

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

**COMMON ORIGINAL APPLICATION NOS. 215 AND 300 OF 2023**

**1) ORIGINAL APPLICATION NO. 215 OF 2023**

DIST. : AURANGABAD

Ratnaraj s/o Ramchandra Jawalgekar,  
Age. 45 years, Occu. Service,  
(as Deputy Director, MF & AS  
In O/o Joint Director, Accounts &  
Treasuries, A'bad Division, A'bad),  
R/o C/o Shri Sanjay Pawar,  
Plot No. 72, Nandanvan Colony,  
Aurangabad.

-- **Applicant**

*V E R S U S*

1. The State of Maharashtra,  
Through its Addl. Chief Secretary,  
(Accounts & Treasuries),  
Finance Department, M.S.,  
Mantralaya, Mumbai – 32.
2. The Director,  
Accounts & Treasuries,  
Kasturi Bldg., Ground Floor,  
Opp. Petroleum House,  
Jamshedji Tata Road,  
Churchgate, Mumbai – 20.
3. The Joint Director,  
Accounts & Treasuries,  
Aurangabad Division,  
Lekha Kosh Bhavan,  
Fazalpura, Aurangabad 01.

-- **Respondents**

**A N D**

**2) ORIGINAL APPLICATION NO. 300 OF 2023**

DIST. NANDED

Ratnaraj s/o Ramchandra Jawalgekar,  
 Age. 45 years, Occu. Service,  
 (as Deputy Director, MF & AS  
 In O/o Joint Director, Accounts &  
 Treasuries, A'bad Division, A'bad),  
 R/o C/o Shri Sanjay Pawar,  
 Plot No. 72, Nandanvan Colony,  
 Aurangabad.

-- **Applicant***V E R S U S*

1. The State of Maharashtra,  
 Through its Addl. Chief Secretary,  
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 Kasturi Bldg., Ground Floor,  
 Opp. Petroleum House,  
 Jamshedji Tata Road,  
 Churchgate, Mumbai – 20.
3. The Joint Director,  
 Accounts & Treasuries,  
 Aurangabad Division,  
 Lekha Kosh Bhavan,  
 Fazalpura, Aurangabad 01.
4. Shri Bodhikiran Janardhan  
 Sonkamble, Chief Auditor,  
 Nashik Municipal Corporation,  
 Govind Nagar, Nashik – 09.

-- **Respondents**

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 APPEARANCE :- Shri Avinash S. Deshmukh, learned  
 counsel for the applicant in both the  
 matters.

- : Shri Ajay S. Deshpande, learned special counsel with Shri Mahesh B. Bharaswadkar, learned Chief Presenting Officer for the respondent authorities in both the matters.
- : Shri A.B. Kharosekar, learned counsel for respondent no. 04 in O.A. No. 215/2023.

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**CORAM** : **Hon'ble Shri Justice P.R. Bora,**  
**Vice Chairman**  
**and**  
**Hon'ble Shri Vinay Kargaonkar,**  
**Member (A)**

**RESERVED ON** : **10.04.2024**  
**PRONOUNCED ON** : **06.05.2024**  
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## **ORDER**

*[Per :- Justice P.R. Bora, V.C.]*

1. Heard Shri Avinash S. Deshmukh, learned counsel for the applicant in both the matters, Shri Ajay S. Deshpande, learned special counsel with Shri Mahesh B. Bharaswadkar, learned Chief Presenting Officer for respondent authorities in both the matters. Shri A.B. Kharosekar, learned counsel for respondent no. 04 in O.A. 215/2023 (**absent**).

### **O.A. No. 215/2023 -**

2. The Original Application No. 215/2023 has been filed by the applicant seeking direction against the respondent no. 01 to include the applicant's name at appropriate place in

the select list of Deputy Directors, who are held FIT for promotion to the post of Joint Director in the Maharashtra Finances & Accounts Services on the basis of the meeting of the Departmental Promotion Committee held on 22.02.2023.

