

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.1265 OF 2023

**DISTRICT: Sindhudurg
Subject : Promotion**

Balasaheb s/o. Bhimrao Patil,)
Age: 56 years, Occ.: Deputy Chief Accounts)
and Finance Officer Zilla Parishad,)
Sindhudurg, R/o. A-3 Sadanand)
Residency B Wing, Savaant Wada Oras bk.)
Sindhudurg – 416812.)...Applicant

V/s

1. The State of Maharashtra, Through)
the Additional Chief Secretary,)
General Administration Department,)
Mantralaya, Mumbai-400 032.)

2. The Additional Chief Secretary, Accounts &)
Treasuries, Finance Department Mantralaya,)
Mumbai-400 032.)

3. The Joint Secretary, Accounts and)
Treasuries Finance Department, 3rd Floor,)
Mantralaya, Mumbai 400 032.)

4. The Director of Accounts and Treasuries)
Custuri Building, ground floor, near Petroleum)
House, Churchgate, Mumbai 20.)...Respondents

Shri A. D. Sugdare, learned Advocate for the Applicant.

Ms S. P. Manchekar, learned Chief Presenting Officer for the Respondents.

CORAM : Hon'ble Shri M. A. Lovekar, Vice-Chairman.
Hon'ble Shri A. M. Kulkarni, Member (A)

Reserved on : 29.04.2025

Pronounced on : 30.04.2025.

Per : Hon'ble Shri M. A. Lovekar, Vice-Chairman.

J U D G M E N T

Heard Shri A. D. Sugdare, learned Advocate for the Applicant and Ms S. P. Manchekar, learned Chief Presenting Officer for the Respondents.

2. Case of the Applicant is as follows. The Applicant holds the post of Assistant Director, Accounts and Finance Department. As per Seniority List dated 4-2-2021 the Applicant was eligible for promotion to the post of Deputy Director in the year 2017. On 19-4-2017 Crime no.140/2017 was registered against him and one another under sections 7,12 and 13(1) of the Prevention of Corruption Act at Shahupuri Police Station, Kolhapur. In connection with this offence the Applicant was neither placed under suspension nor was departmental inquiry initiated against him. In the meeting of D.P.C. held on 15-3-2018 his name was considered for promotional post but kept in sealed envelope. By order dated 3-8-2018 the Government refused sanction to prosecute the Applicant under the Prevention of Corruption Act. In the meeting of D.P.C. held on 16-3-2022 decision was taken not to open the sealed envelope. The Applicant made representations but to no avail. By order dated 11-8-2023 Respondent No.1 promoted persons who were junior to the Applicant, to the post of Deputy Director. Hence, this Original Application seeking direction to Respondent No.2 to consider case of the Applicant for promotion to the post of Deputy Director on the basis of meeting of D.P.C. held on 20-4-2022, and grant him deemed date of promotion on the basis of the date on which his juniors were promoted.

3. Stand of Respondents 2 to 4 is as follows. Because of pendency of criminal case under the Prevention of Corruption Act sealed envelope procedure was adopted as per G.R. of G.A.D., Government of Maharashtra dated 15-12-2017. Although the process of promoting the officers from Assistant Director cadre to Deputy Director cadre was initiated, as the regularization of the promotions carried out earlier was pending, the said select list was not approved by the General Administration Department. Consequently, the promotion proceeding was not completed and no promotions were carried out from 2018 until 2022.

Case of the Applicant for promotion was kept in sealed envelope in the meeting of D.P.C. held on 15-3-2018. Thereafter, by order dated 3-8-2018 the Government refused sanction to prosecute the Applicant. Thus, from this point onwards the Criminal Court could not have taken cognizance of the case against the Applicant. In effect, from this date onwards no judicial proceeding could be said to be pending against the Applicant. The Applicant was neither placed under suspension nor was departmental inquiry initiated against him. In these facts and circumstances recourse to sealed envelope procedure in meeting dated 16-3-2022 was not warranted. Specific stand of Respondents 2 to 4 is that from 2018 to 2022 no one was promoted to the post of Deputy Director. The Applicant has not traversed said stand of Respondents 2 to 4. It can be gathered that promotions to the post of Deputy Director were given on 11-8-2023 and on this occasion, for the first time, persons who were junior to the Applicant were promoted. We have confined the discussion in this Original Application to the issue involved i.e. promotion and deemed date of promotion. The Applicant has one more grievance i.e. withdrawal of benefits of Time Bound Promotion. We are informed that for

redressal of this latter grievance the Applicant has filed another Original Application and it is pending before this Bench.

4. In this factual background, Original Application is allowed in the following terms. Respondent No.2 shall convene meeting of D.P.C., consider afresh case of the Applicant for promotion to the post of Deputy Director and take decision about the same as well as grant of deemed date of promotion in the light of observations made hereinabove, within 2 weeks from today, and communicate the same to the Applicant forthwith. No order as to costs.

Sd/-

(A.M. Kulkarni)
Member (A)

Sd/-

(M. A. Lovekar)
Vice-Chairman

Place: Mumbai

Date : 30.04.2025.

Dictation taken by: V. S. Mane

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