

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 702 OF 2021

DISTRICT : BEED

Vivekanand S/o Panditrao Dhongade,)
Age : 48 years, Occu. : Service as a Revenue Assistant,))
R/o : Keshav Nagar, Latur, Tq. Latur, Dist. Latur.))

).. **APPLICANT**

V E R S U S

1. **State of Maharashtra,**)
Through its Secretary,)
Revenue and Forest Department,)
Mantralaya, Mumbai.)
2. **The Divisional Commissioner,**)
Aurangabad.)
3. **The District Collector,**)
Beed, Dist. Beed.)

).. **RESPONDENTS**

APPEARANCE : Shri Avinash Khedkar Advocate holding for
Shri Avinash Deshmukh, Advocate for the
Applicant.

: Shri V.R. Bhumkar, P.O. for the Respondents.

CORAM : **Shri V.D. Dongre, Member (J)**
and
Shri Bijay Kumar, Member (A)

Reserved on : **10.04.2023**

Pronounced on : **07.06.2023**

O R D E R

(Per : Shri Bijay Kumar, Member (A))

1. This Original Application No. 702 of 2021 had been filed by one Shri Vivekanand s/o Panditrao Dhongade on 15.11.2021,

invoking provisions of section 19 of the Administrative Tribunals act, 1985 thereby; seeking relief against respondent No. 3 for not considering his representation dated 16.06.2021 for granting him promotion to the post of Senior Clerk w.e.f. 28.11.2001 along with all consequential benefits.

2. The applicant has alleged in para IV (11) (page 7 of the paper-book) of the present original applications that the Clerks who appear at lower positions of 341, 342, 343, 344, 347, 352, 353, 354 and 356 in the seniority list published by respondent No. 3 on 30.06.2020, have been promoted as Awal Karkoon whereas, the applicant having seniority position of 107 has not been given benefit of promotion. The applicant admits that any relief in terms consequential benefits, as prayed my adversely, may affect the Clerks having aforesaid seniority numbers as contended by the applicant but none of them appear in the array of party respondents.

3. Background Facts as submitted by the contesting parties-

(I) Admittedly, the applicant was initially engaged as Clerk-cum-Typist for earthquake relief works after deadly earthquake that occurred in Marathwada region of

Maharashtra state, with Latur and Osmanabad as main affected districts. Like several others, the applicant was also engaged as seasonal worker on contractual basis and paid on daily wage basis.

(II) Later on, as per government policy, he was appointed as Clerk-cum-Typist by respondent No. 3 i.e., the Collector, Beed vide his office order bearing No. २००१/आर/बी/डेस्क/१/अस्था/कावि-१५७०/भु.पु.लि.प., Dated 26.11.2001, a copy of which is appended as Annexure A-1, page 14 of the O.A. The applicant passed Sub-Service Departmental Examination on 07.08.2003 and Revenue Qualifying Examination on 15.09.2005. The applicant has further stated that he did not get any promotion till the time of filing the present application.

(III) Contentions of the applicant have been gathered mainly from three documents, to say, a representation dated 16.06.2021 submitted by the applicant to the respondent No. 3 , copy of which is appended at page 54-56 of paper-book and marked as Annexure A-5), submissions made through this Original Application and also through Rejoinder Affidavit filed on behalf of the

applicant, gist of which is mentioned in the following paras, which will be followed by gist of contentions of the respondents submitted through affidavits in reply and supplementary documents submitted in compliance with the Oral Orders of this Tribunal.

(a) Contentions of the applicant: -

(i) As per representation made by the applicant to the respondent No. 3, dated 16.06.2021 (appended at page 54- 56 of paper-book, marked as Annexure A-5), the applicant was appointed on the post of Clerk in Tahsil office, Gevarai vide order issued by respondent No. 3 bearing No. २००१/आखबी/देस्क/१/आस्था/१/कावि-१५७०/भु.पु.लि. प., Dated 26.11.2001. The applicant has also contended that he was appointed on the post of Clerk-cum-typist from 'Open' Category candidate, despite that his selection has been shown as done under category of VJNT in seniority lists for the post of Clerk-cum-Typist. He has further contended in the aforesaid representation that he has been denied promotion from the post of Clerk-cum-Typist to Awal Karkoon on the ground of non-submission of verified caste certificate. The applicant had prayed for correction in roster point

of his selection in the roster register at the time of his appointment as Clerk-cum-Typist.(emphasis supplied)