3. As contended, the applicant was promoted to the cadre of Deputy Directors in Maharashtra Finance & Accounts Services (for short MF&AS) in the year 2011 and since then he is working on the said post. It is the grievance of the applicant that though he is duly qualified and though he was in the zone of consideration for promotion to the post of Joint Director, in the meeting of the Departmental Promotion Committee (for short the DPC) held on 22.02.2023 his assessment report is kept in sealed cover and his name has not been recommended on the ground that criminal prosecution is pending against him.

4. It is the contention of the applicant that the D.P.C. could not have kept its recommendations in the sealed cover only on the ground of pendency of the prosecution against the applicant. In the circumstances, the applicant has filed O.A. seeking the relief as we have noted hereinabove.

5. An interim order was passed by this Tribunal on 20.03.2023, thereby directing the respondents not to allot

Revenue Division till filing of affidavit in reply by the respondents in the O.A. After passing of the said interim order Misc. Application No. 142/2023 was preferred in the said O.A. by the Government seeking to vacate the interim order contending that due to said order entire process of promotion was being held up. After having heard the parties in the said M.A. the interim order was modified to the extent of keeping one post vacant, subject to accommodation of the officers at sr. nos. 1 to 8 in the select list dated 24.02.2023, who are stated to be senior to the applicant.

**O.A. No. 300/2023 -**

6. After the interim order passed in O.A. No. 215/2023 was modified by this Tribunal the applicant has filed one another O.A. bearing No. 300/2023. It is the contention of the applicant in this O.A. that the Government issued an order dated 29.03.2023 promoting all 33 officers named in the select list. It is the further contention of the applicant that though he does not have serious grievance about the action of respondent no. 01 of granting promotions to all 33 officers named in the select list including respondent no. 04, what has compelled the applicant to file the present O.A. and seek the orders from this Tribunal is the action of respondent no. 01 of posting

respondent no. 04 on promotion in Aurangabad Revenue Division in spite of the fact that the said respondent is junior to the applicant in the cadre of Deputy Directors.

7. It is the contention of the applicant that the promotion to respondent no. 04 and to give him posting at Aurangabad is in total defiance of the interim order dated 24.03.2023 passed in O.A. No. 215/2023. It is the further contention of the applicant that posting of respondent no. 04 in Aurangabad Revenue Division has totally blocked the applicant's chance of getting posting on promotion in Aurangabad Revenue Division. It is the further contention of the applicant that before issuance of the promotion order dated 29.03.2022 there were only 02 posts of Joint Director vacant in Aurangabad Revenue Division. The applicant has further contended that respondent no. 01 vide his order dated 29.03.2023 has filled in both the vacant posts at Aurangabad Revenue Division. The applicant has alleged that the said decision of respondent no. 01 is in defiance of the order dated 24.03.2023 passed by this Tribunal and it causes serious prejudice and injustice to the applicant.

8. It is the further contention of the applicant that in the aforesaid circumstances he is constrained to prefer the

subsequent O.A. bearing No. 300/2023 seeking quashment of the order dated 29.03.2023 passed by respondent no. 01, whereby posting is given to respondent no. 04 as Joint Director in MF&AS in Aurangabad Revenue Division.

9. The contentions raised in O.A. No. 215/2023 are resisted by the respondent nos. 01 to 03 through the joint reply filed by them. It is the contention of the respondents that in view of the pendency of Special Case bearing No. 13/2014 filed against the applicant in the Sessions Court at Amravati for the offences punishable under the Prevention of Corruption Act, the applicant has not been considered for his promotion to the next higher post. The respondents have referred to the provisions under G.R. dated 15.12.2017 to support their contentions. It is further contended that departmental enquiry was also conducted against the applicant and the punishment of withholding of his next increment for one year without affecting his future increments was imposed on him and the said order has not yet been implemented. The respondents have contended that though the name of the applicant was taken into consideration with all other eligible officers, his name is not included in the select list of 33 officers on the aforesaid grounds.

