

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

**ORIGINAL APPLICATION NO.918 OF 2015
WITH
ORIGINAL APPLICATION NO.1094 OF 2015**

DISTRICT : MUMBAI

ORIGINAL APPLICATION NO.918 OF 2015

1. Shri Suresh Bhikaji Shingte,)
Res.:I/1101 Bhagvati Heritage CHS,)
Sector No.21, Kamothe,)
Navi Mumbai 410 209.)
2. Shri Suryakant Sitaram Salvi,)
Res.:D/48 Bandra Police Quarters,)
R.K. Patkar Marg, Bandra (W),)
Mumbai 50.)
3. Shri Ashok Baburao More,)
Res.:21/704, Awdhoot CHS,)
Azad Nagar-1, Apna Bazar, J.P. Road,)
Andheri (W), Mumbai 400 058.)
4. Shri Vilas Pandurang More,)
Res.:M-3/A/601, Shivsneh CHS)
Pratiksha Nagar, Sion (E),)
Mumbai 400 022.)

5. Shri Sampat Narayan Pawar,)
Res.:D/1, Ganesh Park, Singhad Road,)
Pune 51.)
6. Vijay Gulabrao Pawar,)
Res : Ashtavinayak CHS,)
Bldg.No.E/8, Flat No.3/2,)
Sector-18, New Panvel – 410 206.)
7. Vinod Rajaram Kanavaje,)
Res : 8/155, D.N. Nagar Police Officer)
Quarters, Andheri (W), Mumbai 400 053.)
8. Shri Vilas Keshav Patil,)
Res.:1/9, M.I.D.C. Police Quarters,)
Andheri (E), Mumbai 93.)

..Applicants

Versus

1. The Government of Maharashtra)
Through Additional Chief Secretary,)
Home Department, Mantralaya ,)
Mumbai 400 032.)
2. Director General of Police,)
Maharashtra State, Shahid Bhagat)
Singh Road, Old Council Hall,)
Colaba, Mumbai.)
3. The Maharashtra Public Service)
Commission, Bank of India Bldg.,)

- 3rd floor, Mahatma Gandhi Road,)
 Hutatma Chouk, Mumbai 400 001)
4. Shri Kailas Vithal Bondre,)
 API, LA II, H.Q. Tardeo, 401,)
 Daffodil Apartment, Lal Chowki,)
 Agra Road, Kalyan (W),)
 District : Thane 421 301.)
5. Shri Ramkrishna Narayan Pawar,)
 6. Shri Pravin Vitthal Khanapure)
 7. Shri Gonduram Vakelalji Banger)
 8. Shri Mukund Vasantrya Kulkarni)
 9. Shri Sanjay Sudam Khedekar)
 10. Shri Bharat Tukaram Chaudary)
 11. Shri Rajendra Pandurang Barge)
 12. Shri Shrikant Gunvant Adhate)
 13. Shri Ajaykumar Janardan Sindhkar)
 14. Shri Vijay Duttaram Kadu)
 15. Shri Vijay Madhukar Sarbhukan)
 16. Shri Jitendra Eknathji Borkar)
 17. Shri Arvind Vasantrya Patil)
 18. Shri Uttam Govindrao Chakre)
 19. Shri Prakash Vasantrya Pawar)
 20. Shri Arvind Bikhaji Dhag)
 21. Shri Siddharth Jalbaji Mane)
 22. Shri Yograj Laxman Pardhi)
 23. Shri Anant Eknathrao PurnaPatre)
 24. Shri Keshav Vitthal Wagh)
 25. Shri Duttatray Pandurang Sonar)
 26. Shri Dwarkadas Govindrao Gharjal/
 Chikhalikar)
 27. Shri Somdutta Govindrao Khandare)
 28. Shri Laxman Anant Kamble)
 29. Shri Satish Marthad Gotekar)
 30. Shri Balu Sukanya Bhoje)
 31. Shri Jagdish Chaburao Bhambad)
 32. Shri Bhaskar Duttatray Kadam)
 33. Shri Rajendra Jaganath Ingale)

34. Shri Sharad Haribhau Murkute)
35. Shri Vikas Krishna Padale)
36. Shri Sanjaykumar Jeevan Patange)
37. Shri Digambar Hari Bhadane)
38. Shri Prakash Krishnarao Pasalkar)
39. Shri Sandeep Pandurang Bhosale)
40. Shri Kishorb Dhoman Patil)
41. Shri Rajendra Dagadu Bhavsar)
42. Shri Sanjay Mahadev Jadhav)
43. Shri Jaganath Abaji More)
44. Shri Samadhan Chandrabhan Nagare)
45. Shri Khajimohinuddin Saipan Patel)
46. Shri Arunkumar Babanrao Sapkal)
47. Shri Ambadas Laxmanrao Sarode)
48. Shri Avinash Baburao Aundhkar)
49. Shri Balasaheb Sadashiv Badhe)
50. Shri Rama Sadashiv Padvad)
51. Shri Gyandev Bhimrao Bajabadkar)
52. Shri Dilip Vithoba Gangude)
53. Shri Pandit Sopanrao Kachave)
54. Shri Suresh Chintaman Manore)
55. Shri Chandramohan C. Dubey)
56. Shri Sunil Narayan Shinde)
57. Shri Tanaji Bhiva Dagade)
58. Shri Sudhakar Bhimrao Kore)
59. Shri Pirthaji Babu Tupe)
60. Shri Sanjay Bhujangrao Choubey)
61. Shri Anil Narayan Dhole)
62. Shri Bhagwan Duttatray Kapkar)
63. Shri Bhaskar Hambirrao Kokare)
64. Shri Khanderao Dinaji Pitalevad)
65. Shri Chandsaab Kadarsaab Kurbache)
66. Shri Nandkumar Jayram Mandalik)
67. Shri Shyam Kalu Nikam)
68. Shri Udaysingh Nimba Salunkhe)
69. Shri Rameshwar Jayrao Pimprewar)
70. Shri Sadarsingh Ajabsingh Thakur)
71. Shri Rajendra Krishnaji Gurjar)
72. Shri Ashok Narayan Lande)
73. Shri Sampath Kisan Pawar)
74. Shri Anil Ramesh Mayekar)
75. Shri Nandkishor Digambar Saste)
76. Shri Ansaram Satvaji Agarkar)

77. Shri Ajit Dhondiram Dalvi)
78. Shri Narendra Gyneshwarrao Kosurkar)
79. Shri Balasaheb Sahebrao Shinde)
80. Shri Dilip Shantaram Vichare)
81. Shri Pramod Rohitdas Waghmare)
82. Shri Suresh Laxman Gore)
83. Shri Gulabdstgir Ramjan Inamdar)
84. Shri Mahendrasingh N. Pardeshi)
85. Shri Naresh Pandurang Parve)
86. Shri Bhaskar Arjun Pawar)
87. Shri Prashant Vinayak Sawant)
88. Shri Gorakh Dinkarao Derkar)
89. Shri Suryakant Devrao Konkane)
90. Shri Dilip Gajanan Dhamunse)
91. Shri Nitinkumar Shankar Kamble)
92. Shri Nitim Mayappa Landgae)
93. Shri Vikas Shekhujirao Patil)
94. Shri Dipak Tukaram Sawant)
95. Shri Vidhyasagar Dayasagar Shrimanvar)
96. Shri Ajitkumar Ramchandra Jadhav)
97. Shri Vilas Sahadu Poojary)
98. Shri Madhukar Ganpat Sawant)
99. Shri Chandrakant Vitthal Tendulkar)
100. Shri Shrikant Laxman Bachke)
101. Shri Shivaji Somaji Gaikawad)
102. Shri Vijay Yashwant Mahajan)
103. Shri Maruti Namdev Muluk)
104. Shri Mahadev Krishna Naikvade)
105. Shri Namdev Chindhuji Ganjude)
106. Shri Hemantkumar Prabhakar Patil)
107. Shri Narayan Shankar Raut)
108. Shri Vishvanath Balu Sidh)
109. Shri Pralhad Krishnarao Katkar)
110. Shri Vyankat Madhavrao Kendhre)
111. Shri Kisan Gynandev Salve)
112. Shri Dhruvas Ramcharan Bavankar)
113. Shri Vaman Haribhav Hemne)
114. Shri Nilesh Mahadevrao Brahmane)
115. Shri Rajesh Sheshraoji Kadu)
116. Shri Rameshwar Janba Patil)
117. Shri Pandharinath Ramchandra Sawant)
118. Shri Digamber Bhikaji Ingale)
119. Shri Atul Ashok Aher)