(ii) The applicant has also contended in second para of internal page No. 2 of the aforesaid representation dated 16.06.2021 that as per the provisions of the Government Resolution dated 18.02.2021 issued after judgment of Hon'ble Bombay High Court in Writ Petition No. 2797/2015 dated 04/05.2017, all the posts of promotion must be filled without providing for reservation in promotion, only on temporary basis, and those who have availed benefit of reservation in promotion may also be considered for promotion. To quote :-

“शासन निर्णय क्रमांक बीसीसी/२०१८/प्र.क्र. ३६६/१६- व दिनांक १८ फेब्रुवारी २०२१ अन्वये मा.उच्च न्यायालय, मुंबई यांच्या याचिका क्र. २७९७/२०१५ वरील दिनांक ०४/०५/२०१७ निर्णयाविरोधात राज्य शासनाने मा. सर्वोच्च न्यायालयात दाखल केलेल्या विशेष अनुमती याचिका क्र. २८३०६/२०१७ मधील मा. सर्वोच्च न्यायालयाच्या अंतिम निर्णयाच्या अधिन राहून यापुढे ऽदोन्नतीच्या कोट्यातील रिक्त असलेली सर्व १०० टक्के ऽदे कोणत्याही प्रकारच्या आरक्षणाचा विचार न करता दिनांक २५/०५/२००४ रोजीच्या सेवाज्येष्ठतेच्या स्थितीनुसार केवळ तात्पुरत्या स्वरूपात भरण्यात यावीत तसेच ऽदोन्नतीमधील आरक्षणाचा लाभ घेतलेला अधिकारी किंवा

कर्मचारी यांचा ऽदोन्नती करिता विचार करण्यात यावा असे नमुद केलेले आहे.

(iii) Last but not the least, the applicant has also contended in third para of the said representation, a copy of which is at page 54-56 of the paper-book) that his initial appointment on the post of Clerk-cum-Typist has been done as per government policy such as for the appointments on compassionate ground, and therefore, all appointments under such policies are to be treated under 'Open' Category. As the applicant has not availed any benefit of reservation as VJNT category, he should be considered under open category and given promotion to the post of Awal Karkoon without insisting on submission of verified caste certificate. To quote-

“ माझी मुळ नियुक्ती ही भूकं ऽ सहाय्यक यामधून शासनाकडील शिफारशीमुळे करण्यांत आलेली आहे. (उदा. अनुकं ऽ तत्वावर लागणाऱ्या कर्मचारी यांना जात प्रमाण ऽ वैधता प्रमाण ऽ आवश्यक नाही त्यांची नियुक्ती ही खुल्या प्रवर्गातील दर्शविली जाते) त्यानुसार मी सरळसेवा कोट्यातून विहित जात प्रमाण ऽ आधारे शासकीय सेवेत आलेली नाही. तसेच शासकीय सेवेत असल्यामुळे मी वि.जा.अ. प्रवर्गाचा कसल्याही प्रकारचा लाभ शासनाकडून घेतलेला नाही. करीता माझी नियुक्ती ही खुल्या प्रवर्गातून ग्राह्य धरून मला तात्काळ

अव्वल कारकून ँदावर ँदोन्नती देवून माइयावर आजरोजी अखेर ँर्यंत झालेला अन्याय दुर करावा ही नम्र विनंती.”

(iv) The applicant had submitted a few additional points of contentions in the Original Application and rejoinder affidavit. The applicant has staked claim for promotion to the post of Awal Karkoon w.e.f. 28.11.2001 which is the date of his first regular appointment as Clerk-cum-Typist as shown in a consolidated seniority list as on 01.01.2020 taking into account check points for promotion which is appended as Annexure A-4, page No. 22 of the paper-book.

(v) The applicant has also contended that the respondent No. 3 published on 30.06.2020 a consolidated seniority list incorporating criterion for promotion such as date of passing sub-service departmental exam., revenue qualifying examination, submission of caste certificate verification report etc. as on 31.12.2019 and the applicant submitted representation against the same dated 16.06.2021 therefore, his present original application is within

limitations under provisions of S. 21 of the Maharashtra Administrative Tribunals Act, 1985.