10. In O.A. No. 300/2023 the respondent nos. 1, 2 & 3 have filed their joint affidavit in reply contending therein that respondent no. 04 although junior to the applicant was eligible to be considered for being in the zone of promotion. It is further contended that due procedure has been followed while giving promotion to respondent no. 04. It is further contended that the modified interim order passed by this Tribunal in O.A. No. 215/2023 was only to the effect that one post in Joint Directors cadre shall be kept vacant and there were no order to keep the post in Aurangabad Revenue Division vacant. It is further contended that as directed by the Tribunal 01 post has been kept vacant in Joint Directors cadre. It is further contended that respondent no. 04 has already joined on the promotional post on 27.04.2023. The respondents have therefore prayed for dismissal of O.A.

11. It appears that respondent no. 04 has wrongly filed affidavit in reply in O.A. No. 215/2023. He is not party respondent in the said O.A. Admittedly, there is no reply of respondent no. 04 in O.A. no. 300/2023.

12. Having regard to the subject matter both the Original Applications were heard together and we deem it



appropriate to decide both these applications by this common order.

13. The grievance of the applicant in these O.As. is that though he is eligible and due for promotion to the post of Joint Director in MF&AS his recommendation is wrongly kept in a sealed cover. He has therefore prayed for direction against the respondent nos. 1 & 2 to promote him to the cadre of Joint Directors in MF&AS along with 33 officers held FIT in the meeting of the DPC held on 22.02.2023. In O.A. no. 300/2023 the applicant has sought quashment of the order dated 29.03.2023 issued by respondent no. 01 to the extent it gives posting to respondent no. 04 as Joint Director in MF&AS in Aurangabad Revenue Division.

14. It is not in dispute that the special criminal case No. 13/2014 is pending against the applicant for the offences punishable under the provisions of the Prevention of Corruption Act. It is also not in dispute that the DE was conducted against the applicant, wherein he has been awarded the punishment of withholding of his next increment for one year without affecting his future increments. The said order of punishment was admittedly passed on 28.01.2020. There are rival contentions as about implementation of the order in the DE proceedings.

The respondents have alleged that at the relevant time the applicant was working as Chief Accountant and Finance Officer at Zilla Parishad, Latur and being the Drawing & Disbursing Officer it was his duty to bring the said order to the notice of the Chief Executive Officer, Zilla Parishad, Latur and implement it. As contended in the affidavit in reply filed on behalf of the State authorities till 01.12.2022 the implementation of the punishment order was not done. It is further contended that the C.E.O., Zilla Parishad, Latur has now informed that the increment dated 01.07.2023 will be withheld for one year without affecting the future increments of the applicant. As such, according to the respondents, the punishment imposed upon the applicant has yet not been complied with.

15. In these matters the following questions fall for our consideration:-

- (a) whether the promotion of the applicant can be withheld and the recommendations of the D.P.C. in that regard so long can be kept in sealed cover on the ground that the criminal prosecution is pending against him?
- (b) if any case is made out by the applicant to direct the respondents to open the sealed cover and if found recommended to promote him to the post of Joint Director in MF&AS?

(c) if any case is made out by the applicant to quash and set aside the order of promotion made in favour of respondent no. 04 in O.A. No. 300/2023.

16. There can be no absolute bar to promotion. As a general principle, promotion can only be withheld on reasonable and relevant grounds. The pendency of a disciplinary proceeding or criminal prosecution against an employee is a reasonable and relevant ground for withholding the promotion until the proceedings are over. However, mere contemplation of disciplinary proceedings cannot be a ground for withholding promotion. When such proceedings are pending, may be departmental or criminal, the procedure to be followed is known as sealed cover procedure. When the proceedings are over, granting or not granting promotion would depend upon the result of such proceedings. Since pendency of the disciplinary proceedings or criminal prosecution can be a relevant ground for withholding promotion, it is important to locate a point of time from which it can be said that disciplinary/ criminal proceedings are pending against an employee. From the judgment of the Hon'ble Supreme Court in case of **Union of India & Others Vs. K.V. Jankiraman and others, (1991) 4 SCC 109**, it is fairly deducible that only when a charge memo in a

