवरील नेमणुक दर्शविलेली नसुन घटक प्रमुखांनी असे प्रमाणपत्र प्राप्त झाल्याचे प्रमाणित प्रतीसह कळविल्या नंतर त्यांच्या पदोन्नतीवरील नेमणुका कळविल्या जातील.

In O.A.No.640/2009 (Annexure A-3) filed by Gopal Thakur Aurangabad Bench of this Tribunal relied on the judgment dated 25.08.2011 passed in a batch of 15 Writ Petitions (W.P.Nos.2136/2011 & Others) in which condition no.7 of G.R. dated 05.11.2009 was held to be unreasonable and as such liable to be struck off. Condition no.7 referred to above reads as under-

> ''७. मागास प्रवर्गाच्या उमेदवारांना नियुक्ती अथवा पदोन्नती देत असताना जात वैधता प्रमाणपत्र असल्याखेरीज यापुढे नियुक्ती अथवा पदोन्नती देण्यात येऊ नये.''

This Tribunal then observed in O.A.No.640/2009-

> ***Naturally that the caste / tribe claim is pending before the scrutiny committee for validation shall not be a ground to obstruct the respondents from issuing posting order, either to present applicant or to any of the candidates belonging to reserved category in the***

list of 298 promotees issued by order dated 29.10.2007.

5. The applicant has also relied on extract of service book of one Patkar (Annexure A-2). It shows that said Patkar was promoted to the post of PI by order dated 11.10.2011. In order dated 29.10.2007 (Annexure A-1) Gopal Thakur & Patkar both are below the applicant. Name of the applicant is at Sr.No.277wheareas names of Thakur & Patkar are as Sr.Nos.281 & 285, respectively.

6. It is a matter of record that in furtherance of order dated 29.10.2007 the applicant was effectively promoted to the post of API by order dated 09.09.2014 (Annexure A-5).

7. Circular dated 01.09.2014 (Annexure A-6) states-

> उक्त नमूद एकंदरीत कायद्याची स्थिती व वस्तुस्थितीच्या आधारावर याद्वारे राज्यातील सर्व घटक पोलीस प्रमुखांना तसेच पोलीस महासंचालक कार्यालयातील सर्व आस्थापना विषयक कार्यासन अधिकारी तसेच त्यांच्या त्यासंबंधातील पोलीस महानिरीक्षक यांचे उप सहाय्यक यांना याद्वारे सूचीत करण्यांत येत आहे की, ''जात वैधता प्रमाणपत्राच्या अभावी'' पोलीस खात्यातील वर्ग ''अ'' ते ''ड'' मधील उक्त पोलीस अधिकारी व कर्मचारी (लिपीक वर्गीयासह) पदोन्नत्या रोखण्यात आल्या होत्या, त्या रोखण्यात येऊ नयेत. त्यांना उक्त नमूद (म्हणजे परि.क्र.०४ मधील) मा. सर्वोच्च न्यायालयामध्ये दाखल केलेल्या विशेष हक्क याचिकेच्या आदेशाच्या अधीन राहून पदोन्नतीचे आदेश देतांना असा उल्लेख स्पष्ट आदेशात करुन पदोन्नती आदेश

निर्गमित करण्यांत यावेत, असा निर्णय याद्वारे घेण्यांत येत आहे. तरी त्यानुसार कार्यवाही करण्यांत यावी.

In para 5 of his reply respondent no.2 has contended-

However, the Circular dated 01.09.2014, (as has been annexed by the applicant as Annex A-6 to the O.A.) has been withdrawn by this office, because of the Govt. Letter dated 24.05.2016, vide this Circular dated 21.07.2016.

However, neither letter dated 24.05.2016 nor Circular dated 21.07.2016 is placed on record.

8. The applicant has further relied on order dated 22.06.2015 (Annexure A-8) whereby Gopal Thakur and 226 Others were promoted to the post of PI.

