

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 137 OF 2016**

**DISTRICT: BEED**

Pramod s/o Baburao Parlikar,  
Age: 57 years, Occu: Service  
(as Naib Tehsildar [Revenue]  
Tehsil Office, Parli)  
R/o : Shankar Parvati Nagar,  
At post Parli Vajjnath, Dist. Beed.

.. **APPLICANT**

**V E R S U S**

- 1) The State of Maharashtra,  
Through its Secretary,  
Revenue & Forest Department,  
M.S., Mantralaya, Mumbai -32.
- 2) The Divisional Commissioner,  
Aurangabad.
- 3) The Collector,  
Beed.

.. **RESPONDENTS**

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**APPEARANCE** : Shri A.S. Deshmukh, learned Advocate for  
the Applicant.

: Smt. Sanjivani K. Deshmukh-Ghate, learned  
Presenting Officer for the Respondents.

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**CORAM : HON'BLE SHRI J.D. KULKARNI, MEMBER (J)**

**DATE : 13.01.2017.**

**O R A L O R D E R**

In this Original Application, the applicant is claiming  
that the impugned communication dated 11.6.2015 (Annexure

A-7) issued by the respondent no. 1 rejecting applicant's request for grant of deemed date of promotion in the cadre of Naib Tehsildars, be quashed and set aside, and the respondent nos. 1 and 2 be directed to grant him deemed date of promotion to the cadre of Naib Tehsildars w.e.f. 4.9.2007.

2. From the admitted facts on record, it seems that the applicant was initially promoted on temporary basis as Naib Tehsildar on 29.08.2008 and thereafter, on regular basis w.e.f. 31.07.2009. The applicant is however, claiming deemed date of promotion w.e.f. 4.9.2007. From the facts argued by the learned Advocate for the applicant, it seems that the applicant is claiming that he was considered for regular promotion of Naib Tehsildar in the D.P.C. meeting dated 7.3.2007 and in the said meeting, he was found fit for being promoted. Perusal of the minutes of the said meeting will show that there were in all eight posts are available for S.T. category and admittedly, four have been filled-in. Out of those eight posts, four posts were not filled and those four candidates were senior to the applicant. The proper authority did not fulfill the posts and they have given promotion to four persons only. Admittedly, four posts are still vacant till the applicant was promoted.

3. In the affidavit in reply, this fact is also admitted in paragraph no. 8 and the same is as under:-

**“8. In respect of Para No. 6 (viii), I say and submit that some of the candidates were not promoted on the said post since they don't have the caste validity certificate and they were treated as non-eligible. So far as the candidates who are not possessing the caste validity certificate they are not considered for promotion until they produce the caste validity certificate. Non production of caste validity does not result in to losing their seniority and they retain their original seniority. They are considered for promotion as and when they produce cast validity to substantiate their claim of reservation.”**

4. The question therefore, is whether merely because the candidates did not produce cast validity certificate, their claim shall be considered for years together by keeping the post vacant. The statutory posts cannot be vacant merely because candidates have not produced cast validity certificate and therefore, it should have been filled from the remaining candidates which were available.

5. The learned Advocate for the applicant has pointed out to the list of candidates who are considered for promotion and were under consideration zone. The list belongs to S.T. category is from Serial No. 61 onwards and the applicant is at Sr. No. 82. It seems that the candidates at Sr. Nos. 61, 68, 69 & 70 have been promoted, whereas the candidates at Sr. Nos. 66, 71, 72 & 73 have not been promoted since, they have not submitted cast validity certificate.

6. The impugned communication dated shows that the representation of the applicant has been rejected on the ground that no junior to the applicant was promoted. However, it was not the grievance of the applicant and therefore, the said communication has been rejected without application of mind and, therefore, said communication dated 11.06.2015 is quashed and set aside.

7. From the admitted facts on record, it seems that there are number of candidates who are senior to the applicant and who are found to be fit for promotion in the D.P.C. meeting of 2007 and therefore, it cannot be said that the applicant will be entitled to be considered for promotion, unless the claims of other candidates are considered. These candidates are not

party respondents in this O.A. and therefore, in such circumstances it will not be proper to give any direction at this juncture to the respondents as regards deemed date of promotion to the applicant. The applicant however, will be at liberty to file comprehensive representation on the basis of the facts averred in this O.A. and on receiving such representation, the respondent authorities shall consider the case of the applicant for deemed date of promotion, if he is otherwise eligible therefor on merits.

8. The learned Advocate for the applicant submits that he will file comprehensive representation within 15 days. On receiving such representation, the respondent no. 1 shall take decision on the said representation within a further period of three months from the date of receipt of representation and the same shall be communicated to the applicant in writing. There is no need to mention that if the applicant is found to be fit for deemed date of promotion, he will be entitled for consequential financial benefits, if any. Hence, the O.A. stands disposed of accordingly with no order as to costs.

**(J.D. KULKARNI)**  
**MEMBER (J)**