disciplinary proceeding or a charge sheet in criminal prosecution is issued that it can be said that the disciplinary proceedings/criminal prosecution is pending against the employee. The pendency of preliminary investigation prior to the stage of issue of charge memo/chargesheet will not be sufficient and it would not be proper to withhold promotion as because preliminary investigation is not complete. In the cases, when an employee is due for promotion but disciplinary/criminal proceedings are pending against him at the relevant time, the sealed cover procedure is adopted. The findings of his entitlement to the promotion are kept in sealed cover to be opened after the proceedings in question are over.

17. The Government of Maharashtra, however, has determined a methodology to be adopted in the matters of promotion in the cases of the employees against whom criminal prosecution or departmental enquiries are pending. G.R. dated 15-12-2017 lays down certain guidelines in this regard.

18. Insofar as the promotions of the Government employees are concerned, ordinarily the employees against whom the D.E./criminal prosecutions is pending are held ineligible or not considered till the decision of the departmental/criminal proceedings against them depending

upon the decisions in the said proceedings. However, having considered the fact that the DEs/criminal prosecutions remain pending for years together or indefinite period, some exceptions are carved out so that in certain cases on certain compliances the ad-hoc promotions can be issued in favour of such employees even during the pendency of the departmental/criminal proceeding against them. The G.R. dated 15.12.2017 issued by the State Government lays down certain principles to be adopted in such matters. Clauses 06 and 09 of the said G.R. are relevant in the context of the present matters, which read thus:-

“६) विभागीय पदोन्नती समितीच्या बैठकीच्या दिनांकाच्या ६ महिन्यांनंतर मोहोरबंद पाकीटात ठेवलेले प्रकरण नियुक्ती प्राधिकारी यांनी पुनर्विलोकित करावे. पुनर्विलोकनाच्यावेळी निलंबित अधिकाऱ्यास पुनः स्थापीत केले असल्याचे व त्यांचेविरुद्ध कोणतीही शिस्तभंगविषयक कार्यवाही सुरु झालेली नसल्याचे आढळून आल्यास, मोहो बंद लिफाफा उघडून त्यातील निष्कर्षानुसार तो पदोन्नतीस पात्र असल्यास त्यास पदोन्नती देण्यात यावी. तसेच ज्या अधिकारी / कर्मचाऱ्याविरुद्धची शिस्तभंगविषयक कार्यवाही संपुष्टात येवून शिक्षा दिली असल्यास, अशा अधिकारी/कर्मचाऱ्यांचे सीलबंद लिफाफे न उघडता त्यांची पदोन्नतीसाठीची पात्रता पुढील नियमित विभागीय पदोन्नती समितीच्या बैठकीमध्ये तपासण्यात यावी.

९) विभागीय पदोन्नती समितीच्या मूळ बैठकीच्या दिनांकापासून दोन वर्षे झाल्यानंतरही मोहोरबंद पाकीटात निष्कर्ष ठेवलेल्या अधिकारी/ कर्मचाऱ्यांच्या, शिस्तभंगविषयक / न्यायालयीन कार्यवाही प्रकरणी अंतिम निर्णय झालेला नसल्यास, अशा प्रकरणी नियुक्ती प्राधिकारी स्वविवेकानुसार संबंधीत अधिकारी/कर्मचाऱ्याला तदर्थ पदोन्नती देण्याबाबत जाणीवपूर्वक निर्णय घेईल. असा निर्णय घेताना नियुक्ती प्राधिकारी, खालील मुद्दे विचारात घेईल.

