

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 1538 OF 2024

DISTRICT : NAVI MUMBAI

Ganesh Amrut Mankar)
Jailor Grade-I, Jail Quarters,)
Taloja Central Prison, Navi Mumbai.)...**Applicant**

Versus

1. The State of Maharashtra)
Through Principal Secretary,)
Home Department, Mantralaya)
Mumbai 400 032.)
2. The Addl. D.G.P & I.G.P,)
Prisons & Commercial Services)
M.S., Old Central Building,)
2nd floor, Old Agarkar Nagar,)
Pune 411 001.)... **Respondents**
3. Shri A.T Patil,)
R/at Pratapgad Bldg,)
Room No. 3, 2nd floor,)
District Prison, Byculla,)
Mumbai.)...**Intervenor/Respondent**

Shri S.S Dere with Ms Pooja Mankoji, learned advocate for the Applicant.

Smt K.S Gaikwad, learned Presenting Officer for the Respondents.

Shri H.V Kode, learned counsel for Respondent No. 3.

CORAM : Justice Mridula Bhatkar (Chairperson)
Shri A.M Kulkarni (Member) (A)

DATE : 24.02.2025

PER : Justice Mridula Bhatkar (Chairperson)

J U D G M E N T

1. The applicant prays that the Respondent No. 1 be directed to open the sealed cover and grant promotion to the applicant to the post of Deputy Superintendent of Prison and also grant him deemed date of promotion, the date on which his juniors were promoted, i.e., on 6.10.2023.

2. Learned counsel for the applicant has pointed out the order passed by this Tribunal on 27.1.2025 and submitted that specific directions were given to Shri Prashant Burde, Addl. Director General of Prisons, Pune, who was directed to open the sealed cover and to process it further by sending it to the appointing authority on or before 31.1.2025 and the Competent Authority to take decision as per clause 12 of the G.R dated 15.12.2017 on or before 4.2.2025. Learned counsel has submitted that the Competent Authority has failed to comply with the order of this Tribunal dated 27.1.2025 and presses that Tribunal should issue Suo Moto contempt against the Respondents. Learned counsel has submitted that the sealed cover was opened on 6.2.2025 and they have deliberately not promoted the applicant when six posts were vacant. Learned counsel further submitted that promotion order, if any, issued in respect of A.T Patil shall be subject to the outcome of this Original Application. Further, all the applicants who are promoted are junior to the applicant.

3. Learned P.O submits that the promotion order of six persons is already issued on 11.2.2025 and accordingly they have joined at their respective place of posting. As such, currently there is no vacant post at the level of Deputy Superintendent of Prisons. Learned P.O has submitted that the applicant had filed Writ Petition No. 2048/2025 before the Hon'ble Bombay High Court, challenging the order of this Tribunal dated 27.1.2025 vacating the status quo granted and directions given to proceed further. However, the applicant on 12.2.2025 withdrew the said Writ Petition. Learned P.O submitted that the same learned counsel had appeared in the said Writ Petition before the Hon'ble High Court. Learned P.O further submitted that the sealed cover of the applicant is opened and the name of the applicant will be considered for promotion as and when the vacancy will be available and probably Mr A.T Patil, who is now promoted will retire on 31.5.2025 and thereafter the promotion order of the applicant will be issued and his case for grant of deemed date of promotion will be considered.

4. In this matter we pointed out that on 17.2.2025 when the matter was before this Tribunal, the order of promotion of six persons was issued on 11.2.2025, whose names were recommended by the Departmental Promotion Committee. Thus, approval was given by the Competent Authority in favour of the six persons and the name of the applicant was not in that list. Curiously, when the applicant withdrew the W.P 2048/2025 before the High Court on 12.2.2025, he was aware of this order of promotion dated 11.2.2025. However, this fact of issuance of order dated 11.2.2025 was not mentioned before this Tribunal on 17.2.2025 and so the Tribunal has made certain observation as the Tribunal was not aware of it.

5. It is to be noted that one Mr A.T Patil, had filed O.A 898/2024 who stood at Sr. No. 6 in the promotion order, seeking promotion on the same ground of opening of sealed cover. In that matter the same learned counsel for the present applicant and Respondent No. 3 in O.A of this application had appeared and in the said matter on 26.7.2024 this Tribunal has passed order directing them to keep one post vacant. The learned counsel for the Applicant made request that on 9.1.2025, the said Original Application was allowed to be withdrawn by the applicant. It was all allowed. In the present Original Application, Mr Patil was added as Intervenor, Respondent No. 3, as he was going to be affected. He was represented by another Advocate Mr H.V Kode.

6. We have made certain observations earlier in our which we may reproduce here:-

“11. We clearly notice the conflict of interest in both the parties, i.e., the applicant and the respondent no. 3. On this backdrop we would like to mention certain dates.

- (i) The present O.A was filed on 29.11.2024.
- (ii) Ld. Advocate for the applicant has submitted the application for withdrawal of O.A No. 898/2024 on 9.1.2025.
- (iii) The said application was given by the applicant-present respondent No. 3 on 20.12.2024 to the learned advocate.

12. Ld. Advocate for applicant submits that application for withdrawal is in handwriting of the applicant (Shri A.T Patil) and therefore the OA was withdrawn. Respondent no. 3 is present in the Court and states that he wrote it as per the legal advice given to him by the concerned Advocates on record.”

7. It is to be noted that when the list of six candidates was forwarded and was kept before the Departmental Promotion Committee, it was cleared by the D.P.C and at the relevant time the applicant was facing departmental enquiry and so the name of

the juniors to the applicant were forwarded. We direct Department to consider his name for the promotion immediately as and when vacancy arises and the applicant be given the deemed date as per the G.R dated 15.12.2017. We do not want to issue any contempt notice; as prayed by the learned counsel for the applicant.

8. We are of the view that nothing remains in the Original Application and the same stands disposed of.

Sd/-
(A.M Kulkarni)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 24.02.2025
Dictation taken by : A.K. Nair.