120. Shri Ravindra Laxmikant Dubey)
121. Shri Dilip Duttatray Landgae)
122. Shri Uddhav Shambaji Rajgae)
123. Shri Dinkar Bhaskar Raut)
124. Shri Majarali Abutaliib Shaydd)
125. Shri Duttaram Gopinath Bhagwae)
126. Shri Pradip Madhavrao Kakde)
127. Shri Prakesh Kavaduji Tunkalvar)
128. Shri Kishor Kishanrao Borde)
129. Shri Vijay Vishnu Chavan)
130. Shri Moreshwar Balkrishna Barapatre)
131. Shri Raosaheb Dagdu Pawar)
132. Shri Vijay Kaka Thakur)
133. Shri Laxman Sahebrao Deshmukh)
134. Shri Tukaram Shankar Koyande)
135. Shri Madhukar Laxmanrao Pradhan)
136. Shri Santosh Dattaram Sawant)
137. Shri Mangesh Savalaram Prabhu)
138. Shri Digamber Bhawani Shinde)
139. Shri Gynandev Baburao Kedar)
140. Shri Anil Gangaram Koltharkar)
141. Shri Magan Vena Mehete)
142. Shri Tayyab Yunuous Mujavar)
143. Shri Sujata Atmaram Varang)
144. Shri Ajit Tukaram Chitale)
145. Shri Ashok Uttamrao Giri)
146. Shri Vijay Prabhat Malche)
147. Shri Prabhakar Vitthal Mattae)
148. Shri Arun Bhagirath Pardhesi.)
149. Shri Balu Gopinath Pitale)
150. Shri Dattatray Vishnu Thakur)
151. Shri Dilip Vishvanath Tidke)
152. Shri Abhimanyu Baliram Salunkhe)
153. Shri Sasikant Ananda Bhatt)
154. Shri Sambhaji Babban Sabale)
155. Shri Anil Haribhau Tanpure)
156. Shri Bhagwan Mariba Dhabadgae)
157. Shri Shankar Balu Galande)
158. Shri Suresh Ramchandra Jagtap)
159. Shri Kundilik Tukaram Kaigude)
160. Shri Anil Arjun Khedekar)
161. Shri Prashant Ramchandra Mane)
162. Shri Vijay Shivdas Mane)

163. Shri Ganesh Manikrao Sondare)
164. Shri Vishvajeet Prataprao Suryawanshi)
165. Shri Vilas Shyamrao Bhosale)
166. Shri Ishamodin Nasir Pathan)
167. Shri Dussayant Appaji Chavan)
168. Shri Balu Bhagwant Kakade)
169. Shri Suhas Gangadhar Shejud)
170. Shri Umakant Bhausahab Tannu)
171. Shri Ganpat Daulatrao Gaikwad)
172. Shri Sanjay Punjairao Gaikwad)
173. Shri Manohar Ankush Harpude)
174. Shri Bharat Krishna Kindhare)
175. Shri Manohar Parasu Patil)
176. Shri Dilip Haribhau Rakh)
177. Shri Dinesh Vasudev Sawant)
178. Shri Sandeep Shantaram Shivale)
179. Shri Balak Pandurang Koil)
180. Shri Sanjaykumar Ramnath Brahmane)
181. Shri Santap Bhimrao Chavan)
182. Shri Sanjay Mahadev Ahivale)
183. Shri Prakash Sakharam Katkar)
184. Shri Vajinath Kisanrao Mundhe)
185. Shri Nandkumar Bhiku Kelaskar)
186. Shri Bhanudas Vasudevrao Pidurkar)
187. Shri Ganpat Satvaji Rahirae)
188. Shri Bapu Maruti Rokade)
189. Shri Popat Narayan Salunkhe)
190. Shri Madhu Nana Shinde)
191. Shri Krishna Pandurang Yadav)
192. Shri Suryakant Vitthu Kharat)
193. Shri Vishvanath Laxman Rathod)
194. Shri Sanjay Manaji Popalghat)
195. Shri Yuraj Shantaram Mahaskar)
196. Shri Rajendra Kashinath Shimpi)
197. Shri Manoj Chandrakant Limkar)
198. Shri Satish Sopan Pawar)
199. Shri Mohammad Yakub Dangae)
200. Shri Sasikant Bapur Rokade)
201. Shri Sanjay Baburao Ambhre)
202. Shri Sakharam Ramchandra Bankar)
203. Shri Kailas Vitthal Bondhre)
204. Shri Vyankatrao Latuji Kavas)
205. Shri Premprakash Marotrao Makode)

206. Shri Sudhakar Neelkhant Patil)
207. Shri Vandana Rajnikant Shrisunder)
208. Shri Ramesh Shankar Devkar)
209. Shri Duttatray Shankar Khade)
210. Shri Sahyadd Harun S. Ibharim Rizvi)
211. Shri Prabhakar Uttamrao Wagh)
212. Shri Vijaykumar Vitthal Vakse)
213. Shri Manish Haridas Bansode)
214. Shri Vilas Shankarao Deshpande)
215. Shri Sunil Bhimrao Giddae)
216. Shri Bhausahab Dadaba Gondkar)
217. Shri Jaganath Gatlaya Gaikwad)
218. Shri Jitendra Anand Kadam)
219. Shri Anandrao Haraji Shende)
220. Shri Sunil Gajanan Thopate)
221. Shri Bhimsingh Harisingh Chavan)
222. Shri Dilip Shivajirao Dolare)
223. Shri Rajkumar Digamber Husbe)
224. Shri Tukaram Bala Jagtap)
225. Shri Ravindra Vasudev Kudapkar)
226. Shri Bhanudas Ragunath Nibhore)
227. Shri Pradipkumar Pandharinath Shevale)
228. Shri Shivaji Yadavrao Shivthare)
229. Shri Devidas Kisan Dumane)
230. Shri Sunil Prabhakarao Kulkarni)
231. Shri Honaji Maruti Lande)
232. Shri Ravindra Vitthal Itmane)
233. Shri Hemant Subash Patil)
234. Shri Mahendra Vaman Shinde)
235. Shri Sanjay Sheshrao Adhav)
236. Shri Sudhir Nivrutti Gawali)
237. Shri Ashok Sukhdevrao Sakhare)
238. Shri Balkrishna Narayan Chavan)
239. Shri Arun Vishvanathrao Kendhre)
240. Shri Vishvanath Digamber Naikvade)
241. Shri Dilip Vishvas Gaikwad)
242. Shri Anant Nivrutti Narute)
243. Shri Pramod Bhau Sawant)
244. Shri Jitendra Prabhakar Sahane)
245. Shri Devidas Sattu Vanjale)
246. Shri Vilas Hiranman Patil)
247. Shri Sandeep Sakharam Shinde)
248. Shri Adinath Sahebrao Ahirae)

249. Shri Shankar Ramji Chavan)
250. Shri Balkrishna Tukaram Mohte)
251. Shri Sampath Ramchandra Gadhave)
252. Shri Vikas Mahadev Mahamunkar)
253. Shri Anandrao Apparao Ningdali)
254. Shri Pradip Bajirao Patil)
255. Shri Narayan Vaman Desai)
256. Shri Vijay Atmaram Sontakke)
257. Shri Hanumant Rajaram Ware)
258. Shri Asif Basakwar Shekh)
259. Shri Krishna Dhondiram Kadam)
260. Shri Mohan Baburao Kadam)
261. Shri Vilas Kamalkar Kulkarni)
262. Shri Jaywant Shambhu Nagrale)
263. Shri Jagan Ganpat Pawar)
264. Shri Rajendrasingh B. Deshmukh)
265. Shri Atul Shankarao Gharpande)
266. Shri Sanjay Mahadev Nanaware)
267. Shri Shivraj Laxman Gawali / Patil)
268. Shri Shasikant Shantaram Yadav)
269. Shri Kishor Vasantrao Patil)
270. Shri Haribhau Gyneshwar Shitode)
271. Shri Dipak Bajirao Gondhadi)
272. Shri Dwarkanath Mahadu Gondhake)
273. Shri Ashok Vitthalrao Bele)
274. Shri Duttatray Navsa Survase)
275. Shri Durgaprasad Mohanlal Tiwari)
276. Shri Shivaji Ganpat Aauti)
277. Shri Nandan Vitthal Bagade)
278. Shri Vikas Sukhdev Devere)
279. Shri Mohansingh Mahadevsingh Rajput)
280. Shri Uday Mohan Rahane)
281. Shri Shivshankar Bhagwanrao Bonder)
282. Shri Vijay Ramkrishna Rathod)
283. Shri Shrikant Murlidhar Patil)
284. Shri Munaf Ahmedfared Shekh)
285. Shri Pandurang Maluji Kotwar)
286. Shri Krishna Jaganath Chavan)
287. Shri Vishnukant Tukaram Guttae)
288. Shri Prasad Namdev Sanas)
289. Shri Suresh Kisan Gadghae)
290. Shri Ramchandra Kagnath Bandekar)
291. Shri Raju Bhaurao Kharde)