- अ) संबंधितांविरुद्धची शिस्तभंगविषयक/न्यायालयीन कार्यवाही बराच काळ प्रलंबित राहण्याची शक्यता,
- ब) दोषारोपांचे गांभीर्य,
- क) द्यावयाची पदोन्नती जनहिताच्या विरुद्ध जाईल का,
- ड) शिस्तभंगविषयक/न्यायालयीन कार्यवाही लांबण्यास संबंधित अधिकारी / कर्मचारी जबाबदार आहे का?
- इ) संबंधित अधिकारी/कर्मचाऱ्यास तदर्थ पदोन्नती दिल्यानंतर, पदोन्नतीच्या पदावर काम केल्यामुळे, संबंधित अधिकारी/कर्मचाऱ्याच्या शिस्तभंगविषयक / न्यायालयीन कार्यवाहीच्या प्रकरणावर परिणाम होण्याची शक्यता आहे का? किंवा संबंधित अधिकारी/कर्मचारी पदोन्नतीच्या पदाचा त्यासाठी दुरुपयोग करण्याची शक्यता आहे का?
- फ) न्यायालयीन कार्यवाही बाबतची सद्यस्थिती / अभियोगाबाबतचे किती टप्पे पार पडले याबाबतची माहिती करून घ्यावी.
- ग) सेवानिवृत्तीस १ वर्ष शिल्लक असेल तर पदोन्नती न देण्याच्या अनुषंगाने सेवानिवृत्तीचा कालावधी विचारात घेणे (तदर्थ पदोन्नती दिल्यास वरिष्ठ वेतनश्रेणी प्राप्त झाल्यामुळे सेवानिवृत्तीनंतर मिळणारे सेवानिवृत्ती वेतनाचा ज्यादा लाभ प्राप्त होणार असल्यामुळे सेवानिवृत्तीस एक वर्ष शिल्लक असलेल्यांना तदर्थ पदोन्नती देण्यात येऊ नये याकरीता ही बाब तपासणे आवश्यक आहे.)”

19. It is not in dispute that the recommendation pertaining to the suitability of the applicant for promotion to the next higher post is kept in a sealed cover in the meeting held on 22.02.2023. On the said date though DE initiated against him had been concluded, the punishment imposed upon the applicant in the said DE was under compliance. Besides, the criminal prosecution was pending against the applicant for the offences punishable u/s 7 and 13 of the Prevention of Corruption Act. As provided in the G.R. dated 15.12.2017

within the period of 6 months the review was liable to be taken of the recommendations kept in a sealed cover pertaining to the applicant. However, there was no reason for opening the sealed cover for the reason that the criminal prosecution was already initiated against him. In the said G.R. itself it has been explained as to which shall be the starting point of the D.E. or criminal prosecutions against the Government employee. As provided therein, the date on which the statement of charge is served on the employee is held to be the date of initiation of the departmental proceedings against the said employee, whereas the date of filing of the charge sheet in the Court is held to be the date of the criminal prosecution deemed to be initiated against the concerned Government employee.

20. In the present matter it is not the case of the applicant that on the date of DPC meeting the charge sheet was not filed against him. In the circumstances, clause 6 cannot be applied in the case of the applicant. Clause 9 envisages that after the period of 02 years from the DPC meeting in which the recommendation of the Government employee was directed to be kept in a sealed cover, if the appointing authority notices that the criminal prosecution and/or departmental proceedings have not been concluded though the period of 02 years has

elapsed, the appointing authority as per his conscience would take a conscious decision in respect of giving ad-hoc promotion to the said employee. While taking such decision the appointing authority would consider the following aspects:-

- (a) That the departmental enquiry or the criminal prosecution is likely to remain pending for quite a long time;
- (b) Seriousness of the charges levelled against the said employee;
- (c) Whether the reinstatement of such an employee will be against the public interest;
- (d) Whether the delay in the departmental or criminal case is at the instance of the employee concerned;
- (e) Whether the ad-hoc promotion would come in the way of, or would have any adverse impact on the departmental enquiry initiated against such an employee or the criminal prosecution initiated against such an employee and whether the employee concerned is likely to misuse his reinstatement;
- (f) The appointing authority shall get appraised himself about the criminal prosecution and at what stage the proceedings are pending;

21. In the present matters 2 years are yet to be completed from the date of D.P.C. meeting held on 22.02.2023,



wherein the assessment report pertaining to the applicant has been kept in sealed cover.

