

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 419 OF 2012

DISTRICT: AURANGABAD

Shri Anilkumar Yashwantrao Baste,
Age: 49 years, Occu: Aervice as Asstt. R.T.O.,
R/o 9, Hira-Moti Apartment,
Builders' Society, Nandanvan Colony,
Cantonement, Aurangabad.

.. **APPLICANT**

V E R S U S

- 1) **The State of Maharashtra,**
Through the Presenting Officer,
Maharashtra Administrative Tribunal,
Aurangabad Bench.
- 2) **The Principal Secretary,**
Home Department,
Mantralaya, Mumbai 400 032.
- 3) **The Transport Commissioner,**
Administrative Building,
Fourth Floor, Govt. Colony,
Bandra (East), Mumbai 400 051.

.. **RESPONDENTS**

APPEARANCE : Shri Ajay Deshpande, learned Advocate for
the Applicant.

: Shri I.S. Thorat, learned Presenting Officer
for the Respondent.

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

O R D E R

(Delivered on this 24th day of August, 2017.)

1. Heard Shri Ajay Deshpande, learned Advocate for
the applicants and Shri I.S. Thorat, learned Presenting Officer
for the respondents.

2. The applicant was appointed as Assistant Inspector of Motor Vehicles by order dated 13.03.1986. During the probation period, some Departmental Enquiry was initiated against the applicant on the ground that he committed malpractices. Said Departmental Enquiry was, however, dropped on 30.11.2000 and the applicant has been exonerated.

3. According to the applicant, during the period from 13.03.1986 to 30.11.2000, one Shri S.M. Shete, who was junior to the applicant, was promoted as Inspector of Motor Vehicles and then Assistant Inspector of Motor Vehicles. The applicant was promoted as Inspector of Motor Vehicles on 29.02.2000 and as Assistant R.T.O. on 5.6.2010. As against this, Shri S.M. Shete has been promoted as Inspector of Motor Vehicles on 12.03.1996 and as Assistant R.T.O. on 14.11.2008. The applicant has therefore, claimed deemed date of promotion to the post of Inspector of Motor Vehicles from 12.03.1996 and to the post of Assistant R.T.O. from 14.11.2008 and hence, this Original Application.

4. In the affidavit in reply of respondent Nos. 2 and 3 have not disputed the fact that Shri S.M. Shete is junior to the applicant. According to the respondents, Departmental Enquiry initiated against the applicant and therefore, he was

not considered for promotion during the Departmental Enquiry. As soon as, in the Departmental Enquiry, the applicant was exonerated, his case was considered for promotion.

5. Learned Advocate for the applicant has placed on record a copy of comparative chart of applicant and Shri S.M. Shete. The said chart is marked as Exhibit-'X' for the purposes of identification. From the said chart, it will be clear that the applicant was appointed on 13.03.1986, whereas, Shri S.M. Shete has been appointed on 21.03.1986. In the final seniority list of various years i.e. 1-4-1991, 1-4-1992, 1-4-1995 and 1-4-1996 the applicant has been shown senior to Shri S.M. Shete and in spite of that, the applicant is promoted as Inspector of Motor Vehicles on 29.02.2000, whereas, Shri S.M. Shete has been promoted to the post of Inspector of Motor Vehicles on 12.03.1996. The applicant was promoted to the post of Assistant R.T.O. on 5.6.2010 and Shri S.M. Shete was promoted to the post of Assistant R.T.O. on 14.11.2008.

6. Learned Presenting Officer admits the fact that the applicant's case was not at all considered in the D.P.C. for promotion, since he was facing Departmental Enquiry. Learned Presenting Officer has also admitted the fact that the procedure of "Sealed Cover" has not been followed. In fact, it

was necessary for the respondent authorities to consider the case of the applicant for both promotions and if he was found fit for the said promotions, his case should have been kept under "Sealed Cover", subject to the result of Departmental Enquiry. Non-consideration of the case at all is not legal and proper.

7. In view of the discussions in foregoing paragraphs, I am therefore, satisfied that the applicant was senior to Shri S.M. Shete and since he has been exonerated from the Departmental Enquiry, he was entitled to be promoted ahead of Shri S.M. Shete. The applicant is therefore, entitled to claim deemed date of promotion to the post of Inspector of Motor Vehicles from 12.03.1996 instead of 29.02.2000. He has also entitled to claim promotion as Assistant R.T.O. from 14.11.2008 instead of 5.6.2010. Hence, I pass following order:-

ORDER

1. The Original Application is allowed.
2. The impugned communication of respondent No. 3 (Exhibit-C) dated 8.12.2011 denying the claim of the applicant for grant of a deemed date ahead of Shri S.M. Shete is quashed and set aside.
3. The respondent Nos. 2 and 3 are directed to grant deemed date of promotion to the applicant in the cadre of Inspector of Motor Vehicles w.e.f. 12.03.1996 i.e. the date

on which his junior Shri S.M. Shete came to be promoted.

4. The respondent Nos. 2 and 3 are further directed to grant deemed date of promotion to the applicant in the cadre of Assistant R.T.O. w.e.f. 14.11.2008 ahead of Shri S.M. Shete.

There shall be no order as to costs.

(J.D. KULKARNI)
VICE CHAIRMAN (J)

Kpb/S.B. O.A. No. 419 of 2012 JDK 2017