292. Shri Ganesh Ankush Harpude)
293. Shri Akbar Abdul Karim Patel)
294. Shri Sunil Nivrutti Tambe)
295. Shri Ramakant H. Naghargoje)
296. Shri Sharad Ramchandra Kulkarni)
297. Shri Devanand Raghunath Lonare)
298. Shri Rajendra Chandrakant Sawant)
299. Shri Ashok Krishnaji Mane)
300. Shri Sunil Rajaram Goshalkar)
301. Shri Dilip Babbanrao Lukade)
302. Shri Aniruddh Sopanrao Kakade)
303. Shri Sharad Sadashiv Kadam)
304. Shri Rajendrasingh S. Pardeshi)
305. Shri Balu Namdeo Patkude)
306. Shri Nivrutti Vishvanath Ahawad)
307. Shri Dharmu Tukaram Rathod)
308. Shri Shankar Maruti Mane)
309. Shri Anil Bhimrao Londhe)
310. Shri Raju Trambakrao Bahadure)
311. Shri Gajanan Rajaram Sarghar)
312. Shri Kishor Ramdas Naik)
313. Shri Suresh Haribhau Sarde)
314. Shri Balkrishna Dhakalya Pawara)
315. Shri Shankar Bhiku Salunkhe)
316. Shri Prakash Purshottam Suryawanshi)
317. Shri Dhnanjay Mahadevrao Sayare)
318. Shri Chandrakant Bhagwan Mane)
319. Shri Santosh Duttaram Sawant)
320. Shri Yashwant Rambhau Vatad)
321. Shri Chandrakant S. Suryawanshi)
322. Shri Vijaykumar Shankar Kadam)
323. Shri Ravindra Anandrao Patil)
324. Shri Arjun Maruti Jagdale)
325. Shri Prakash Dagadu Jadhav)
326. Shri Adikrao Bapu Hazare)
327. Shri Salimkha Itarbarkha Tadavi)
328. Shri Duttatray Tukaram Karche)
329. Shri Gajanan Sakharam Kharde)
330. Shri Kirankumar Digamber Dhopade)
331. Shri Prakash Sonu Chaudry)
332. Shri Ashok Marotrach Meshram)
333. Shri Babasaheb Kesu Chavan)
334. Shri Manohar Nakruji Kortnake)

335. Shri Arjun Kisanrao Pawar)
 336. Shri Prachip Balasheb Deshmukh)
 337. Shri Sunil Tanaji Bacchao)
 338. Shri Balu Devaji Kotke)
 339. Shri Vasant Bhivsan Mahale)
 340. Shri Ashok Kisan Agivle)
 341. Shri Manoj Kashiram Satarkar)
 342. Shri Kanchan Bhopaji Chavan)
 343. Shri Sudhir Somnath Dombare)
 344. Shri Shahid Rashid Abdul Aatif Shekh)
 345. Shri Ashok Shahdu Gaikwad)
 346. Shri Sanjay Manikrao Mapkar)
 347. Shri Hanumant Nagoba Gaikwad)
 348. Shri Abdul Masjid Abdul Kader Shekh)
 349. Shri Chandrakant Narayan Dalvi)
 350. Shri Bansu Dhonuji Kondhape)
 351. Shri Irfan Anwar Shaikh)
 352. Shri Nitin Shivdas Patil)
 353. Shri Shrikrushna Bhagwan.)

...Respondents

ORIGINAL APPLICATION NO. 1094 OF 2016

DISTRICT :Mumbai

1. Shri Ramakant Madhavrao Kothalikar,)
 Age 55, Occupation: Service,)
 API, RBI Section, Navi Mumbai Police)
 Commissionerate, Navi Mumbai.)
2. Shri Dilip Narhari Salunke,)
 Age 51, Occupation: Service,)
 API, Chinchwad Police Station, Pune)
 Pune Commissionerate, Pune.)
3. Shri Anil Suresh Honrao,)
 Age 52, Occupation: Service,)
 API, Anti Corruption Bureauk, Thane.)

4. Shri Popat Karbhari Ugale,)
Age 55, Occupation: Service,)
API, Traffic Branch Thane City)
Thane Police Commissionerate, Thane.)
5. Dr. Manohar Dadu Koli,)
Age 50, Occupation: Service,)
API, Crime Branch, Pune City)
Pune Police Commissionerate, Pune.)
6. Shri Prashant Vasant Satare,)
Age 53, Occupation: Service,)
API, PCR Office Colaba.)
Police Commissionerate,)
Mumbai.)
7. Shri Vijay Akaram Ingle,)
Age 56, Occupation: Service,)
API, Special Branch Thane City)
Police Commissionerate, Thane.)
8. Shri Malhari Dattatraya Adgale,)
Age 57, Occupation: Service,)
API, HSP, SP Thane, Thane.)
9. Smt. Sugandha Shivnath Bagul,)
Age 57, Occupation: Service,)
API, Crime Branch Thane City)
Thane.)
10. Shri Mohamad Bashirkhan Deshmukh,)
Age 56, Occupation: Service,)
API, Navi Mumbai Police Commissionerate,)
Navi Mumbai.)

11. Shri Shahaji Narayan Pawar,)
 Age 49, Occupation: Service,)
 API, Dahanu Police Station)
 Dist. Palghar.)

12. Shri Ashok Manohar Salve,)
 Age 53, Occupation: Service,)
 API, ACB, Palghar.)
 At Post, Tal. Dist. Palghar.)

...Applicants

VERSUS

1. The State of Maharashtra,)
 Through Secretary,)
 Home Department,)
 Mantralaya, Mumbai – 400 032.)

2. The Director General of Police,)
 Maharashtra State,)
 Colaba, Mumbai – 400 001.)

3. Maharashtra Public Service Commission,)
 Through Secretary,)
 Bank of India Building Fort, Mumbai.)

4. Shri Dnyandev Baburao Kedar,)
 API attached to protection branch,)
 R/o. B-1/7, Police Officers Quarters,)
 Borivali Police Station (Compound,)
 S.V. Road, Borivali (West),)
 Mumbai – 400 092.)

5. Shri Pravin Vitthal Kahanpure,)
 API attached to Panvel Police Station,)
 R/o. Krushnakunj, Vaishnav Nagar,)
 B-161/82, Vijapur Road, Solapur.)

6. Shri Santosh Dattaram Sawant,)
 API, attached to Uran Police Station,)
 R/o. New Body ground Police line,)
 Room No.24, Mazgaon,)
 Mumbai – 400 010.)
- 6-A. Irfan Anwar Shaikh)
 6-B. Nitin Shivdas Patil)
 6-C. Shrikrishna Bhagwan Horgude)
 6-D. Ashok Shridhar Ugale)
 6-E Mahesh Maruti Patankar)
 All through Advocate Kishor Jagdale)
 M.A.T. BAR, Mumbai.)

...Respondents

7. Ramkrishna Naayan Pawar)
 8. Pravin Vitthal Khanapure)
 9. Gonduram Wakelaji Bangar)
 10. Mukund Vasantryao Kulkarni)
 11. Sanjay Sudam Khedekar)
 12. Bharat Tukaram Choudhari)
 13. Rajendra Pandurang Barge)
 14. Srikant Gunavant Adate)
 15. Ajaykumar Janardan Sindkar)
 16. Vijay Dataram Kadu)
 17. VijayMadhukar Sarbhukan)
 18. Jitendra Eknathji Borkar)
 19. Arvind Vasantryao Patil)
 20. Uttam Govindrav Chakre)
 21. Prakash Vasantryao Pawar)
 22. Arvind Bhikaji Ghag)
 23. Sidharth Jalbaji Mane)
 24. Yograj Laxman Pardhi)
 25. Anant Eknathrao Purnapatre)
 26. Keshav Vitthal Wagh)
 27. Dattatray Pandurang Sonar)
 28. Dwarkadas Govindrao Gharjale/)
 Chikhalikar)
 29. Somdatt Govindrao Khandare)
 30. Laxman Anant Kamble)
 31. Satish Martand Ghotekar)

32. Balu Sukanya Bhoys)
33. Jagdish Chaburao Bhambal)
34. Bhaskar Dattatray kadam)
35. Rajendra Jagannath Ingale)
36. Sharad Haribhau Murkute)
37. Vikas Krushna Padale)
38. Sanjaykumar Jivan Patange)
39. Digambar Hari Bhadane)
40. Prakash Krushnarav Pasalkar)
41. Sandip Pandurang Bhosale)
42. Kishor Dhoman Patil)
43. Rajendra Dagadu Bhavsar)
44. Sanjay Mahadev Jadhav)
45. Jagannath Aabaji More)
46. Samadhan Chandrabhan Nagare)
47. Khajimoyeenoddin Saipan Patel)
48. Arunkumar Babanrao Sapkal)
49. Ambadas Laxmanrao Sarode)
50. Avinash Baburao Aundhkar)
51. Balasaheb Sadashiv Badhe)
52. Rama Sadashiv Padwal)
53. Dnyandev Bhimrao Bajabalkar)
54. Dilip Vithoba Gangurde)
55. Pandit Sopanrao Kachave)
56. Suresh Chintaman Manore)
57. Chandramohan Chandrakant Dube)
58. Sunil Narayan Shinde)
59. Tanaji Bhiva Darade)
60. Sudhakar Bhimrao Kore)
61. Pirtaji Babu Tupe)
62. Sanjay Bhujangrao Choube)
63. Anil Narayan Dhole)
64. Bhagwan Dattatray Kapkar)
65. Bhaskar Hambirrao Kokare)
66. Khanderao Dinaji Paitalewad)
67. Chandsab Kadarsab Kurbache)
68. Nandkumar Jayram Mandalik)
69. Sham Kalu Nikam)
70. Udaysing Nimba Salunkhe)
71. Rameshwar Jayram Pimpawarewar)
72. Sardasing Ajabsing Thakur)
73. Rajendra Krushnaji Gujar)
74. Ashok Narayan Lande)

