

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI**  
**BENCH AT AURANGABAD.**

**DIST. AURANGABAD.**

**ORIGINAL APPLICATION NO. 224/2016.**

Anand s/o Ganpatrao Kamble,  
Age 44 years, Occ. Service,  
R/o HUDCO, Aurangabad.

-- APPLICANT

VERSUS

1. The State of Maharashtra,  
(Copy to be served upon Chief Presenting  
Officer, MAT, Mumbai, Bench at Aurangabad).  
Through :  
The Secretary,  
Department of Home (Prison),  
Mumbai-32.
2. Additional Director General of Police,  
And Inspector General Prison, Maharashtra  
State, Old Administrative Building, 2<sup>nd</sup> Floor  
Pune-411 001.
3. Deputy Inspector General of Prison,  
Central Region, Aurangabad.
4. Assistant Commissioner (BC Cell)  
Administrative Building Near Divn.  
Commissioner Office, Pune.
5. K. N. Shete,  
Stenographer Higher Grade,  
Office of Additional Director General  
of Police, and Inspector General Prison,  
Maharashtra State, Old Administrative  
Building, 2<sup>nd</sup> Floor Pune-411 001.

-- RESPONDENTS.

**APPEARANCE** : Shri DR Irale Patil, learned Advocate for the Applicant.

: Shri IS Thorat, Learned Presenting Officer for the Respondents.

**CORAM** : **Hon'ble Shri Rajiv Agarwal, Vice Chairman(A)**  
&  
: **Hon'ble Shri JD Kulkarni, Member (J).**

**DATE** : 21.10.2016.

**ORDER.**

(Per: Hon'ble Shri Rajiv Agarwal, Vice Chairman (A))

1. Heard Shri DR Irale Patil, learned Advocate for the Applicant and Shri IS Thorat, learned Presenting Officer (P.O.) for the Respondents.

2. In this O.A. the, the applicant has challenged order dated 13.1.2016 giving promotion to the Respondents no.5, 2 & 3. The applicant is seeking promotion for himself in the post of Stenographer (Higher Grade) in vacancy due to retirement of one Smt. Datte.

3. Learned Counsel for the Applicant argued that the Applicant is a backward class person belonging to Scheduled Caste (S.C.) category. The Respondent no.2 viz. the Additional Director General of Police and Inspector General of Prison (I.G. Prison in short) has

not prepared the seniority lists of Lower Grade Stenographers and the Higher Grade Stenographers for quite some time. The seniority list of lower Grade Stenographer as on as on 1.1.2013 was however, published. There is one sanctioned post of higher grade Stenographer in the office of the Respondent no.2. As per G.R. dated 27.10.2008, the roster has to be applied in a particular manner while giving promotion to different categories of the backward classes. There is 33% reservation for backward classes in promotion of all levels, as per G.R. dated 26.10.2004. The first point in the roster is for S.C. and the applicant is eligible to be promoted as higher grade Stenographer in the vacancy for the post.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that this O.A. is totally misconceived. As per the staffing pattern of the Prison Department, there is only one sanctioned post of higher grade Stenographer. There is no reservation for solitary post and the post in promotion has to be filled on the basis of seniority cum fitness without any consideration of caste to which an employee belongs. The applicant is relying on G.R. dated 27.10.2008. That G.R. is regarding application of reservation in promotion for small cadres. The said G.R. has been struck down by Hon'ble High Court (Aurangabad Bench). As per G.R. dated 21.9.1998, there can not be any reservation for a solitary

post. Learned P.O. argued that G.R. dated 25.5.2004 is issued after the Maharashtra State Public Services (Reservation for Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Special Backward Category and Other Backward Classes) Act, 2001 was notified on 29.1.2004 (Reservation Act). As per the Reservation Act, 33% reservation including 13% for S.C. is provided for promotion of employees at all stages. G.R. dated 18.10.1997 provides for 100 point for roster for direct recruitment and promotion. It is true that first point on roster is for S.C. category. However, for a solitary post, there is no reservation is provided and this G.R. dated 18.10.1997 is not applicable.

5. We find that the applicant is claiming reservation on the solitary post of higher grade Stenographer on the establishment of the Respondent no.2. G.R. dated 21.9.1998 reads is regarding :

“शासकीय/निमशासकीय इत्यादी सेवेतील एकाकी पदांना (Isolated post) लागू करण्यात आलेले आरक्षण रद्द करण्यासंदर्भात.”

It is stated in the aforesaid G.R. that reservation for ‘isolated post’ provided by G.R. dated 18.10.1997 is cancelled by this G.R. dated 21.9.1998. This is based on the judgment of Constitutional Bench of Hon’ble Supreme Court dated 17.4.1998 in Review Petition (civil) No.1749/97 in Civil Appeal No.3175/97. The claim of the Applicant

that he is eligible to be promoted as higher grade Stenographer on the ground that he belongs to S.C. category and as per 100 point roster, a person belonging to S.C. category has to be promoted and he has to be preferred over the person who is senior to him, but who may be from Open category, is unsustainable. As per the seniority list as on 1.1.2014 and 1.1.2015 of the lower grade Stenographers, the applicant is at Sr.No.2 and he cannot be promoted disregarding the claim of the person at Sr.No.1.

6. Having regard to the aforesaid facts and circumstances of the case, this O.A. is dismissed with no order as to costs.

**MEMBER (J)**

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**VICE CHAIRMAN (A)**