22. It is true that the Criminal Case is pending against the applicant since the year 2014. It is, however, equally true that the applicant entered into zone of consideration for the promotion to the post of Deputy Director MF&AS and was for the first time considered for the said promotion in the DPC meeting held on 22.02.2023 and his report has been kept in sealed cover. As envisaged in clause 9 of the G.R. dated 15.12.2017, the request of the applicant seeking directions against the respondents to open the sealed cover and depending upon the report containing therein to take the immediate steps, could have been considered if the period of two years had been completed from the date of D.P.C. meeting i.e. 22.02.2023. It is thus evident that opportune time is yet to come. The prayer made by the applicant is premature. Neither the applicant nor the respondents have provided the status of the Criminal Case against the applicant or put on record any other information revealing the reasons for pendency of the said case for the period of more than 10 years. It cannot be negatively presumed that the Criminal Case against the applicant and others will not be decided for next many years. Further, there is no concrete

information before us as to at whose instance the said case is being protracted.

23. The judgments, which are relied upon by the learned counsel for the applicant, may not apply to the facts of the present case. The judgment in the case of **Ranbir Singh vs. State of U.P. and 2 Others, W.P. No. 1789/2022** dated 08.02.2023 is heavily relied upon by the learned counsel. It is true that in the said matter the High Court had directed the respondents therein to open the sealed cover and consider the claim of the petitioner for his promotion. The petitioner in the said matter was Tahsildar. The meeting of the Departmental Promotion Committee to consider the promotions of the Tahsildar to Deputy Collector was held on 02.08.2018 and 03.08.2018 at the level of Public Service Commission. The petitioner was eligible at the relevant time for being considered for promotion to the post of Deputy Collector and accordingly his name was also included in the list at sr. no. 120, which was part of the proposal. On 23.08.2018 the recommendations made by the D.P.C. and the Public service Commission released the list of Tahsildars promoted to the post of Deputy Collector. However, shocking to the petitioner his name did not find place in the said list. Upon making enquiry it was informed that the

petitioner's case has been withheld and has been kept in the sealed cover as the petitioner was suspended on 01.08.2018 i.e. before the meeting of the D.P.C. Although no charge sheet against the petitioner on the date of the D.P.C. was served. In the aforesaid circumstances, the Hon'ble Allahabad High Court directed the competent authority to consider the claim of the petitioner by opening the sealed cover within period of 08 weeks from the date of the said order. The facts in the present case are quite distinguishable. It is not the case of the applicant that on the date of D.P.C. meeting the charge sheet in the criminal case was not filed against him.

24. In the case of **Union of India and Others vs. Anil Kumar Sarkar, (2013) 4 SCC 161** also the facts were bit different. The petitioner therein namely Anil Kumar Sarkar was aspiring for the promotion to the post of Group 'A' (Jr. Scale) of Indian Railways Accounts Service (IRAS). The D.P.C. was conveyed by the U.P.S.C. on 26.02.2002 and 27.02.2002 to consider the eligible Group-B Officers of the Accounts Department for their promotion to Group 'A' (Jr. Scale) of Indian Railways Accounts Service (IRAS) against the vacancies for various Zonal Railways/Production Units. In the said D.P.C. the name of petitioner Anil Sarkar was also considered and his name was