75. Sampat Kisan Pawra)
76. Anil Ramesh Mayekar)
77. Nandkishor Digambar Saste)
78. Ansaram Satbaji Aagarkar)
79. Ajit Dhondiram Dalavi)
80. Narendra Dnyaneshwarrao Kosurkar)
81. Balasaheb Sahebrao Shinde)
82. Dilip Shantaram Vichare)
83. Pramod Rohidas Waghmare)
84. Suresh Laxman Gore)
85. Gulabdasthagir Ramjan Enamdar)
86. Mahendrasing Natthusing Pardeshi)
87. Naresh Pandurang Parve)
88. Bhaskar Arjun Pawar)
89. Prashant Vinayak Sawant)
90. Gorakh Dinkarrao Darekar)
91. Suryakant Devrao Kokane)
92. Dilip Gajanan Dhamunase)
93. Nitinkumar Shankar Kambale)
94. Nitin Mayyappa Landage)
95. Vikas Shekhujirao Patil)
96. Dipak Tukaram Sawant)
97. Vidyasagar Dayasagar Shrimandvar)
98. Ajitkumar Ramchandra Jadhav)
99. Vilas Sahadu Pujari)
100. Madhukar Ganpat Sawant)
101. Chandrakant Vitthal Tendulkar)
102. Shrikant Laxman Bachake)
103. Shivaji Somaji Gaikawad)
104. Vijay Yashwant Mahajan)
105. Maruti Namdev Muluk)
106. Mahadev Krushna Naikwade)
107. Namdev Chindhuji Ganjude)
108. Hemantkumar Prabhakar Patil)
109. Narayan Shankar Raut)
110. Vishwanath Balu Sid)
111. Pralhad Kishanrao Katkar)
112. Byankat Madhavrao Kendre)
113. Kiran Dnyandev Salve)
114. Druvas Ramcharan Bavankar)
115. Vaman Haribhau Hemane)
116. Nilesh Mahadevrao Bramhane)
117. Rajesh Sheshravji Kadu)

118. Rameshwar Janaba Patil)
119. Pandharinath Ramchandra Sawant)
120. Digambar Bhikaji Ingale)
121. Atul Ashok Aher)
122. Ravindra Laxmikant Dube)
123. Dilip Dattatray Landge)
124. Uddhav Sambhaji Rajage)
125. Dinkar Bhaskar Raut)
126. Majaharali Abunalib Sayyed)
127. Dattaram Gopinath Bagave)
128. Pradip Madhavrao Kakade)
129. Prakash Kavaduji Tunakalvar)
130. Kishor Kishanrao Borde)
131. Vijay Vishnu Chavan)
132. Moreshwar Balakrishna Barapatre)
133. Ravsaheb Dagadu Pawar)
134. Vijay Kaka Thakur)
135. Laxman Sahebrao Deshmukh)
136. Tukaram Shankar Koyande)
137. Madhukar Laxmanrao Pradhan)
138. Santosh Dattaram Sawant)
139. Mangesh Savalaram Prabhu)
140. Digambar Bhavani Shinde)
141. Dnyandev Baburav Kedar)
142. Anil Gangaram Koltharkar)
143. Magan Vena Mehete)
144. Tayyab Yunus Mujaavar)
145. Sujata Atmaram Varang)
146. Ajit Tukaram Chitale)
147. Ashok Uttamrav Giri)
148. Vijay Prabhat Malache)
149. Prabhakar Vitthal Matte)
150. Arun Bhagirath Pardeshi)
151. Balu Gopinath Pitale)
152. Dattatray Vishnu Thakar)
153. Dilip Vishwanath Tidake)
154. Abhimanyu Baliram Salunkhe)
155. Shashikant Aananda Bhat)

156. Sambhaji Baban Sabale)
157. Anil Haribhau Tanpure)
158. Bhagwan Mariba Dhabdage)
159. Shankar Balu Galande)
160. Suresh Ramchandra Jagtap)
161. Kundalik Tukaram Koyeegude)
162. Sunil Arjun Khedekar)
163. Prashant Ramchandra Mane)
164. Vijay Shivdas Mane)
165. Ganesh Manikrao Sondare)
166. Vishwajeet Prataprao Suryawanshi)
167. Vilas Shyamrao Bhosale)
168. Eshamoddin Nasir Pathan)
169. Sushyant Appaji chavhan)
170. Balu Bhagwant Katale)
171. Suhas Gangadhar Shejul)
172. Umakant Bhausahab Tannu)
173. Ganpat Doulatrao Gaikwad)
174. Sanjay Pujirav Gaikwad)
175. Manohar Ankush Harpude)
176. Bharat Krushna Kindre)
177. Manohar Parasu Patil)
178. Dilip Haribhau Rakh)
179. Dinesh Vasudev Sawant)
180. Sandip Shantaram Shivale)
181. Balak Pandurang Koli)
182. Sanjaykumar Ramnath Bramhane)
183. Sampat Bhimrav Chavhan)
184. Sanjay Mahadev Ahivale)
185. Prakash Sakharam katkar)
186. Vaijnath Kisanrao Mundhe)
187. Nandkumar Bhiku Kelaskar)
188. Bhanudas Vasudevrao Pidurkar)
189. Ganpat Satwaji Rahire)
190. Bapu Maruti Rokade)
191. Popat Narayan Salunkhe)
192. Madhu Nana Shinde)

193. Krushan Pandurang Yadav)
194. Suryakant Vithu Kharat)
195. Vishwanath Laxman Rathod)
196. Sanjay Manaji Popalghat)
197. Yuvraj Shantaram Mhaskar)
198. Rajendra Kashinath Shimpi)
199. Manoj Chandrakant Limbar)
200. Satish Sopan Pawar)
201. Mohammad Yakub Dange)
202. Shashikant Bapu Rokade)
203. Sanjay Baburao Ambre)
204. Sakharam Ramchandra Bankar)
205. Kailas Vitthal Bondre)
206. Vyankatrao Latuji Kawas)
207. Premprakash Marotrao Makode)
208. Sudhakar Nilkanth Patil)
209. Vandana Rajanikant Shrisunder)
210. Ramesh Shankar Devkar)
211. Dattatray Shankar Khade)
212. Sayyed Harun Ibrahim Rizavi)
213. Prabhakar Uttamrao Wagh)
214. Vijaykumar Vitthal Wakase)
215. Manish Haridas Bansode)
216. Vilas Shankarrao Deshpande)
217. Sunil Bhimrao Gidde)
218. Bhausahab Dadaba Gondkar)
219. Jagganath Gatalya Gaikwad)
220. Jitendra Anand kadam)
221. Anandrao Haraji Shende)
222. Sunil Gajanan Thopate)
223. Bhimsing Harising Chavhan)
224. Dilip Shivajirao Dolare)
225. Rajkumar Digambar Hasabe)
226. Tukaram Bala Jagtap)
227. Ravindra Vasudev Kudapkar)
228. Bhanudas Raghunath Nimbhore)
229. Pradipkumar Pandharinath Shivale)

230. Shivaji Yadavrao Shivthare)
231. Devidas Kisan Dumane)
232. Sunil Prabhakarrao Kulkarni)
233. Honaji Maruti Lande)
234. Ravindra Vitthal Etmane)
235. Hemant Subhash Patil)
236. Mahendra Vaman Shinde)
237. Sanjay Sheshrao Adhav)
238. Sudhir Nivrutti Gavali)
239. Ashok Sukhdevrao Sakhare)
240. Balkrishna Narayan Chavhan)
241. Arun Vishwanath Kendre)
242. Vishwanath Digambar Naikwade)
243. Dilip Vishwas Gaikwad)
244. Anant Nivruti Narute)
245. Pramod Bhau Sawant)
246. Jitendra Prabhakar Shahane)
247. Devidas Sattu Vanjale)
248. Vilas Hiranman Patil)
249. Sandip Sakharam Shinde)
250. Adinath Sahebrao Ahire)
251. Shankar Ravaji Chavhan)
252. Balkrishna Tukaram Mote)
253. Sampat Ramchandra Gadhave)
254. Vikas Mahadev Mhamunkar)
255. Anandrao Apparav Ningdali)
256. Pradip Vajirao Patil)
257. Narayan Vaman Desai)
258. Vijay Atmaram Sontakke)
259. Hanumant Rajaram Ware)
260. Asif Basakwar Shaikh)
261. Krushna Dhondiram Kadam)
262. Mohan Baburao Kadam)
263. Vilas Kamlakar Kulkarni)
264. Jaywant Shambhu Nagrale)
265. Jagan Ganpat Pawar)
266. Rajendrasing Bhiksing Deshmukh)

