

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI  
ORIGINAL APPLICATION NO.405 OF 2018**

**DISTRICT : PUNE**

Shri Shivaji Ganpat Kekan, )  
Age 64 years, occ. Retired, )  
R/at Matruchaya Nivas, Vidya Vihar Society, )  
D.P. Road, Malwadi Hadapsar, Pune )..Applicant

Versus

1. The State of Maharashtra, )  
Through Principal Secretary, )  
Home & Administrative Department, )  
Mantralaya, Mumbai )
2. The Secretary, )  
Home Department, Mantralaya, Mumbai )
3. The Additional Director General of Police, )  
CID Office, Pashan, Opp. To Savitribai Phule )  
Pune Universit, Pune )..Respondents

Shri V.V. Ugale – Advocate for the Applicant

Smt. Archana B.K. – Presenting Officer for the Respondents

CORAM : Shri P.N. Dixit, Vice-Chairman (A)  
Shri A.D. Karanjkar, Member (J)

RESERVED ON : 13<sup>th</sup> June, 2019  
 PRONOUNCED ON : 18<sup>th</sup> June, 2019  
 PER : Shri P.N. Dixit, Vice-Chairman (A)

### **J U D G M E N T**

1. Heard Shri V.V. Ugale, learned Advocate for the Applicant and Smt. Archana B.K. learned Presenting Officer for the Respondents.

#### Brief facts of the case:

2. The Applicant was working as Finger Print Expert in the office of Respondent No.3 and superannuated in the year 2009. On 13.6.2008 Respondent no.3 issued order of promotion in respect of the Applicant from First Expert/Police Inspector (Finger Print) to Senior Expert/Senior Police Inspector. If further clarified as under:

“पदोत्रतीवरील नेमणूका तात्पुरत्या स्वरुपात करण्यात येत असून या कार्यालयाने शासनास सादर केलेल्या अंगुली मुद्रा केंद्रातील अधिकारी / कर्मचा-यांच्या पदांच्या सेवाप्रवेश व पदोत्रतीचे नियमावलीस शासनाची अंतिम मान्यता मिळण्याच्या अधिन राहून करण्यात येत आहे.”

(Quoted from page 23 of OA)

3. On the same day i.e. on 13.6.2018 the above order was cancelled. The relevant portion of the order stated as under:

“राज्य पुन्हे अन्वेषण विभागाच्या आस्थापनेवरील अंगुली मुद्रा केंद्रातील खालील नमुद अधिकारी / कर्मचा-यांना (विजा-अ, भज-ब, भज-क, भज-ड, विमाप्र) या संवर्गातून पदोत्रती देण्यात आल्या होत्या तथाती सदरहू संवर्गातील पदोत्रत्याबाबत दि.१४/२/२००९ ते ३१/३/२००८ अखेर “**स्थगिती आदेश**” मा.उच्च न्यायालयाचे आदेश असल्याचे कक्ष अधिकारी, सामान्या प्रशासन विभाग,मंत्रालय, मुंबई यांनी निर्देशनास आणून दिल्याने उपरोक्त संवर्गातील पदोत्रतीबाबतचे आदेश या आदेशाद्वारे रद्द करण्यात येत आहेत ”

(Quoted from page 25 of OA)

4. Aggrieved by the same the Applicant has agitated before this Tribunal and prayed to quash the impugned order. He filed this OA on 26.4.2018.

5. Separately he had made a representation before Respondent no.3 and the same was rejected on 21.1.2009. The rejection was communicated to him again on 4.4.2009 as well as on 20.7.2013.

6. Respondent No.3 has filed affidavit. The relevant portion of the same may be summarized as under:

- (1) *Following the direction from Respondent no.1, the promotion order of the Applicant was cancelled as it was in violation of the policy of keeping 33% reservation during promotion.*
- (2) *The cause of action was over long ago as the order was issued on 13.6.2008 and the Applicant retired on 31.5.2009. His representation was replied on 20.7.2013 and thus it is hit by limitation.*
- (3) *The Applicant was demoted because he did not fit as per the seniority, as 33% of the posts were reserved for candidates from reserved quota.*

7. Respondent No.3 has, therefore, submitted that the OA is without any foundation and devoid of any merits.

Discussion and findings:

8. We have carefully examined all the available papers on record. The Applicant was informed rejecting his representation in 2013 and had more

than five years at his disposal to approach this Tribunal. He has not explained any reason for not doing the same. The OA is, therefore, barred by law of limitation.

9. Moreover, as explained by Respondent no.3, the order of promotion of the Applicant was in violation of the provisions regarding reservation for persons from reserved category, as pointed out by Respondent no.1 to Respondent no.3. As a result the order has been cancelled on the same day. For the reasons stated above, we find that the order issued by Respondent no.3 is just and does not require any interference from this Tribunal.

10. Original Application is, therefore, dismissed. No order as to costs.

Sd/-

**(A.D. Karanjkar)**  
**Member (J)**  
**18.6.2019**

Sd/-

**(P.N. Dixit)**  
**Vice-Chairman (A)**  
**18.6.2019**

Dictation taken by: S.G. Jawalkar.