IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

ORIGINAL APPLICATION NO.177 OF 2013

DISTRICT : MUMBAI

Smt. Sushma Shashikant Nalawade,)
Assistant Superintendent, M.A.C.T, Mumbai,)
R/o Sahakar Sadan No.1,Room No.102, Ground Floor,)
Chincpokli, Mumbai 400012)..Applicant

Versus

1. The State of Maharashtra,)
Through Secretary, Home Department,)
Mantralaya, Mumbai 400032)

2. The President,)
Motor Accident Claims Tribunal, Mumbai)..Respondents

Shri Sandeep Dere – Advocate for the Applicant
Shri A.J. Chougule – Presenting Officer for the Respondents

CORAM	:	Shri Justice A.H. Joshi, Chairman
		Shri P.N. Dixit, Member (A)
RESERVED ON	:	10th January, 2019
PRONOUNCED ON	:	16th January, 2019
PER	:	Shri Justice A.H. Joshi, Chairman

J U D G M E N T

1. Heard Shri Sandeep Dere, learned Advocate for the Applicant and Shri A.J. Chougule, learned Presenting Officer for the Respondents.

2. By this OA the Applicant is challenging the impugned order refusing to grant to the Applicant seniority over and above other candidates appointed along with Applicant, on the ground of Applicant being eldest in the lot. The Applicant's prayer reads as follows:

> *"10(a) This Hon'ble Tribunal may be pleased to direct the Respondent no.2 and thereby quash and set aside the impugned order/letter dated 23.2.2011 and thereby the claim of the Applicant rejected, this Hon'ble Tribunal further may be pleased to direct Respondent no.2 to take appropriate steps as per the order dated 5.10.2011, issued by Respondent no.1, to maintain the seniority of the Applicant as per GR dated 21.6.1982 on the basis of the birth date of the Applicant."*
>
> (Quoted from page 10 of OA)

3. Though by the impugned order Applicant is communicated that his request is rejected, the rejection is in fact followed by another letter issued by the Government which is dated 6.4.2011. The letter dated 6.4.2011 is reply to Applicant's representation dated 5.2.2011. The text of the rejection is as follows:

> "उपरोक्त विषयांकित संदर्भाधीन पत्रानुसार मा. अध्यक्ष, मोटार अपघात दावा न्यायाधिकरण, मुंबई यांच्या आदेशानुसार आपणांस असे कळविण्यात येते कि, सौ.सु.श. नलावडे, लिपिक-टंकलेखक यांचा जन्मतारखेनुसार जेष्ठता मिळणेबाबतचा अर्ज मा. विभागीय पदोन्नती समितीसमोर दि०५/०२/२०११ च्या बैठकीत विचारार्थ / आदेशार्थ ठेवण्यात आला होता. सदर बाबतीतील अभिलेखा / नस्ती पाहिल्यानंतर सदर समितीपूढे सौ. सु.श. नलावडे यांचा त्यांचे म्हणणे ऐकून घेण्यासाठी बोलविण्यात आले. त्यांचे म्हणणे ऐकून घेतल्यानंतर समिती अशा निष्कर्षास आली की, उपरोक्त कर्मचाऱ्यांच्या नियुक्तीच्या वेळी सर्वसामान्य टंकलेखन परिक्षा व

मुलाखत घेऊन गुणवत्तेनुसार नियुक्ती केलेली असल्याने सौ. सु.श. नलावडे यांचा जेष्ठता यादीत जेष्ठता जन्मतारखेनुसार करण्याबाबतचा, विनंती अर्ज मान्य करता येत नाही. सौ. सु.श. नलावडे यांना विभागीय पदोन्नती समितीचा निर्णय कळविण्यात येत आहे."

(Quoted from page 31 of OA)

4. The communication dated 6.4.2011 contains reasons for rejection. The relevant text is underlined. The same text is reproduced below at the cost of repetition:

"त्यांचे म्हणणे ऐकून घेतल्यानंतर समिती अशा निष्कर्षास आली की, उपरोक्त कर्मचाऱ्यांच्या नियुक्तीच्या वेळी सर्वसामान्य टंकलेखन परिक्षा व मुलाखत घेऊन गुणवत्तेनुसार नियुक्ती केलेली असल्याने सौ. सु.श. नलावडे यांचा जेष्ठता यादीत जेष्ठता जन्मतारखेनुसार करण्याबाबतचा, विनंती अर्ज मान्य करता येत नाही."

(Quoted from page 31 of OA)

5. Perusal of OA reveals that it does not contain any ground of dispute stating as to how the version contained in the impugned order quoted above is erroneous.

6. In the result, OA turns out to be based on expectation and wish of the Applicant than grounds.

7. Hence, OA has no merit and the same is dismissed. Applicant shall bear own costs.

Sd/-
(P.N. Dixit)
Member (A)
16.1.2019

Sd/-
(A.H. Joshi, J.)
Chairman
16.1.2019

Dictation taken by: S.G. Jawalkar.