267. Atul Shankarrao Gharpande)
268. Sanjay Mahadev Nanavare)
269. Shivraj Laxman Gavali/Patil)
270. Shanshikant Shantaram Yadav)
271. Kishor Vasantrya Patil)
272. Haribhau Dnyaneshwar Shitole)
273. Dipak Bajirao Gondhali)
274. Dwarkanath Mahadu Gondake)
275. Ashok Vitthalrao Bele)
276. Dattatray Navasa Survase)
277. Durgaprasad Mohanlal Tiwari)
278. Shivaji Ganpat Auti)
279. Nandan Vitthal Bagade)
280. Vikas Sukhdev Devare)
281. Mohansingh Mahadevsing Rajput)
282. Uday Manohar Rane)
283. Shivshankar Bhagwanrao Bondar)
284. Vijay Ramkrushna Rathod)
285. Srikant Murlidhar Patil)
286. Munaf Ahmadfarid Shaikh)
287. Pandurang Maloji Kotwar)
288. Krushna Jagnath Chavhan)
289. Vishnukant Tukaram Gutte)
290. Prasad Namdev Sanas)
291. Suresh Kishan Ghadge)
292. Ramchandra Kagnath Bandekar)
293. Raju Bhaurao Kharde)
294. Ganesh Ankush Harpude)
295. Akabar Abdul karim Patel)
296. Sunil Nivrutti Tambe)
297. Ramakant Hanmantrao Nagargoje)
298. Sharad Ramchandra Kulkarni)
299. Devanand Raghunath Lonare)
300. Rajendra Chandrakant Sawant)
301. Ashok Krushnaji Mane)
302. Sunil Rajaram Ghosalkar)
303. Dilip Babanrao Lukade)

304. Aniruddha Sopanrao Kakade)
305. Sharad Sadashiv Kadam)
306. Rahendrasing Shankarsing Pardeshi)
307. Balu Namdeo Patkule)
308. Nivrutti Vishwanath Avhad)
309. Dharmu Tukaram Rathod)
310. Shankar Maruti Mane)
311. Anil Bhimrao Londhe)
312. Raju Trambakrao Bahadure)
313. Gajanan Rajaram Sargar)
314. Kishor Ramdas Naik)
315. Suresh Haribhau Sarade)
316. Balkrishna Dhakalya Pavara)
317. Shankar Bhiku Salunkhe)
318. Prakash Purushottam Suryavanshi)
319. Dhananjay Mahadevrao Sayare)
320. Chandrakant Bhagwan Mane)
321. Santosh Dattaram Sawant)
322. Yashwant Rambhau Vatal)
323. Chandrakant Shrirang Suryavanshi)
324. Vijaykumar Shankar Kadam)
325. Ravindra Anandrao Patil)
326. Arjun Maruti Jagdale)
327. Prakash Dagadu Jadhav)
328. Adikrao Bapu Hajare)
329. Salimkhan Itbarkhan Tadavi)
330. Dattatray Tukaram Karche)
331. Gajanan Sakharam Kharde)
332. Kirankumar Digambarrao Thopade)
333. Prakash Sonu Choudhari)
334. Ashok Marotrao Meshram)
335. Babasaheb Kesu Chavhan)
336. Manohar Navruji Kotnake)
337. Arjun Kisanrao Pawar)
338. Pradip Balasaheb Deshmukh)
339. Sunil Tanaji Bachhav)
340. Balu Devaji Kokate)

341. Vasant Bhivsan Mahale)
 342. Ashok Kisan Angivale)
 343. Manoj Kashiram Satarkar)
 344. Kanchan Bhopaji Chavhan)
 345. Sudhir Somnath Thombare)
 346. Shahid Rashid Abdul Latif Shaikh)
 347. Ashok Shahadu Gaikwad)
 348. Sanjay Manikrao Bhapkar)
 349. Hanmant Nagoba Rajitwad)
 350. Abdul Majid Abdul Kadar Shaikh)
 351. Chandrakant Narayan Dalvi)
 352. Bansu Danuji Kodape)
 All added Respondent Nos.7 to 352 through)
 the office of Director General of Police,)
 M.S. Shahid Bhagatsing Marg, Mumbai.)

.....Added Respondent Nos.7 to 352.

O.A.No.918/2015.

Shri M.R. Patil, learned Advocate with Shri D.B. Khaire, learned Counsel for the Applicants.

Shri K.B. Bhise, learned Presenting Officer for Respondents No.1 to 3.

Shri M.D. Lonkar, learned Advocate for Respondent No.4.

Shri A.V. Bandiwadekar, learned Advocate for Respondents No.90, 142, 201, 258 and 274.

O.A.No.1094/2015.

Shri C.T. Chandratre, learned Advocate for the Applicants.

Shri N.K. Rajpurohit, learned Chief Presenting Officer for Respondents no 1 to 3.

Shri M.D Lonkar, learned advocate for Respondents no 4, 5 & 6.

Shri K.R Jagdale, learned advocate for Respondent nos 6A to 6E.

Shri A.V Bandiwadekar, learned advocate for Respondents no 351 to 355.

**CORAM : Shri Rajiv Agarwal, (Vice-Chairman)
Shri R.B Malik (Member) (J)**

DATE : 07.06.2017

PER : Shri Rajiv Agarwal, (Vice-Chairman)

ORDER

1. Heard Shri Shri M.R. Patil, learned Advocate with Shri D.B. Khaire, learned Counsel for the Applicants in O.A no 918/2015, Shri C.T Chandratre, learned advocate for the Applicants in O.A no 1094/2015, Shri K.B. Bhise, learned Presenting Officer for Respondents No.1 to 3 in O.A no 918/2015 and O.A 1094/2015, Shri M.D. Lonkar, learned Advocate for Respondent No.4 in O.A no 918/2015 and Respondents no 4, 5 & 6 in O.A no 1094/2015, Shri A.V. Bandiwadekar, learned Advocate for Respondents No. 90, 142, 201, 258 and 274 in O.A no 918/2015 and Respondents no 351 to 355 in O.A no 1094/2015 and Shri K.R Jagdale, learned advocate for Respondents no 6A to 6E in O.A no 1094/2015.

2. These Original Applications were heard together and are being disposed of by a common order as the issues to be decided are interlinked.

3. O.A no 918/2015 has been filed by the Applicants who are from amongst 885 Police Sub Inspectors (PSIs) who were promoted on 30.4.2001 and were confirmed on 1.1.2002, 1.1.2003 and 1.1.2004. They have challenged the seniority of the private Respondents, who were recruited as Police Sub-Inspectors, on the basis of Limited Departmental Examination conducted by M.P.S.C who joined on 1.6.2004 but have been granted initial date of appointment from 22.3.2000 by the Respondent no.2 (hereinafter referred to as D.G.P).

4. O.A no 1094/2015 is filed by the persons who were appointed as Police Sub-Inspectors (PSIs) on the basis of requisition sent by the Respondent no. 1, viz. the State Government to Maharashtra Public Service Commission (MPSC) on 13.8.1998. These persons (179 recommended initially by MPSC) were sent on training on 22.3.2000. After some unsuccessful candidates filed O.A no 308/2001, 309/2001 etc. before this Tribunal and W.P no 2625/2001 before Hon'ble Bombay High Court, a total of **103** candidates were sent for training on 16.4.2001 and 346 candidates were sent for training on 1.6.2004. By order dated 31.8.2015, Director General of Police, Maharashtra State, (D.G.P) has given deemed date

of appointment to these late entrants in service also with effect from 22.3.2000. This was done ostensibly as per the order dated 7.7.2015 in O.A no 37/2015. The Applicants in this Original Application were not made a party in the aforesaid O.A no 37/2015 and as the order of D.G.P adversely affects them, they have filed this Original Application, challenging order dated 31.8.2015 passed by the D.G.P. (Respondent no. 2 in both O.As).

5. To understand the issues raised by the Applicants in these Original Applications in proper perspective, let us start from the Recruitment Rules for the post of Police Sub Inspectors, viz. the Police Sub-Inspector (Recruitment) Rules, 1995. These rules have been framed in exercise of powers under the Bombay Police Act, 1951. Rule 3 prescribes three modes of recruitment for the post of P.S.I, viz.

- | | | | |
|-----|--|---|-----|
| (a) | by promotion | : | 25% |
| (b) | by selection of Police Personnel on the basis of Limited Departmental Examination, held by M.P.S.C | : | 25% |
| (c) | by nomination | : | 50% |

In the year 1998, the State Government had sent a requisition to fill up 241 posts of Police Sub Inspectors (P.S.I) by Limited Departmental Examination (L.D.E),

which was to be conducted by M.P.S.C. Result of L.D.E was declared by M.P.S.C, recommending a total of 179 candidates on 22.9.1999. It appears that though 179 posts were filled, and requisition was sent to fill up 241 posts, the total number of posts which were available to be filled under Rule 3(b) by Limited Departmental Examination were 454. M.P.S.C recommended additional 48 names in the wake of order of this Tribunal. In a bunch of O.As no 308/2001, 3009/2001 etc. this Tribunal by order dated 22.6.2001, (Exhibit R-1, page 299 of the Paper Book in O.A no 918/2015) passed the following order:-

“30. We, therefore, hereby order that the Respondent no. 1 (Government shall forthwith give requisition for 150 or so posts vacancies) in respect of the examination of 1998-99 and the Respondent no. 2 Commission (Maharashtra Public Service Commission) shall prepare the select list accordingly, in the light of the entire above discussion. The Respondents shall also take immediate steps to hold the succeeding examination.”