placed in the extended select panel. However, before he could be promoted to the said post, 02 memorandum of charges were issued to him on 13.08.2003 and 01.09.2003 respectively and on the basis of the said memorandums 04 departmental enquiries were initiated against him. In the meanwhile by order dated 21.04.2003 the batch-mates of the said petitioner were promoted. The applicant, therefore, approached the Central Administrative Tribunal, Gauhati Bench. The Tribunal however dismissed his Original Application. The applicant approached the Hon'ble Gauhati High Court and the Hon'ble High Court vide order dated 24.07.2010 allowed the writ petition and directed the Government to issue appropriate orders in favour of him for promotion with all consequential benefits. The Union Government challenged the said order by filing S.L.P. before the Hon'ble Supreme Court. The Hon'ble Supreme Court however, dismissed the S.L.P. and confirmed the order passed by the Hon'ble Gauhati High Court holding that on the date of D.P.C. since no departmental proceedings was pending against the petitioner, there was no reason for putting the recommendations in respect of the said petitioner in the sealed cover. The facts in the present matter are quite distinguishable and cannot be equated with the facts in the matter of **Anil Kumar Sarkar** (cited supra).

25. The other cases relied upon by the learned counsel for the applicants also are having distinguishable facts and in the circumstances may not be applicable to the facts in the present matters.

26. After having considered the facts as aforesaid it does not appear to us that respondent no. 01 has committed any error in not including the name of the applicant in the select list of the Deputy Directors fit for promotion as the Joint Directors in the MF&AS. As such, no relief can be granted as prayed for by the applicant in prayer clause 12(A), (B) and (C) of O.A. No. 215/2023.

27. The promotion of respondent no. 04 has been challenged by the applicant on the ground that the post of Joint Director in Aurangabad Revenue Division has been directed to be kept vacant by this Tribunal vide order passed on 20.03.2023. We have perused the order passed on 20.03.2023. The said order cannot be construed to mean that the order was passed by the Tribunal to keep the post vacant from Aurangabad Revenue Division. We deem it appropriate to reproduce the observations made in para 05 of the said order by the Tribunal, which read thus:-

*“5. Keeping one post vacant from the Revenue Division, Aurangabad at this stage when it is not known for which division the applicant choice may be considered in case the Original Application is allowed, **it is just and proper to direct the respondents not to allot Revenue Division till filing of affidavit in reply by the respondents.**”*

In the circumstances, though it was not known for which division the choice of the applicant may be considered that the interim order was passed directing the respondents not to allot Revenue Division till filing of the reply by the respondents. Even while passing the said order this Tribunal has avoided to specify that Aurangabad Revenue Division may not be allotted. It is the further matter of record that the order passed on 20.03.2023 was modified on 24.03.2023. in the modified order the Tribunal directed for keeping 01 post vacant, subject to accommodation of the officers at sr. nos.1 to 8 in the select list dated 24.2.2023. In the said order also it is nowhere stated that one post at Aurangabad Revenue Division shall be kept vacant. In the circumstances, if respondent no. 04 is promoted in Aurangabad Revenue Division, the respondents have not committed any error in giving such promotion. The applicant has thus not made out any case for grant of relief as prayed by him in O.A. No. 300/2023.

28. In the facts and circumstances discussed and reasons elaborated by us though we are not inclined to grant the prayers made in O.A. nos. 215/2023, as well as, 300/2023, we deem it appropriate to dispose of the present Original Applications with the following order:-

### **ORDER**

(i) In the event the criminal prosecution against the applicant remains pending till 22.02.2025, the respondents shall consider the case of the applicant for his ad-hoc promotion as provided under clause 09 of the G.R. dated 15.12.2017 by undertaking the exercise in that regard as detailed under clause 09 r/w clause 11 of the said G.R. without waiting for any fresh request or representation by the applicant or any such order from the Tribunal.

(ii) Original Application Nos. 215/2023, as well as, 300/2023 are disposed of in the aforesaid terms, however, without any order as to costs.

**MEMBER (A)**

**VICE CHAIRMAN**

**Place : Aurangabad**

**Date : 06.05.2024**