

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 28 OF 2020

DISTRICT:- BEED

Anil S/o Pandurang Salve,
Age-50 years, Occu. Service as
Subhedar, R/o. Jail Staff Quarters,
Beed, Tq. & Dist. Beed

.. **APPLICANT**

V E R S U S

1. The State of Maharashtra,
Through its Secretary,
Home Department [Jail],
Mantralaya, Mumbai 32.

**2. The Additional Director General of
Police & Inspector General Prison,**
2nd floor, old Building,
Central Building, Maharashtra
State, Pune-1.

.. **RESPONDENTS**

APPEARANCE : Shri Kiran G. Salunke, learned counsel
for the applicant.

: Shri Mahesh B. Bharaswadkar, learned
Chief Presenting Officer for the
respondent authorities.

**CORAM : JUSTICE SHRI P.R. BORA, VICE CHAIRMAN
AND
: SHRI VINAY KARGAONKAR, MEMBER (A)**

DATE : 03.04.2024

O R A L O R D E R

(Per : Justice Shri P.R. Bora, Vice Chairman)

Heard Shri K.G. Salunke, learned counsel for the
applicant and Shri Mahesh B. Bharaswadkar, learned
Presenting Officer for respondent authorities.

2. The present applicant is working on the post of Subhedar in the District Prison at Jana. It is his case that he is entitled for the next promotion to the post of Jailor, Grade-II. The grievance raised by the applicant is that though the said promotion has to be given on the basis of seniority of the candidate in the cadre of Subhedar, the respondents have without any provision in rules or manual etc. are subjecting the candidates to undergo the examination as well as physical test etc. Learned counsel for the applicant submitted that the applicant stands at Sr. No. 1 in the seniority list of the cadre of Subhedar and he has been wrongly denied the promotion to the post of Jailor, Grade-II.

3. Learned counsel has invited our attention to the Staff Recruitment Rules and more particularly in respect of the appointment to the post of Jailor, Group-II. As prescribed in the said rules appointment to the post of Jailor Group-II shall be made either-

- (A) by promotion of suitable departmental candidates who:-
 - (i) have passed the S.S.C. Examination with English as one of the optional subjects or any other equivalent examination.
 - (ii) have served in the Prison Department for at least 10 years.

- (iii) possess minimum height of 162 Cm. and minimum chest measurement of 76-82 Cm.

Further provisions are for appointment to the post of Jailor Group-II by nomination. Those are not relevant in the present matter.

4. Referring to the aforesaid rules it has been argued that in the rule there is no such provision for examination or physical test of the candidate who has to be promoted from the cadre and in absence of such provision, according to the learned counsel, seniority can be the only criteria for such promotion.

5. The respondents have filed the affidavit in reply opposing the submissions made by the applicant in the O.A., as well as, the prayers made therein. It is the contention of the respondents that the rules, which are relied upon by the applicant, empower the department to decide the process for appointment by way of promotion to the post of Jailor, Group-II. Reliance is placed on rule 4. The said rule provides that in making appointment, the Inspector General of Prisons shall be assisted by the Selection Board, which shall consist of the Inspector General of Prisons and the Deputy Inspector General of Prisons nominated by Government. Learned C.P.O.

submitted that in the rules there is no such provision that for making promotions the seniority shall be the only criteria. Learned C.P.O. submitted on the contrary it is nowhere provided that seniority will have any weightage in granting promotion. Reading out the said rule learned C.P.O. submitted that the words are used 'suitable departmental candidate' and for deciding the suitability the methodology is to be decided by the officers concerned. Learned C.P.O. argued that in such circumstances, when certain procedure has been prescribed and which has been followed in making such promotion even in the past the applicant shall not have any objection for such procedure to be adopted. Learned C.P.O. in the circumstances prayed for rejecting the present Original Application.

6. We have carefully considered the submissions made on behalf of the applicant, as well as, on behalf of the State authorities. We have also perused the rules for promotion and the relevant Circulars, which are placed on record. The relevant rule, which we have reproduced hereinabove, nowhere envisages that the seniority shall be the criteria for promoting the officer from the post of Subhedar to the post of Jailor, Group-II. Learned counsel could not point out any provision from the manual or from the rule, which mandates that the

seniority shall be the criteria for making such promotion. The only provision which we reiterate that by promotion of suitable departmental candidates and certain other criteria that the candidates must have passed the S.S.C. Examination with English as one of the optional subjects or any other equivalent examination, have served in the Prison Department for at least 10 years; and possess prescribed minimum height of 162 Cm. and minimum chest measurement of 76-82 Cm. In the rules there appears no bar for prescribing any physical or other test for deciding suitability of the candidate for to be promoted to the post of Jailor, Group-II.

7. Learned C.P.O. has brought to our notice that the applicant in the past had appeared for such physical test, as well as, written examination and did not raise any objection at the relevant time for such tests. Learned C.P.O. further pointed out that rule 4, which is enabling provision provides for the constitution of committee. In the present matter as has been further argued by the learned C.P.O. that the concerned officers have decided the methodology and according to that, process for selection was carried out.

8. After having considered the facts as aforesaid it does not appear to us that any case is made out by the applicant for

accepting his prayer and to grant any relief as has been prayed by him in the O.A. We do not see any error in the procedure which has been adopted by the respondents while making promotions to the post of Jailor, Group-II from among feeder cadre i.e. Subhedar etc. After considered the facts as aforesaid we do not see any merit in the present Original Application. Hence, the following order: -

ORDER

(i) The Original Application stands dismissed however, without any order as to costs.

MEMBER (A)

VICE CHAIRMAN

O.A.NO.28-2020(DB)-2024-HDD-Promotion