This order of the Tribunal was challenged in a group of Writ Petitions no 4625/2001 etc. before Hon'ble Bombay High Court, by the unsuccessful candidates. M.P.S.C in the affidavit in reply dated 19.1.2016 in O.A no1094/2015 has stated as below about the Limited

Departmental Examination conducted by it in 1998-99, and which has been the consistent stand taken by M.P.S.C up to Hon'ble Supreme Court:-

“11. In case of the Police Sub Inspector Limited Departmental Examination 1998, a total of 726 candidates, i.e. 4 times the number of posts requisitioned were held eligible for Physical Test for which 605 qualified the Physical Test. Finally 227 candidates qualified the exam as per the standards fixed. The remaining 378 candidates were below the cut off line. The candidates who were declared as “Not Qualified” approached the Hon'ble MAT. The said matters were disposed of by the Hon'ble Maharashtra Administrative Tribunal as the Government had submitted that they had further vacancies. The Tribunal directed the Government to take the necessary steps to fill in the backlog seats and the Commission to respond to the same. Accordingly, the Government forwarded a requisition of 463 posts. But the Commission as a special case recommended the names of 48 available candidates who had qualified and were available on waiting list. However, the above mentioned candidates again approached the Hon'ble Tribunal. The Hon'ble Tribunal by

their judgment directed the Commission to recommend the names of 150 more candidates in addition to those already sent to the Government.”

This contention of M.P.S.C that only 179 + 48 candidates were found eligible in the Limited Departmental Examination was not accepted by Hon’ble High Court. In the judgment dated 24.4.2002 in a group of Writ Petition no 4625/2001 etc. Hon’ble High Court held that:

“6. The Commission has completed the job, laid down standard of the examination and it found 726 candidates as suitable for appointment and as per the earlier requisition, 179 candidates out of 726 found eligible by it for appointment. The appointments accordingly were made. It is hereafter the grievance started. Those who were not recommended and who learnt that they were also held eligible by the M.P.S.C moved before the Tribunal as aforesaid and before the Tribunal it was contended on behalf of the State that the State has taken a policy decision to fill up 463 more vacancies from amongst the candidates who had passed the written and physical examination conducted by M.P.S.C and affidavit to that effect was also filed before the Tribunal.”

Hon’ble High Court directed that:

“11. The Respondent M.P.S.C is hereby directed to remit to the State of Maharashtra within one month from the receipt of this order the names of 406 candidates as additionally required by the State of Maharashtra. This shall be in addition to 179 candidates already sent and it will include 150 seats additional ordered by the Tribunal. In effect, the Commission would remit the names of 406 candidates plus 179 candidates, it has already sent 179 candidates, so it will additionally sent the names of 406 candidates within stipulated period.”

This judgment of Hon'ble Bombay High Court was challenged before Hon'ble Supreme Court by Special Leave Petition (Civil) no. 10068/2002 by M.P.S.C. By order dated 19.9.2003, Hon'ble Supreme Court dismissed the Petition on the ground that no rights of M.P.S.C were found to be affected.

6. As a result of judgment of this Tribunal in various Original Applications and judgment of Hon'ble High Court dated 22.4.2002 in various Writ Petitions, the candidates who appeared for 1998-99 Limited Departmental Examination for the post of P.S.I were appointed /sent for training on different dates by D.G.P. M.P.S.C had recommended 179 candidates on 22.2.1999. 48 additional candidates were recommended in 2000. In addition, 131 and 346 candidates were recommended by

M.P.S.C. These candidates were sent for training on the following dates:-

Sr No	Number of candidates	Date of recommendation by M.P.S.C	Date of Training
1.	180 (179 + 1)	22.2.1999	22.3.2000
2.	131	(i) 48 - Date not mentioned (ii) 83 - - do -	16.4.2001 16.4.2001
3.	346	(i) 321 - 3.2.2004 (ii) 37 - 19.4.2004	1.6.2004

It can be seen that candidates, selected as PSI on the basis of Limited Departmental Examination held in 1998-99, were sent for training in 3 batches. The first batch was of 179 candidates, initially recommended by M.P.S.C on 22.2.1999. Though 179 candidates were recommended, 180 candidates were sent. May be one candidate was recommended by M.P.S.C, earlier.

7. M.P.S.C, in the affidavit in reply dated 21.12.2015 in O.A no 918 of 2015 has stated in para 11 that it had received requisition for 241 posts on 21.4.1998 and recommended 179 names on 22.2.1999. In para 11.1, it is stated that it recommended 48 candidates, who were on the waiting list. The date of sending these names is not mentioned. In para 12.2, it is stated that it recommended 321 candidates on 3.2.2004

and 37 candidates on 19.4.2004. A total of $179 + 48 + 321 + 37 = 585$ candidates (para 17.4 of the affidavit of M.P.S.C dated 1.7.2015 in O.A no 37/2015) have been recommended by M.P.S.C on various dates. The number of candidates sent for training, however comes to $180 + 131 + 346 = 657$. These figures do not match. Another fact is that 131 candidates were sent for training on 16.4.2001, while the order of Tribunal to send additional 150 names was passed on 22.6.2001, i.e. two months after that batch was sent on training. It appears that on 16.4.2001, 48 candidates were sent for training. Some more candidates must have been recommended by M.P.S.C before the order dated 22.6.2001, the details of which have not been furnished in these Original Applications, who were also sent on training on 16.4.2001. In para 6.5 of O.A, the Applicants have explained that 131 candidates included 48 recommended by M.P.S.C and 83 candidates who were selected in Limited Departmental Examination held prior to 1998. The Respondent no. 2 in his affidavit in reply dated 21.12.2015 in O.A no 918/2015 have not specifically denied this particular fact. We take the contention of the Applicants to be correct.

8. The Applicants in O.A no 918/2015 are the promotees, who were promoted as PSI under Rule 3(a) of the Police sub-Inspector (Recruitment) Rules, 1995 on the basis of Qualifying Departmental Examination on the basis of seniority subject to fitness. It is clear that

promotions are to be given on the basis of seniority, subject to fitness and a Police personnel, also has to pass Qualifying Departmental Examination. 25% of the posts are to be filled by this mode of recruitment. The Applicants in O.A no 918/2015 had appeared in the Qualifying Departmental Examination held by D.G.P in August, 2000, result of which was declared on 20.10.2000. 897 candidates were successful in the Qualifying Departmental Examination and 885 were considered eligible for promotion as PSI by the Departmental Promotion Committee. 601 candidates were promoted as PSI on 30.4.2001. Remaining 284 candidates were promoted temporarily as regular vacancies (25%) from promotion quota were not available and they were promoted on regular basis as and when regular vacancies from promotion quota become available. The Applicants have objected to grant of deemed date of appointment as PSI to 346 candidates, who were selected as PSI on the basis of Limited Departmental Examination held in 1998-99 but who were sent for training on 1.6.2004. By order of D.G.P dated 31.8.2015 they have been given deemed date of appointed on 22.3.2000. The Applicants in O.A no 918/2015 have no objection if the 131 candidates sent on training on 16.4.2001 are given deemed date of appointment as 22.3.2000. However, regarding the 346 candidates, who were sent for training on 1.6.2004, the Applicants have contended that they cannot be granted deemed date of appointment as 22.3.2000.

9. The Applicants in O.A no 1094/2015 are also from the category of promotees, appointed as PSI under Rule 3(a) of the Police Sub-Inspector (Recruitment) Rules, 1995. Their case is more or less similar to the case of the Applicants in O.A no 918/2015.