9. The applicant has also relied on order dated 10.06.2019 (Annexure A-15). This order states-

शासनाने संदर्भ क्र.७ मध्ये नमूद केलेल्या दिनांक २९/१२/२०१७ च्या शासन निर्णयान्वये तुर्तास पदोन्नतीच्या कोटयातील खुल्या प्रवर्गातील रिक्त पदे निव्वळ तात्पुरत्या स्वरुपात सेवाज्येष्ठतेनुसार मा.सर्वोच्च न्यायालयाच्या निर्णयाच्या अधिन राहून भरण्याबाबत आदेश दिले आहेत. त्यास अनुसरुन आरक्षण नसलेल्या खुल्या प्रवर्गातील तसेव इतर मागासवर्गीय प्रवर्गातील निश:स्त्र पोलीस निरीक्षक पदावर पदोन्नती देण्याच्या विभागीय पदोन्नती समितीने निर्णय घेतला आहे.

शासनाने संदर्भ क्र.६ मध्ये नमूद केलेल्या दिनांक १५/१२/२०१७ च्या शासन निर्णयान्वये दिलेल्या आदेशांप्रमाणे खुल्या प्रवर्गातील तसेच इतर मागासवर्गीय

प्रवर्गातील नि:शस्त्र सहायक पोलीस निरीक्षकांची नि:शस्त्र पोलीस निरीक्षक पदावर पदोन्नती देण्यासाठी पात्रता तपासण्यात आली असता, खालील नमूद निश:स्त्र सहायक पोलीस निरीक्षकांना नि:शस्त्र पोलीस निरीक्षक पदावर पदोन्नती देण्यासाठी विभागीय पदोन्नती समितीने पात्र ठरविले आहे. शासनाने संदर्भ क्र.३ ते ५ मध्ये नमूद केलेल्या महसूली विभाग वाटप नियमानुसार पात्र ठरलेल्या नि:शस्त्र सहायक पोलीस निरीक्षकांना नि:शस्त्र पोलीस निरीक्षक पदावर पदोन्नती देण्यासाठी विभागीय पदोन्नती समितीने महसूल विभागाचे वाटप केले. खालील नमूद ५०० नि:शस्त्र सहायक पोलीस निरीक्षकांना नि:शस्त्र पोलीस निरीक्षक पदावर पदोन्नती देण्यासाठी तसेच, महसूल विभागाच्या वाटपास पोलीस महासंचालक, म.रा.मुंबई यांनी मान्यता दिली आहे.

10. In his last representation dated 12.06.2019 (Annexure A-16) the applicant put forth his case as under –

सविनय सेवेशि सादर आहे की, मी सध्या अपर पोलीस अधिक्षक कार्यालय वाशिम येथे वाचक फौजदार म्हणुन नेमणुकीस आहे. माझी खात्याअंतर्गत घेण्यात आलेल्या महाराष्ट्र लोकसेवा आयोग यांचे विभागीय स्पर्धा परीक्षा अन्वये सहाय्यक पोलीस निरीक्षक पदी पदोन्नती देण्यात आली होती. परंतु जात वैधता प्रमाणपत्र अभावी पदोन्नती रोखण्यात आली होती व नंतर संदर्भ क्रमांक २ प्रमाणे नमुद पदोन्नती देण्यात आली आहे.

संदर्भ क्रमांक १ मधील माझे संवर्गातील पोलीस अधिकारी हे सन २०१० पासुन पोलीस निरीक्षक पदी पदोन्नती झालेली आहे. तसेच संदर्भ क्रमांक ३ प्रमाणे माझे तुकडीतील व माझे संवर्गातील (जात प्रमाणपत्र नसतांना) तसेच खुल्या वर्गातील सर्व अधिकारी पोलीस निरीक्षक पदी पदोन्नती झालेली आहे.

