

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL,**  
**NAGPUR BENCH, NAGPUR.**

**ORIGINAL APPLICATION NO.779/2009.**

Gajanan Shrawanji Kale,  
Aged about 57 years,  
Occ- Service, State Project Coordinator,  
Maharashtra Prathamik Shikshan Parishad, Mumbai.  
R/o 55, Hanuman Nagar, Nagpur.

**Applicant.**

**-Versus-**

1. The State of Maharashtra,  
Through its Secretary,  
Department of School Education,  
Mantralaya, Mumbai-32.
2. The Director of Education,  
(Secondary & Higher Secondary),  
(M.S.), Pune.

**Respondents.**

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Shri S.M. Khan, Ld. counsel for the applicant.  
Shri A. M. Ghogre, Ld. P.O. for the respondents.

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**Coram:-** B. Majumdar, Vice-Chairman and  
Justice M.N. Gilani, Member (J)

**Dated:-** 11<sup>th</sup> January 2016.

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**Order**


**Per: Vice-Chairman**

Heard Shri S.M. Khan, the learned counsel for the  
applicant and Shri A. M. Ghogre, learned P.O. for the respondents.

2. The applicant is a retired Joint Director of Education.  
By filing this O.A., he has prayed for grant of deemed date as Joint  
Director from 23.4.1998 and subsequent promotion as Director of  
Education from 29.12.2007.


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3. Facts leading to filing of the present O.A. can be summarized as follows. In 1980, S'Shri D.M. Abhyankar and V.J. Vani were promoted to MES Class-I (Junior). S'Shri P.K. Dharkar and S.V. Pawar were appointed to Class-I as regular recruits in 1983. The applicant was promoted to Class-I on 20.1.1987. In 1990, S'Shri Vani and Abhyankar were promoted as Deputy Director (Super Class-I) and S's Dharkar and Pawar were similarly promoted in 1991. The final select list of MES Class-I was published on 24.4.1992. The Tribunal in T.A. No. 71/91 (W.P. No.3170/91) vide its order dated 19.11.1992 quashed this seniority list and directed that seniority should be fixed as per the Rota / Quota principle. On 24.6.1994, S'Shri V.R. Kamble, N.R. Kalamkar, G.T. Deshmukh and V.G. Joshi were promoted as Deputy Director. The applicant on being promoted as Deputy Director was granted deemed date on 27.6.1994 in that cadre. In the seniority list of MES Class-I as on 1.1.1993 published on 8.5.1996, the applicant was placed above S/s Kamble, Kalamkar, Deshmukh and Joshi. The names of S'Shri Vani, Dharkar and Pawar do not appear in this list, presumably, they were promoted earlier as Deputy Director in 1991. On 23.4.1998, Shri Vani was promoted as Joint Director and he retired on 1.4.2001. S'Shri Dharkar and Pawar were promoted as Joint Director on 2.2.2002. The Tribunal in its order dated 30.1.2003 in O.A. No. 886/94 filed by the applicant directed the applicant to be promoted



from the date on which his juniors in the 1996 seniority list were promoted, with consequential benefits and meeting of D.P.C. was convened, but the applicant's case for promotion was rejected on the ground that his C.Rs were not up to the mark. The applicant filed O.A. No. 586/2004. The Tribunal disposed of this O.A. on 31.1.2007 with a direction that the applicant's promotion should be considered on the basis of average of 'B' of his C.Rs. S'Shri Dharkar and Pawar were promoted as Director on 31.12.2007. The provisional seniority list of Directors, Joint Directors and Deputy Directors as on 1.1.2008 was published on 24.2.2009. In this list, S'Shri Dharkar and Pawar are shown as Directors and the applicant as Deputy Director. Shri Vani is not in this list presumably as he had retired in 2001. The applicant was granted deemed date on 18.8.2006 as Joint Director vide G.R. dated 7.5.2006. He retired on 1.8.2010.

4. The applicant is claiming deemed dates as Deputy Director, Joint Director and promotion as Director, as, according to him S'Shri Vani, Dharkar and Pawar who were promoted earlier to him, are junior to him. According to him, as the names of these officers do not figure in the seniority list of 8.5.1996 they cannot be senior to him. In spite of this, according to the applicant, these officers have been promoted as Joint Director before him. This is unacceptable since



as per the Tribunal's order in O.A. No. 886/94, he was to be promoted on the basis of the above seniority list of 1996 with all consequential benefits.