10. Let us now consider the case of the Applicants, who are promotees in both these Original Applications. It was argued that a person appointed to a post in the Government on a particular date cannot be given seniority from an earlier date, when he was not even appointed to that post on that date. The seniority in a cadre has to be finalized only as per the statutory rules, which in the present case are prescribed in the Maharashtra Civil Services (Regulation of Seniority) Rules, 1982 (hereinafter called Seniority Rules). These rules clearly provide that seniority in a post or cadre is determined on the basis of continuous officiation in a particular post. For the fresh appointees to the post of P.S.I, the date of sending them on training is the date of initial appointment on that post. This covers both who are appointed as P.S.I under Rule 3(b) & 3(c) of the Police Sub Inspector (Recruitment) Rules, 1995 as both are fresh appointments to the post of P.S.I. For those appointed as PSI under Rule 3(a), no training is required, and the date of promotion order is the date of appointment as P.S.I. The Applicants were given promotion order as P.S.I on 30.4.2001 and that date has

to be treated as their date of appointment in that post and for seniority in the cadre of P.S.I. For the private Respondents, the date of appointment as P.S.I was the date on which they were sent for training. For the batch of 346 candidates, the date of start of training was 1.6.2004, and they have to be given date of initial appointment /seniority in the cadre of P.S.I from that date only. Only major exception to Rule 4(1) of the Seniority Rules that seniority of a Government servant in any post, cadre or service shall ordinarily be determined on the length of his continuous service is contained in Rule 5(2). However, that Rule is not applicable in the present case. No doubt, the rule is applicable for determining inter-se seniority amongst those who are recruited from the same source. However, if a person higher in rank reports for duty after 30 days of joining a person lower in rank to him, he will not be automatically entitled to seniority as per his rank unless the time for joining the post is extended by the Competent Authority and approval is granted by Government under Rule 5(1). Learned Counsel for the Applicants argued that Rule 5(1) makes it clear that seniority from a date earlier than date of actual appointment can be granted only by the Government and D.G.P had no authority to do so. None of the rules in the Regulation of Seniority Rules can be invoked to grant retrospective seniority to the private Respondents. Learned Counsel for the Applicants argued that the Respondent no. 2 has always been using Rule 89 of the Bombay Police Manual for assigning seniority in

the cadre of P.S.I. Even if this rule, viz. Bombay Police Manual Rule 89 is held to be obsolete, for the purpose of fixing seniority in the cadre of P.S.I, the date of joining the training has to be treated as the date of appointment as it has acquired force of law due to long usage and there is no other provision, statutory or otherwise, which will determine the date of entry into service of a P.S.I under Rule 3(b) or 3(c) of Recruitment Rules.

11. Learned Advocate Shri C.T Chandratre, raised the issue of limitation. He argued that the seniority of the Applicants vis-a-vis the private Respondents was already fixed and after more than 10 years, the settled position has been unsettled by the Respondent no. 2, D.G.P, without any legal basis while passing the impugned order dated 1.8.2015. The interim order of this Tribunal dated 7.7.2015 in O.A no 37/2015 is mentioned in the order dated 31.8.2015 by D.G.P. However, that order was not passed on merits, and it was based on the undertaking given by D.G.P in his affidavit in reply to this Tribunal. As the D.G.P had agreed to reopen the case and consider the representations of some of the present private Respondents in this Original Application, this Tribunal merely directed that the representations of the present private Respondents (who were the Applicants in O.A no 37/2015) may be decided. That order cannot be construed to have given any direction to the Respondent no. 2, to reopen the seniority already decided. It only asked D.G.P to hasten the

process to consider representation of the private Respondents. Learned Advocate Shri Chandratre, argued that the 'Doctrine of Restitution' was the only ground on which the Respondent no. 2 could have disturbed the well settled seniority from 2004 to 2015. However, as the private Respondents were never given any other date than 1.6.2004 as the date of appointment, that ground was also not available to them. Learned Advocate Shri Chandratre argued that the interim order of this Tribunal in O.A no 37/2015 should not have been quoted by the Respondent no. 2 in the impugned order, as the present Applicants were not a party to O.A no 37/2015. Learned Advocate Shri Chandratre contended that the Respondent no.2 has passed a biased order in favour of the private Respondents. Though the State Government has taken a stand different from that of the D.G.P, it has remained a mute spectator. Learned Advocate Shri Chandratre relied on the judgment of Hon'ble Supreme Court in the case of **C. JACOB Vs. DIRECTOR OF GEOLOGY & MINING : AIR 2009 SC 264** to impress that stale claims cannot be revived by repeated representations. However, D.G.P has passed the impugned order in violation of law laid down by Hon'ble Supreme Court. He also relied on the judgment of Hon'ble High Court in the case of **HARISH M. BAIJAL Vs. STATE OF MAHARASHTRA.**

12. Learned Chief Presenting Officer (C.P.O) argued on behalf of Respondents no 1 to 3 in both the

O.As that the present Applicants were not even borne on the cadre of P.S.I when the Respondent no. 3 held the Limited Departmental Examination in 1998-99. The promotees cannot challenge fixation of inter-se seniority amongst the persons selected as P.S.I on the basis of the Limited Departmental Examination held in 1998-99. The Respondent no. 2 has acted on the basis of various judgments of this Tribunal, viz O.A no 308/2001 dated 22.6.2002, and the judgment in O.A no 37/2015, mentioned in the impugned order. Rule 4(2)(a) of the Maharashtra Civil Services (Regulation of Seniority) Rules, 1982 is applicable in the present case and impugned order is perfectly legal.

13. Learned Advocate Shri A.V Bandiwadekar submitted written arguments on behalf of the Respondents no 90, 142, 201, 258, 274 in O.A no 918/2015 and 351 to 355 in O.A no 1094/2015. It is argued that the Applicants are P.S.Is who were promoted on the basis of Qualifying Departmental Examination held in August, 2000, while the Respondents were selected as P.S.I on the basis of Limited Departmental Examination held in 1998 and 2003. As the Respondents (in 1998 Limited Departmental Examination) were sent late for training due to litigation, they are entitled to get the date of start of training of the first batch as the date of their appointment as P.S.I. It was further contended that on 30.4.2001, 601 candidates out of 885 who qualified in the Departmental

Qualifying Examination, from 25% quota reserved for promotion. Promotion quota was fully utilized. By separate orders dated 30.4.2001, other 284 candidates who had qualified, were given ad hoc promotions as P.S.Is. These 284 candidates are not entitled to be given seniority from the date of promotion, but from the dates they were given regular promotion. It was argued that in C.A no 255/2013, Hon'ble Bombay High Court recalled earlier order dated 23.2.2011 in W.P no 465 of 2000 and this Writ Petition was ordered to be decided on merits. By order dated 28.6.2016, W.P no 465/2009 has been decided on merits and it has been held that 284 promotees will be entitled to seniority from the date of their regular promotion.

14. Learned Advocate Shri Jagdale adopted the arguments of Advocate Shri Bandiwadekar. He argued on the similar lines as argued by Learned Advocate Shri Bandiwadekar.

15. Learned Advocate Shri M.D Lonkar, in O.A no 918/2015 on behalf of the Respondent no. 4 and in O.A no 1094/2015 on behalf fo Respondents no 4,5 & 6 argued that the power of judicial review is quite limited. The Applicants in O.A no 918/2015 have challenged the order dated 31.8.2015 passed by the Respondent no. 2 about the persons who were appointed as P.S.Is from the quota of selection on the basis of Limited Departmental Examinations. The Applicants had no locus to challenge

determination of inter-se seniority from quota of other stream. Quota rule is not broken down. The case of the Applicants is that D.G.P has to follow Rule 89 of the Bombay Police Manual, which has been held obsolete by this Tribunal. The Applicants cannot claim relief on the basis of pleadings which are not in the Original Application. Learned Advocate Shri Lonkar argued that before passing the impugned order dated 31.8.2015 the present Applicants were given full opportunity to place their cases by the Respondent no. 2. It is not a case of breaking down of quota rule. Learned Advocate Shri Lonkar stated that he was not able to understand what was meant by the 'Doctrine of Restitution'. Learned Advocate Shri Lonkar relied on a number of judgments which are discussed subsequently.

16. Learned Advocate Shri Bandiwadekar has vehemently argued about judgment of Hon'ble Bombay High Court in W.P no 465/2009 etc. The final order of the Hon'ble High Court dated 28.6.2016 states:-

“The 601 candidates who were promoted on regular basis will rank senior to 284 candidates who were initially appointed on ad hoc basis but regularized thereafter. Suitable modification in this regard are therefore directed in D.G.P's order dated 15.11.2005 as well.”

Now this judgment is about inter-se seniority of promotees, who were promoted on the basis of Qualifying Departmental Examination held in 2000. This has no direct bearing on the deemed date of appointment granted by order dated 31.8.2015 by D.G.P to those selected as P.S.I on the basis of Limited Departmental Examination and who joined training on 1.6.2004. If some of the present Applicants were regularized as P.S.I (as promotees) after 1.6.2004, they will have no case for any relief in these Original Applications. Only those Applicants who were regularly promoted before 1.6.2004 are being considered in these Original Applications to determine whether they are entitled for any relief.

17. Let us now examine the order of this Tribunal dated 7.7.2015 in O.A no 37/2015. This order is mentioned in the circular dated 1.8.2015 issued by the Respondent no. 2, inviting objections to provisional seniority list and also the final seniority list dated 31.8.2015, issued by the Respondent no. 2. The order is reproduced in full:

“1. Heard Shri M.D Lonkar, the learned advocate for the Applicants and Shri A.J Chougule, the learned Presenting Officer for the Respondents.

2. Learned P.O has tendered affidavits on behalf of Respondent No. 3 (page no. 116A) and on behalf of Respondent No. 2 (Page no. 145). These are taken on record.