(vi) The applicant had also cited in para IV (11) of the original application that despite the Clerk-cum-Typists at serial Nos. 341, 342, 343, 344, 347, 352, 353, 354 and 356 being junior to him, have been considered for promotion which is violative of Articles 14 and 16 of the Constitution of India. In this context, the applicant has cited judgment of Hon'ble Apex Court in the matter of Ajit Singh and Ors. Vs. State of Punjab, reported on AIR 1999 SC 3471

(vii) The applicant dwelt upon law point that an employee, who belongs to a caste category which is eligible for getting benefits of reservation in appointment but the concerned employee has not availed benefit of reservation under quota for caste category, should be treated as 'Open' category candidate. The applicant has relied on three judgments as follows :-

- ***Suresh Vs. State of Maharashtra & Ors***
MANU/MH/0503/2015, W.P. No.

1310/2014, in W.P. 1310 of 2014, judgment delivered on 30.03.2015- This is relied upon by the applicant in order to buttress his contention that if a candidate has not entered employment through the channel of reservation and if he is willing to be governed as an open category candidate, ordinarily the authorities would not have objection.

- **Judgment of Hon'ble Bombay High Court (Principal Bench), in State of Maharashtra and Anr. Vs. Shri Maroti Limbaji Karangale, W.P. No. 363/2016, judgment dated 31.07.2018-** the applicant relies on this judgment as the Hon'ble Bombay High Court had confirmed the Order passed by the Maharashtra Administrative Tribunal (Principal Bench) holding that no embargo can be placed even upon reserved category candidate to compete for promotion to a post in the 'Open'/ General category. The unreserved seat euphorically described as

General Category seat or Open seat is available for all candidates irrespective of their caste who otherwise qualified to contest to that office.

- ***Judgment of Hon'ble Apex Court in Ajit Singh and Ors Vs. State of Punjab, reported on AIR 1999 SC 3471*** – this has been relied to buttress his contention that right to equal opportunity in the matter of promotion or in other words, right to be considered for promotion is indeed a fundamental right guaranteed under Article 16 (1) of the Constitution of India.

(b) Contentions of Respondents: -

(i) The respondents have opposed the contentions of the applicant and maintained that the initial appointment of the applicant was against roster point of reservation as VJNT category candidate.

(ii) The respondents have submitted a copy of the office order issued by respondent No. 2, dated 27.10.2001 which describes the background of policy declared by respondent

No. 1 regarding giving appointment to contractual workers on earthquake relief works and submitted certain documents in support of their assertions, as required by this Tribunal vide Oral Order dated 11.01.2023, which show that :-

(a) The Government of Maharashtra vide Government Resolution issued by Earthquake Relief Cell in Revenue & Forest Department, Government of Maharashtra (in short, RFD), bearing No. ईक्यूआर १०९०/प्र. क. ५४/भू.पु.क. १, Dated 11.04.2000, declared a policy of absorbing such contractual workers in government service. Government of Maharashtra also issued a Circular No. महसूल व वन विभाग, क. २०००/प्र.क. १२/भू.पु.क. १, dated 22.08.2000 in this regard.

(b) In pursuance of the said Government Circular dated 22.08.2000, respondent No. 2 i.e., the Divisional Commissioner Aurangabad called for information regarding vacant posts of Clerk-cum-Typists and drivers in all field offices situated in Aurangabad Revenue Division vide his letter dated 15.11.2000.

(c) Based on information regarding seniority list of workers received from respondent No. 1 and vacancy positions from field offices, respondent No. 2 recommended names of earthquake relief workers based on seniority and caste category of such workers which eventually took care of mandatory requirement of giving priority in appointment to senior workers in any post maintaining roster point of reservation on 100-point roster-register applicable for nomination quota.

(iii) The respondents have also submitted a copy each of following documents as directed by this Tribunal vide Oral Order dated 11.01.2023 :-

(i) Office Order issued by respondent No. 2 i.e., the Divisional Commissioner, Aurangabad, vide letter No. २००१/म.शा.का.-तीन/इएसेन/प्र.क., dated 27.10.2001 containing seniority position and Caste category wise Names and addresses of contractual workers showing the particulars of offices in Aurangabad Revenue Division to which the names were recommended for issue of appointment order as per policy declared by respondent No.1.

(ii) A copy of appointment Order of the applicant showing his caste category under which first appointment of the applicant was made

(iii) Copy of first page of service book of the applicant showing his caste category as VJNT, which is countersigned by the applicant too.