तसेच संदर्भ क्रमांक ४ अन्वये पोलीस निरीक्षक पदी पदोन्नती झालेल्या यादीमध्ये अनुक्रमांक ६३७ प्रमाणे सुनिल भाऊराव वानखेडे यांची पोलीस निरीक्षक पदी पदोन्नती झालेली असुन जिल्हा जात प्र.प.स.अकोला येथे नेमणुक दर्शवीली असुन सध्या ते तेथे पोलीस निरीक्षक पदी कार्यरत आहे. त्यांचे जात वैधता प्रमाणपत्र प्रकरण अनुसूचित जमाती जात प्रमाणपत्र पडताळणी समिती अमरावती यांच्याकडे प्रलंबीत आहे. तसेच माझे सुध्दा जात वैधता प्रमाणपत्र प्रकरण अनुसूचित जमाती जात प्रमाणपत्र पडताळणी समीती अमरावती यांचेकडे प्रलंबीत आहे व सुनिल भाऊराव वानखेडे आणि मी एकाच संवर्गातील आहे. त्यांना तसेच इतर अधिकारी यांना यापुर्वी जात वैधता प्रमाणपत्र नसतांना पोलीस निरीक्षक पदी पदोन्नती देण्यात आलेली आहे. शासनाने संदर्भ क्र.५ मध्ये नमूद केलेल्या दि.२९.१२.२०१७ शासन निर्णय अन्वये तुर्तास पदोन्नतीच्या कोटयातील खुल्या वर्गातील व मागासप्रवर्गातील रिक्त पदे सेवाजेष्ठतानुसार मा.सर्वोच्च न्यायालयाचे निर्णयाच्या अधिन राहुन भरण्याबाबत आदेश असुन नमुद शासन निर्णय अन्वये मला सेवाजेष्ठतेनुसार खुल्या वर्गातून पदोन्नती मिळणे अपेक्षीत होते. परंतु संदर्भ क्र.६ प्रमाणे मिर्गमीत झालेले पोलीस निरीक्षक पदोन्नतीचे आदेशामध्ये सुध्दा मला पदोन्नती देण्यात आलेली नाही व माझ्यापेक्षा सेवाजेष्ठता कमी असलेले मागासवर्गीय अधिकारी व खुल्या वर्गातील अधिकारी यांना पदोन्नती देण्यात आलेली आहे.

आपले कार्यालयाकडून माझी पदोन्नती विनाकारण रोखण्यात आलेली असून मा.पोलीस महासंचालक कार्यालय यांची वरील सर्व संदर्भीय आदेशाप्रमाणे निर्गमित झालेल्या पदोन्नती यादी मध्ये पदोन्नती देतांना भेदभाव व गैरप्रकार झाल्याचे निदर्शनास येते. तरी माझे विनाकारण रोखण्यात आलेले पोलीस निरीक्षक पदाची पदोन्नती ही मा.सर्वोच्च न्यायालयाचे निर्णयाचे अधिन राहुन किंवा सेवाजेष्ठतानुसार खुल्या वर्गातून दि.२९.१२.२०१७ च्या शासन निर्णय अन्वये देण्यात यावी.

11. The circumstances which go to the root of the matter are –

(1) Condition no.7 in G.R. dated 05.11.2019 is held to be unreasonable by the Bombay High Court in judgment dated 25.08.2011 and by virtue of this declaration it would not be permissible to with hold promotion on the ground that verification of caste certificate is pending.

(2) Though order dated 25.08.2011 is challenged in the Hon'ble Supreme Court by filing SLPs, effect and implementation of order dated 25.08.2011 has not been stayed.

(3) The applicant has demonstrated that in the aforesaid factual background promotion orders have been issued to similarly placed candidates subject to outcome of SLPs. Therefore, benefit of parity must go to the applicant.

(4) In view of points 1 to 3 Annexure R-1 to R-4 discussed above shall not help the respondents.

12. Though, according to respondent no.2 there are laches on the part of the applicant, we are not inclined to accept this submission since it is apparent from facts that the cause of action agitated by the applicant is continuing one.

13. Respondent no.2 also sought to rely on the case of Jagdish Balram Bahira (Supra). In this case it is held that if caste certificate furnished is

subsequently invalidated benefits received by the concerned person till that point of time are liable to be recovered. This contingency need not be considered at this stage. In case caste certificate of the applicant is invalidated consequences thereof shall follow.

14. For all these reasons the application is allowed in the following terms-

Respondent no.2 shall fix deemed dates of promotion of the applicant to the post of A.P.I. & P.I. by disregarding the fact that his caste verification is pending and by considering his eligibility to the promotional post, issue order of his promotion to the post of P.I. subject to the outcome of SLPs, and pay all consequential benefits to him within three months from the date of this order. There shall, however, be no order as to costs.

(M.A.Lovekar)
Member (J)

(Shree Bhagwan)
Vice Chairman

Dated – 25/07/2022

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno	:	Raksha Shashikant Mankawde
Court Name	:	Court of Hon'ble Vice Chairman & Court of Hon'ble Member (J) .
Judgment signed on and pronounced on	:	25/07/2022.
Uploaded on	:	25/07/2022.