# MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI BENCH AT AURANGABAD

## ORIGINAL APPLICATION NO. 100 OF 2018

DIST. : AURANGABAD

Shri Ramrao s/o Tulshiram Rathod,	
Age 54 years, Occu. Service,	
R/o Central Prison, Nasik.	 APPLICANT

### VERSUS

1.	The State of Maharashtra, Through : Secretary, Home Department, Mantralaya, Mumbai – 32.								
2.	The Inspector General of Prison, Old Central Building, IInd Floor, M.S., Pune.								
3.	The Dy. Inspector General of Prison, Central Prison, Aurangabad.								
4.	The Superintendent, Aurangabad Central Prison, Aurangabad RESPONDENTS								
APPEARANCE :-		Shri Kakasaheb B. Jadhav, learned Advocate for the applicant. Smt. Sanjivani Deshmukh Ghate, learned Presenting Officer for the respondents.							
CORAM :		<b>JUSTICE A.H. JOSHI, CHAIRMAN</b> (This matter is placed before the Single Bench due to non-availability of Division Bench.)							
DATE :		04.06.2019							

#### JUDGMENT

1. Heard Shri Kakasaheb B. Jadhav, learned Advocate for the applicant and Smt. Sanjivani Deshmukh Ghate, learned Presenting Officer for the respondents.

2. Applicant has challenged the communication / order dated 19.12.2017 issued by the respondent no. 2 by which his candidature has been rejected for promotion to the post of Jailor Group – II. The text of the impugned order reads as follows :-

"वाचा :- मा. महाराष्ट्र प्रशासकिय न्यायाधिकरण मुंबई खंडपीठ - औरंगाबाद यांनी M.A. 467/2017 IN REV. ST. 1576/2017 IN O.A. 701/2013 मध्ये दिनांक ०१.०८.२०१७ व ०६.१२. २०१७ रोजी दिलेला निर्णय

> जा.ळं. कार्यकारी/तुअश्रे-२/खामभरती/२०१३/कक्ष-२११२५६ पुणे दिनांक १९ डिसेंबर २०१७

आदेश

श्री. रामराव तुळशिराम राठोड, कारागृह रक्षक, सध्या नाशिक रोड मध्यवर्ती कारागृह यांनी सन्मा. मॅट न्यायालय औरंगाबाद येथे दाखल केलेल्या मुळ अर्ज क्रमांक ७०९/२०९३ चा न्यायनिर्णय दिनांक ०९.०८.२०९७ व ०६.९२.२०९७ रोजी झाला. त्यामध्ये ते शारिरिकदृष्ठया व सेवाजेष्ठतेनुसार पात्र असल्यास त्यांना तुरुंगाधिकारी श्रेणी-२ या पदावर पदोन्नती देण्याबाबत निर्देश देण्यात आले होते.

त्यानुसार दिनांक ०८.१२.२०१७ रोजी तुरुंगाधिकारी श्रेणी-२ या पदावर पदोन्नती देण्यासाठी पदोन्नतीचे निवडसमितीची बैठक घेण्यात आली. त्याकरीता रक्षक, हवालदार व सुभेदार या संवर्गाची राज्यस्तरीय सेवाजेष्ठता यादी तयार करण्यात आली.

रक्षक संवर्गात श्री राठोड यांचा राज्यस्तरीय सेवाजेष्ठता क्रमांक ३२२ असा येतो. हवालदार व सुभेदार हे सेवाजेष्ठ असल्याने त्यानुसार त्यांचा राज्यस्तरीय सेवाज्येष्ठता क्रमांक १०१४ असा येतो. विमुक्त जाती-अ या जात प्रवर्गानुसार श्री राठोड यांना ४१ कर्मचारी सेवाजेष्ठ आहेत. विजा-अ या जातप्रवर्गात तुरुंगाधिकारी श्रेणी-२ चे पद रिक्त नाही. श्री राठोड हे शारिरिकदृष्टया पदोन्नतीस पात्र असून ते सेवाज्येष्ठतेनुसार पदोन्नतीसाठी अपात्र आहेत.

यास्तव श्री रामराव तुळशिराम राठोड, रक्षक, नाशिकरोड मध्यवर्ती कारागृह यांची तुरुंगाधिकारी श्रेणी-२ या पदावर पदोन्नतीची विनंती अमान्य करण्यात येत आहे.

> सही/-(डॉ. भूषण कुमार उपाध्यय) अपर पोलीस महासंचालक व महा निरीक्षक कारागृह व सुधारसेवा महाराष्ट्र राज्य, पुणे- 9"

(quoted from page 51 of paper book of O.A.)

3. Recruitment Rules which governs the post of Jailor Group–II

by promotion reads as follows :-

#### **"Jailor Group-II**

Appointment to the post shall be made either -

(A) by promotion of suitable departmental candidates who :-

(i) have passed the S.S.C. Examination with English as one of the optional subjects or any other equivalent examination.

(ii) have served in the Prison Department for at least 10 years.

(iii) possess minimum height of 162 Cm and minimum chest measurement of 76-82 Cm. and"

(quoted from page 39 of paper book of O.A.)

4. Admittedly the applicant is claiming selection in the category of Banjara (De-Notified Tribe – A) as is evident from page 31 of the Original Application i.e. application submitted by the applicant. Process of selection consisted of ground test, written test and viva, for accessing the merit of the aspiring candidates. Applicant did not find place in the merit list approved by the Departmental Promotion Committee.

5. Applicant has not challenged the short listing procedure adopted by the respondents considering that large number of persons falling in the list of eligible candidates.

6. Text contained in the communication that from चिमुक्त जाती - अ' to which applicant belongs there are 41 candidates senior to him and the post in the reserved quota is not available for applicant is not challenged by him.

7. Applicant's claim is based on aspirations and expectation than a legal right.

8. In view of above facts and circumstances, the present Original Applicant has no merit and is accordingly dismissed.

9. In the circumstances, parties shall bear their own costs.

(A.H. JOSHI) CHAIRMAN

**Place : Aurangabad Date : 04.06.2019** ARJ-O.A.NO. 100 of 2018 D.B. (PROMOTION)