(iv) A copy of provisional seniority list of Clerks in Beed district as on 01.01.2002 was published on 05.10.2002 (a copy of the said seniority list has been submitted by the respondents to this Tribunal on 10.04.2023

(v) A copy of provisional seniority list of Clerks in Beed district as on 01.01.2002 and 01.01.2003 and a copy of objection received from the applicant to entry therein in respect of date of his joining and caste category which was shown as VJNT (Bhoi). It was claimed by the applicant to be corrected as VJNT (Navhi) and a copy of order accepting aforesaid objections raised by the applicant.

4. Prayer Clause :- The applicant has prayed for relief in terms of para 21 of the present Original Application, which is being reproduced verbatim for ready reference as follows: -

“21. PRAYERS:**INVIEW OF THE ABOVE CIRCUMSTANCES, THIS HON”BLE TRIBUNAL SHALL BE GRACIOUSLY PLEASED TO,**

- A. *This Original Application may kindly be allowed.*
- B. *By a suitable order/direction, the respondent may kindly be directed to consider the name of the applicant for promotion to the post of Senior Clerk.*
- C. *By a suitable order/direction, the respondent may kindly be directed to consider the name of the applicant for promotion to the post of Senior Clerk and grant him the deem (deemed) date with effect from 28.11.2011 together with all consequential service benefits, within a stipulated period.*
- D. *By a suitable order / direction, the respondent No. 3 may kindly be directed to hear and decide the representation dated 16.06.2021 forwarded by the applicant for seeking promotion to the post of Senior Clerk.*
- E. *To grant any other reliefs to which the applicant is entitled to in the peculiar facts and circumstances of the present case.”*

5. Chronology of making submissions and Final Hearing:

(a) Affidavit in reply was filed on behalf of respondent No. 2 and 3 on 27.01.2022 which was taken on record and a copy thereof was served on the other side. Rejoinder affidavit was filed on behalf of the applicant on 06.04.2022 which too, was taken on record and a copy thereof served on the other side. With consent of the two sides the matter was fixed for final hearing which was concluded on 27.09.2022 and the matter was reserved for orders.

(b) However, before the order could be passed the constitution of the Division Bench was changed and therefore, the matter was re-heard. During re-hearing the learned Presenting Officer was directed vide Oral Orders dated 11.01.2023 as follows :-

“2. During the course of arguments, it transpired that in order to verify the disputed facts as regards initial appointment of the applicant on the post of Clerk whether in open category of VJ-A category, original record would be necessary and more particularly to interpret the letter dated 26.11.2021 (Annexure A-1) and to conclude the controversy regarding initial appointment of the applicant in Open Category or in VJ-A category.”

(c) The learned Presenting Officer complied with abovementioned directions dated 11.01.2023. Therefore, this Tribunal has made a mention in Oral Order dated 18.01.2023 as follows :-

“2. Purportedly in compliance of directions given by this Tribunal in farad order dated 11.01.2023, learned Presenting Officer placed on record documents such as copy of first page of service book of the applicant, copy of one page of roster point from the concerned register and order of Divisional Commissioner, Aurangabad dated 27.10.2001 along with schedule of 7 pages, Same are taken on record and placed at page No. 113 (i) to 113 (xi), Copies of the said documents are furnished to the applicant.

3. The applicant is at liberty to raise additional pleadings, if required as regards above said documents.”

(d) The matter was finally heard on 10.04.2023 and thereafter, reserved for order.

6. Identifying Critical Issues for Adjudication in the

Present O.A.- Though, the applicant has made multiple contentions such as, 'mistake' regarding his appointment on the post of Clerk-cum-Typist under roster point for VJNT, applicability of rules/ executive orders etc. requiring submissions of Caste Certificate Verification Report before granting promotion of employees shown to be appointed under reservation quota, applicability of provision of Reservation in Promotion, judgment of Hon'ble Bombay High Court in W.P. No. 2797/2015 dated 04.05.2017 and SLP No. 28306/2017 filed before Hon'ble Supreme Court. However, the core issue remain to be determined is whether the contention of the applicant that he was appointed as '**Open**' category candidate and had not availed benefit of reservation in nomination on the ground of belonging to VJNT caste is established by him or not. The issue of limitation is treated as decided at the time of admission of this O.A. Thus, the critical issue statement is as follows :-

CRITICAL ISSUE FOR ADJUDICATION- *Whether the applicant has substantiated his claim that he was not appointed as a candidate under VJNT category at the time of*

first appointment on the post of Clerk-cum-Typist? As a corollary to this, it is also critical to determine whether the applicant has been able to substantiate his claim that mention of caste category of VJNT on his appointment letter, service book and seniority lists etc. do not amount to evidence that he was appointed against post reserved for VJNT category through a system of 100- point roster register.

