

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 22 OF 2013

DISTRICT: DHULE

Shri Devaji s/o Uttam Borse,
Age: 55 years, Occu: Service
(working as Deputy Project Manager
Vasundhara Unit At Dhule)
R/o : 83, Rasikalal Patel Nagar,
Near Nirmravi Naka, Shirpur,
Dhule, Dist. Dhule.

.. APPLICANT

V E R S U S

- 1) The State of Maharashtra,
Through its Secretary in the
Agricultural and Horticultural Department,
M.S., Mantralaya, Mumbai -32.
- 2) The Commissioner,
Agricultural, Pune Division,
Pune.
- 3) Shri Ajay Shamrao Raut,
Divisional Statistic, Divisional Joint
Director of Agriculture, Nagpur Division,
Nagpur.

.. RESPONDENTS

APPEARANCE : Shri S.S. Dambe, learned Advocate holding
for Shri A.H. Koralkar, learned Advocate for
the Applicant.

: Smt. Resha S. Deshmukh, learned
Presenting Officer for the Respondents.

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

J U D G M E N T**(Delivered on this 24th day of January, 2017.)**

1. Heard Shri S.S. Dambe, learned Advocate holding for Shri A.H. Koralkar, learned Advocate for the applicant and Smt. Resha S. Deshmukh, learned Presenting Officer for the respondents.

2. The applicant, Shri Davaji s/o Uttam Borse, entered in service of respondent no. 1 on the post of Taluka Agriculture Officer on 7.9.1991, on the reserved post for Scheduled Tribe. He continued to work, but in the year 1994, his caste claim was invalidated by the Caste Scrutiny Committee. The applicant therefore, filed W.P. No 3738 of 1994 before the Hon'ble High Court. The said W.P. was however, withdrawn with intention to take benefit of Government Resolutions dated 15th June, 1995 and 24th July, 1998. As per said G.R., it was directed that the candidates who were already appointed against the posts reserved for Scheduled Tribes shall not be terminated or reverted.

3. The applicant submitted his caste certification of the caste "Koli" which is included in Special Backward Class

(SBC) and on the basis of such caste certificate the applicant's seniority was fixed in Special Backward Class as on 15.06.1995 vide order dated 04.03.2005. Thus, the applicant was held to be belonging to Special Backward Class and his seniority date was 15.06.1995.

4. On 7.7.2009, the respondent granted promotion to the applicant as Divisional Seed Certification Officer, Jalgaon but on 10.07.2010, the said promotion was cancelled on the ground that the applicant belongs to Special Backward Class and not from the Scheduled Tribe.

5. The applicant immediately approached the respondent nos. 1 and 2 and filed the representation to the effect that in Special Backward Class (SBC) category, one Shri A.S. Raut and Shri Anand Ganjewar were promoted on Class-I post from Special Backward Class and both were junior to the applicant and therefore, the applicant should have been considered prior to these persons. Shri A.S Raut has been joined as party respondent no. 3 in the present O.A. and therefore, the applicant requested that the respondents be directed to consider his representations, which he has filed on 13.07.2009, 20.12.2009 and 19.04.2010.

6. The applicant amended his claim, as during pendency of the O.A. he was promoted w.e.f. 5.7.2014. It is the case of the applicant that he is entitled to such promotion w.e.f. 17.06.2008 when respondent no. 3 Shri A.S. Raut was promoted as admittedly, Shri A.S. Raut was junior to the applicant. The applicant is, therefore, claiming deemed date of promotion of Class-1 grade and consequential benefits including arrears of pay, increment, revision of pension, death cum retirement gratuity and all other retiral benefits.

7. The respondent Nos. 1 & 2 has filed their affidavit in reply. The respondents have admitted the fact that the applicant's seniority was fixed in the cadre of candidates from S.B.C. category. In paragraph no. 6 of the affidavit in reply, the seniority chart has been given as regards applicant's seniority and Shri A.S. Raut. The said seniority is as under:-

Sr. No .	Name of Officer	Actual seniority No./Caste/date of joining in Cl-II in list as on dated 1.1.2003	Given no. in seniority list/Caste/Given date in seniority as on 1.1.2003	No. in proposed tentative seniority list as on 1.1.2006
i	Kharchan A.S.	1,236/S.T./(27.05.91)	1388(A)/S.B.C. (15.06.1995)	1,227
ii	Nimje V.S.	1,311/S.T./(25.10.91)	1388(B)/S.B.C (15.06.1995)	1,301

iii	Borse D.U.	1,312/S.T./(25.10.91)	1388(C)/S.B.C (15.06.1995)	1,302
iv	Raut A.S.	1,865/SBC(26.10.2001)	1,865/S.B.C. (26.11.2001)	1,303
V	Ganjewar A.V.	1,875/SBC(06.11.2001)	1,875/S.B.C. (06.11.2001)	1,870

From the aforesaid chart it will be clear that the applicant is senior to the respondent no. 3 i.e. Shri A.S. Raut.

8. In paragraph no. 8 of the affidavit in reply, it is admitted by the respondents that Shri Ganjewar and Shri A.S. Raut in Special Backward Class (SBC) category are promoted in Group-A cadre vide Government orders dated 17.06.2008 and 07.07.2009 respectively. Shri Borse i.e. the applicant is senior to Shri Ganjewar and Shri A.S. Raut, as is seen from the provisional list published on 1.1.2003. It is further stated that the proposal of revised list and to agree deemed date to the applicant was also forwarded and the necessary action will be taken on the said proposal.

9. The learned Presenting Officer has also placed on record one correspondence received by them from Administrative Officer, Agricultural Commissionerate, Maharashtra State, Pune dated 13.10.2016 and the copy of the proposal dated 30.06.2016. The said letter and proposal are

placed on record and marked as Exhibit 'X' & 'X-1' for the purposes of identification.

10. From the proposal dated 30.06.2016, the Government has been moved to grant the applicant promotion from the date on which Shri A.R. Raut was promoted. It seems that till today no order has been passed in this regard.

11. In view of the discussions in forgoing paragraphs, it will be thus crystal clear that the applicant belongs to Special Backward Class (SBC) category and he is senior to respondent no. 3 i.e. Shri A.S. Raut. It is also clear that Shri A.S. Raut has been promoted w.e.f. 17.06.2008. The applicant has been promoted during pendency of the O.A. on 5.7.2014, in fact, he should have been promoted on the date on which Shri A.S. Raut has been promoted and therefore, the applicant is entitled to claim deemed date of promotion from the date on which the respondent no. 3 Shri A.S. Raut is promoted. Hence, I pass following order:-

ORDER

1. The Original Application is allowed.
2. The respondent nos. 1 & 2 are directed to grant deemed date of promotion to the applicant from the date on

which the respondent no. 3 i.e. Shri A.S. Raut has been promoted. The respondent are also directed to take proper decision accordingly and shall pay all the consequential benefits as a sequel to grant deemed date of promotion to the applicant in the cadre of Class-I including arrears of pay, increment, revision of pension, death cum retirement gratuity and other admissible benefits within four months from the date of this order.

There shall be no order as to costs.

(J.D. KULKARNI)
MEMBER (J)

Kpb/S.B. O.A. No. 22 of 2013 JDK 2017 Deemed date of promotion