5. Shri M.B. Pawar, Deputy Director filed a reply on behalf of respondent No.1, Secretary, Department of School Education. He submits that, the applicant was granted deemed dates as Deputy Director (27.6.1994) and as Joint Director (17.8.2006) based on his seniority over S'Shri Kamble, Kalamkar, Deshmukh and V.G. Joshi. This was in compliance with the Tribunal's order in T.A. No. 71/91 O.A. Nos. 886/94 and 586/2004. The applicant is junior to S/s J.A. Shende and J.M. Abhyankar as per the tabular statement below:

| Sr. No. | Name of the officers | Date of birth | Date of appointment in Class-II | Date of promotion in Class-I i.e. Education Officer and equivalent. | Date of promotion as Dy. Director | Date of promotion as Jt. Director. |
|---------|----------------------|---------------|---------------------------------|---|-----------------------------------|------------------------------------|
| 1       | G.H. Shende          | 7.5.1942      | 23.3.1972                       | 2.4.1980  | 1.7.1986                          | 29.4.1998                          |
| 2       | J.M. Abhyankar       | 16.4.1948     | 11.5.1974                       | 7.4.1980  | 27.9.1990                         | 23.3.1998                          |
| 3       | V. B. Vani           | 5.3.1943      | 14.7.1972                       | 2.4.1980  | 1.10.1990                         | 23.4.1998                          |
| 4       | G.S. Kale            | 10.7.1952     | 10.11.1983                      | 2.2.1987<br>(20.1.1987 deemed date)                                 | 27.6.1994<br>deemed date)         | 17.8.2006<br>deemed date)          |

6. The applicant is junior to S/s P.R. Dharkar and S.V. Pawar as per the table below:



| Sr. No. | Name of the officers       | Date of appointment in Class-I        | Date of appointment as Dy. Director | Date of appointment as Joint Director | Date of appointment as Director |
|---------|----------------------------|---------------------------------------|-------------------------------------|---------------------------------------|---------------------------------|
| 1       | Shri P.R. Dharkar          | 26.7.1983                             | 29.4.1991                           | 2.2.2002                              | 29.12.2007.                     |
| 2       | Shri S.N. Pawar            | 3.8.1983                              | 11.12.1991                          | 9.4.2002                              | 29.12.2007.                     |
| 3.      | Shri G.S. Kale (applicant) | 2.2.1987<br>20.1.1987<br>Deemed date. | 27.6.1994<br>Deemed date.           | 18.8.2006<br>Deemed date.             |                                 |

Thus, according to the respondents, the applicant is junior to S'Shri Shende, Abhyankar, Vani, Dharkar and Pawar and hence he cannot claim parity with them for deemed date of promotion as Joint Director and for promotion as Director.

7. Shri S.M. Khan, the learned counsel for the applicant and Shri A.M. Ghogre, the learned P.O. for the respondents reiterated the submissions made by the applicant and the respondents respectively.

8. We find that the applicant's claim for deemed date of 23.4.1998 as Joint Director, the date on which Shri Vani was promoted to that cadre, is based on his averment that he is senior to Shri Vani. From the records, we find that the applicant has been given deemed date of 27.6.1994 as Deputy Director whereas Shri Vani was promoted to that cadre on 1.10.1990. These dates are not disputed by the applicant. We therefore find that Shri Vani, who was promoted to Class-I in 1980, i.e., seven years earlier to the applicant, can in no way



be deemed to be junior to the applicant. The applicant claims promotion as Director from 29.12.2007 on the basis that S'Shri Dharkar and Pawar were promoted to that cadre on that date. From the record, we find that these officers were appointed to Class-I in 1983, i.e., almost four years earlier to the applicant. Hence, they are also obviously senior to the applicant. The applicant has not challenged the dates of promotion of these officers as Deputy, Director Joint Director and subsequently as Director. In O.A. Nos. 886/94 and 586/94, he had claimed his seniority over S'Shri Kamble, Kalamkar, Deshmukh and Joshi who were respondents in these O.As. It is not his case that any of these officers had subsequently superseded him for promotion as Joint Director in contravention of the Tribunal's orders in these O.As. He seems to be relying mainly on the seniority list of 8.5.1996 of the officers borne on the cadre of MES, Class-I to aver that S'Shri Vani, Dharkar and Pawar are junior to him as they are not in the list. Respondent No.1 in his reply had rightly stated that when this list was published, these officers were already promoted as Deputy Director and thus they had migrated to a higher cadre and their names were not in the list. We therefore find no merit in the applicant's claim for parity with Shri Vani for deemed date of Joint Director and promotion as Director on the same date as that of S'Shri Dharkar and

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Pawar. Thus, the O.A. is devoid of any merit and stands rejected with no order as to costs.

Sd/-

(M.N. Gilani)  
Member (J)

Sd/-

(B.Majumdar)  
Vice-Chairman

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