7. Analysis of Facts and Conclusions drawn in respect of the critical issue :-

(a) The applicant has contended that though he belongs to VJNT category, he did not avail benefits of caste-based roster of reservation while getting the first regular appointment to the post of Clerk-cum-Typist. Entry of VJNT caste category in his appointment letter, service book and seniority list as on 01.01.2002 and onwards merely shows the caste he belongs to and the same, in no way, show that he was appointed under roster point for VJNT category on 100-point roster of reservation for nomination. He has also contended that he had not availed any preference based on his caste category of VJNT at any stage in his service. Therefore, asking the applicant to submit caste certificate verification report and denying him

promotion to the post of Awal Karkoon in absence of such caste certificate verification report is unjust and violating Article 14 and 16 of the Constitution of India. However, the applicant has not submitted any piece of evidence to show that he was eligible for appointment against vacancies under 'Open' category based on his merit which in the present case is the seniority in combined seniority list prepared and circulated by respondent No. 1.

(b) The applicant has not adduced any documentary evidence that during process of appointment of applicant and similar officer as Clerk-cum-Typist under nomination category of mode of recruitments the provision of caste based reservation had been suspended from Open category.

(c) From the documents issued in the form of Office Order by the Divisional Commissioner, Aurangabad, dated 27.10.2001, which has been submitted by the respondents in compliance with Oral Orders dated 11.01.2023 issued by this Tribunal, contents of which have not been challenged by the applicant, we proceed to examine eligibility of the applicant for appointment under vacancies for '**Open**' Category. From the allocation list circulated by the

respondent No. 2, dated 27.10.2001, it is obvious that the reserved category candidates have been appointed under quota for respective castes category against vacancies existing in any department under consideration. If a different method of allocation of department had been adopted, then the 'Open' category vacancies ought to have been filled first by recommending names of senior most candidates. In that case, considering the fact that there were 24 vacancies under 'Open' category, senior most 24 candidates would have been recommended against the 'Open' category vacancies. But, the applicant is 37th in the combined seniority list and therefore, by no means his name would have be eligible to be recommended under 'Open' category vacancies on merit.

(d) The applicant has also not been able to produce any evidence to show that he had made special request for getting accommodated under vacancies for 'Open' category in deviation with the process of recommending candidates to different government offices as followed by the Divisional Commissioner.

(e) During examination of the document marked as Annexure A-4, page 22-53 of the paper-book, it is noticed that the cases of Clerks cited by the applicant with seniority position of 341, 346, 347, 348, 351, 353, 354, 355, 356 and 357 and all others who belong to reserve caste category and have eventually been promoted, had submitted their caste certificates verification reports at appropriate point of time. It means that the applicant may be the only one or among a few who did not comply with condition of submission of caste certificate verification report. Therefore, the contention of the applicant that the caste category mentioned in his first appointment order, or as mentioned on the first page of his service book, which is countersigned by the applicant also and, the seniority lists published from time to time, are mere mention of his caste, which did not signify that the applicant availed reservation under quota / roster point applicable for that caste category, can at the most, be termed as an afterthought on part of the applicant.

(f) It may be noticed that the applicant had first made claim of belonging to VJNT (Nahavi) caste category by taking objection dated 16.07.2003 to the seniority list of

Clerk-cum-Typist as on 01.01.2002, which was published on 24.06.2003. It is only in the year 2021 that the applicant has taken U-Turn and contended that he does not have any caste certificate. In this context, we first refer to objection taken by the applicant to the seniority list as on 01.01.2002 as published on 24.06.2003 by respondent no. 3 for which scan copy of objection taken by him dated 16.07.2003 is being reproduced as below :-

दि- १६/७/२००३ ⑤

प्रति,
जिल्हाधिकारी
असह्यापठार विभाग
जि. का. बीड

विषय - लिपीक संवर्गातील जेष्ठता सुची बाबत.

संदर्भ - आपले करिपत्रक क्र. ३०७०/असह्या/डेप्यु. १/
असह्या-१/कावि/लिपीक जे. सु. दि. २४/६/२००३.

महोदय,
संदर्भात विद्यमानचे विनंती पुर्क सादर
करण्यात येते कि लिपीक संवर्गातील कर्मचाऱ्यांची
दि. १.१.२००२ व दि. १.१.२००३ री स्थितीदर्शक प्राथमिक
जेष्ठता सुची मध्ये जालीच्या प्रवर्गामध्ये चुकीने भ.ज.ब.
(भोई) असे झाले असून लसेच येता प्रवेश
दिनांक चुकीने २०.६.९५ झाला आहे.

तरी माझ्याबाबत जालीच्या प्रवर्गामध्ये
दि. ज. अ (नाली) लसेच येता प्रवेश दि. १२.१.९६ अशी
सुधारणा करणार नाही. हि विनंती

आपला (निष्ठा) शुकु
हेर दी धोंगडे
लिपीक.

आ.स.आ.
N/C
17-7-2003
गि.दि.६५६
२४६७-६३

Resident Dy. Collector, Beed

(g) In contrast to above, we see that in the second para of representation dated 16.06.2021 marked as Annexure A-5, page 54 of the paper-book, the applicant has submitted that he does not have any caste certificate and he has further requested respondent No. 3 to consider his selection from 'Open' Category and accordingly '*correct the roster point*' on which the applicant had been appointed, to quote:-

“लिपिक संवर्गातून अक्कल कारकून संवर्गात माझी निवड ही जात प्रवर्गातून झालेली नाही तसेच माझ्याकडे कोणत्याही जातीचे प्रमाणपत्र व वेधयता प्रमाणपत्र नाही जरीता मझी निवड खुल्या प्रवर्गातून ग्राह्य धरून तात्काळ मला अक्कल कारकून संवर्गात ऽदोन्नती देणे बाबत आदेश व्हावेत व माझ्यावर झालेला अन्याय दुर करावा.”

(h) To sum up, the present matter is regarding obligation of the applicant to submit caste certification verification report for attaining eligibility for promotion. The applicant has not been able to show that he was eligible based on his seniority, to be appointed against vacancies for 'Open' Category. Moreover, the applicant had himself claimed to be belonging to VJNT (Nhavi) category and accordingly took objection to the seniority list as on 01.01.2002 in which his caste was shown as VJNT (Bhoi) and got correction applied. It is only at the time of promotion, instead of submitting a

verified caste certificate the applicant has disclosed that he does not have any caste certificate; as the citations made by learned Advocate for the applicant have different ratio therefore, in our opinion, the same are not applicable in the present matter.

8. CONCLUSION :- From above analysis of facts, we are of considered opinion that the present application has been filed by way of afterthought, without disclosing all relevant facts and by mixing the core issue with irrelevant facts. For example, the applicant had initially took objection to mention of his caste as VJNT (Bhoi) in the seniority list as on 01.01.2002 and got correction applied as VJNT (Nhavi). But, at the time of promotion he is contending that he never had a caste certificate and roster register should be corrected to show his selection from 'Open' category on merit. The applicant, while making claim of his appointment was on merit from 'Open' category, he has not submitted any single piece of evidence to buttress his claim and directly switched over to making citation that he is eligible for promotion irrespective of his appointment under '*reserved*' or '*open*' category. The applicant does not refrain from making factually wrong comparison of the promotions given to those Clerks, who were appointed under reserved category but who had

made submission of caste certificate verification reports with his own case which is essentially different by basic facts. The applicant has also relied upon the judgment in W.P. No. 2797/2015, delivered on 25.07.2017 by Hon'ble Bombay High Court to stake claim for promotion without submitting a verified caste certificate for the caste category under which he got initial appointment as Clerk-cum-Typist. In other words, the applicant has made inconsistent and self-contradictory submissions; in that sense, the applicant has not come with clean hands before this Tribunal and the present application is devoid of merit.

9. The learned advocate for the applicant mentioned during argument stage that as the applicant belonged to a group of contractual workers who worked on earthquake relief works, the respondents were under obligation to absorb him as Clerk-cum-Typist in accordance with government policy in this regard and therefore, there is obligation to retain the applicant in service even if the applicant has not submitted caste certificate verification report. This argument does not find relevance in the present context as the applicant is praying for promotion which is different from retention in service as Clerk-cum-Typist. The applicant has, so far, not represented his case before competent respondents for promotion taking into account true facts as they

are. After considering all the facts before us, we are of considered opinion that the present application is misconceived and devoid of merit. Hence, the following order :-

ORDER

- (A) The Original Application No. 702 of 2021 is dismissed for reason of being misconceived and devoid of merit.
- (B) No order as to cost.

MEMBER (A)

MEMBER (J)

Kpb/D.B. O.A. No. 702/2021 VDD & BK 2023 Promotion