3. In affidavit in reply filed by the Respondent No. 2, Director General of Police has stated as follows:-

“WITHOUT PREJUDICE TO THE ABOVE, it is submission of this office that if the applicants makes fresh representations, that will be given due consideration and will be decided by the Respondent No. 2 on merits and the applicants would be communicated accordingly.”

(quoted from para 9, page 148 of short affidavit filed on behalf of Respondent no. 2)

4. We are of the considered view that the representations at page nos 105 and 108 are still pending and it would not necessary for applicant to submit fresh representations. These representations can be considered and decided.

5. On enquiry, learned P.O states that after taking instructions from the Law Officer Shri Upasani that minimum 8 weeks is necessary for deciding the representations.

6. We direct that the representations and claims of applicants be decided within 8 weeks from today.

7. Steno copy and hamdast is allowed to the learned P.O.

8. S.O to 15.9.2017.” (Though the date mentioned in the order is 15.9.2017, it probably was 15.9.2015).

It is quite clear that the Respondent no. 2 on his own undertook to consider the representations of the Applicants in O.A no 37/2015, without there being any order from this Tribunal. It is also a fact that the present Applicants were not a party in this Original Application. It is not clear as to what prompted the Respondent no. 2, D.G.P to reopen the whole issue of seniority in the cadre of P.S.I after all these years. This Tribunal merely noted the readiness of the Respondent no. 2, D.G.P to consider the representations of the Applicants in O.A no 37/2015 and directed the Respondent no. 2 to take a decision in a time bound manner. It was rather surprising that the Respondent no. 2 has attempted to portray as if the seniority list was revised due to the order of this Tribunal. The Respondent no. 2 never made a serious challenge to the aforesaid Original Application on the ground that it was delayed and was an attempt to reopen issues which were already decided. Hon'ble Supreme Court in the case of **C. JACOB** (supra) has clearly held that:-

“When a direction is issued by a Court/Tribunal to consider or deal with the representation, usually the directee (person directed) examines the matter on

merits, being under the impression that failure to do so may amount to disobedience. When an order is passed considering and rejecting the claim or representation, in compliance with direction of the Court or Tribunal, such an order does not revive the stale claim, nor amount to some kind of acknowledgement of a jural relationship to give rise to a fresh cause of action.”

In the present case, the Respondent no. 2 on his own undertook to consider representation of the Applicants in O.A no 37/2015. Clearly there is something more than what meets the eyes in the action of the Respondent no. 2.

18. The Applicants in O.A no 1094/2015 in para 6.13 have stated as follows;-

“6.13 The Short affidavit reply by Respondent No. 2 i.e. D.G in O.A 37/2015.

Applicants state that some important points of the reply are as under:-

- (i) That the application is hopelessly barred by limitation and on this point alone the O.A kindly be dismissed.
- (ii) The Applicants have not given any cogent reasons for the enormous gap of limitation of more than 05 years and 10 months nor they

have filed M.A for condonation of such enormous gap of limitation.

- (iii) Once their request was rejected by the office order of March, 2009 it is submitted that as per settled position of law and after passing more than five years and ten months the seniority of the personal who will be affected by giving seniority to the Applicants of 20.3.2000 cannot be disturbed or upset.
- (iv) Applicants have not impleaded number of the Police personnel direct nominees, promotees etc, whole be affected by retrospective seniority.
- (v) The MCS (Regulation of Seniority) Rules, 1982 are not applicable to the Police personnel but Rule No. 89 of Police Manual Vol. I, 1959 which is issued under the Maharashtra Police Act, 1951 is applicable.
- (vi) (SURPRISINGLY) in affidavit it is stated that if the Applicants makes fresh representations that will be given due consideration and it will be decided on merit.”

In the affidavit in reply dated 10.3.2016 the Respondent no. 2 has stated that:-

“16. With reference to para no. 6.13 of the O.A, it is submitted that this Hon’ble Tribunal had given due consideration to the issues involved in the matter of

O.A no. 37 of 2015 while dealing that matter and hence the averments raised are irrelevant and immaterial and not tenable.”

It is quite clear that the Respondent no. 2 took inconsistent position in his affidavit in O.A no 37/2015. On the one hand he claimed that the Original Application was time barred and on the other hand, he agreed to consider the representation of the Applicant therein. (emphasis added). This contradictory stand was not considered by this Tribunal while passing order dated 7.7.2015. The Respondent no. 2 had clearly failed to give a satisfactory reply to the averment in para 6.13 of the Applicants in this Original Application.

19. Learned Advocate Shri Lonkar has claimed that the impugned order dated 31.8.2015 is regarding inter-se seniority among those P.S.Is who were selected on the basis of Limited Departmental Examination conducted by M.P.S.C in 1998-99 and the present Applicants had no locus. We are not impressed by this argument. There was no dispute or confusion about inter-se seniority of those who were selected on the basis of Limited Departmental Examination conducted by M.P.S.C in 1998-99. In fact, 179 candidates were more meritorious than 48 candidates, who were, in turn more meritorious than 346 candidates who were selected as P.S.I on the basis of Limited Departmental Examination held by M.P.S.C in 1998-99. The seniority of the

candidates was fixed on the basis of the dates on which they were sent for training, i.e. on 22.3.2000, 16.4.2001 and 1.6.2004 respectively. The claim of 346 candidates was that they should be given date of appointment as P.S.I retrospectively from 22.3.2000. In the period between 22.3.2000 and 1.6.2004, many of the present Applicants got regularly promoted as P.S.I on 30.4.2001. If 346 candidates are given seniority from 22.3.2000, these Applicants will definitely be affected adversely. As they were not a party in O.A no 37/2015 in this Tribunal, they are well within their rights to file the present Original Application.

20. Learned Advocate Shri Lonkar has further stated that the Applicants are seeking relief under Rule 89 of the Bombay Police Manual, which is considered obsolete by this Tribunal by order dated 19.6.2014 in O.A no 631/2011. We find that the Respondent no. 2 has also relied upon the same rule, while filing affidavit in reply in O.A no 37/2015. Even if we disregard that rule, no other rule has been cited to determine the date of appointment of a person selected and appointed as P.S.I. If on the first appointment as P.S.I, a persons is sent on training, and that date is treated as date of appointment to the post of P.S.I, the Applicants cannot be faulted for claiming that, that date was the date of appointment of the Applicants in O.A no 37/2015 and private Respondents in the present Original Applications. This is

not a contention, which has any bearing on the outcome of these O.As.

21. Coming to the issue regarding the application of the Maharashtra Civil Services (Regulation of Seniority) Rules, 1982, in absence of any other rules being there for the Police Personnel, these rules are applicable for Police Personnel also. Rule 4(1) of these rules is very clear that ordinarily, seniority of a Government servant in a post, cadre or service shall be determined on the length of his continuous service therein. Plain reading of this rule, which is held to be applicable by this Tribunal to Police personnel by judgment dated 19.6.2014 in O.A no 631/2011, 346 persons who were sent for training on 1.6.2004 have to be given seniority in the cadre of P.S.I from 1.6.2004 and it will not be possible to assign any other earlier date to them for appointment as P.S.I. We have carefully scrutinized the aforesaid rules and are unable to find any provision for assigning a date earlier than actual date of appointment, except when a person was under suspension or superseded under Rule 5(5) & 5(6). Those rules are not applicable in the present case. Even when direct recruits selected in the same batch report for duty on different date, a period of 30 days is provided for keeping the inter-se seniority intact, even if a more meritorious person joins after joining date of a less meritorious person. Here, the facts are totally different. No person, who was more meritorious in the select list has joined after a less meritorious person. This rule 5(2)

is also not applicable. Rule 5(1) gives powers exclusively to grant a different date of appointment to the Government and D.G.P has no powers to change the date of appointment of a P.S.I.

22. It would be interesting to recapitulate some important facts in these Original Applications. The State Government has initially sent a requisition to fill up 241 posts of PSIs by Limited Departmental Examination. M.P.S.C issued Circular on 21.4.1998 inviting application. On 13.8.1998, the number of vacancies was reduced to 179. On 13.9.1998, M.P.S.C held a written examination and 726 candidates, i.e. four times the 179 vacancies, were called for physical test and interview. On 22.9.1999, M.P.S.C recommended 179 candidates, and 48 candidates were kept in the waiting list. These 179 (+1) candidates were sent for training on 22.3.2000. 48 candidates (+83) were sent for training on 16.4.2001. A total of 227 candidates were appointed even if initial requisition of 241 candidates is concerned. Now come the orders of this Tribunal dated 22.6.2001 in a group of O.A no 308/2001 etc. and order of Hon'ble Bombay High Court in a group of Writ Petition nos 4625/2001 etc. dated 24.4.2002. Hon'ble High Court ordered that 406 additional names to be sent by M.P.S.C to the Government. In the order of this Tribunal dated 22.6.2001, it is mentioned in para 16 that:-

“ 16. The applicants have pointed out that there were in fact more than 179 vacancies when the posts were advertised. According to Shri Bandiwadekar learned counsel the respondents failed to correctly assess the total number of vacancies as existed at the relevant time. In a group of matters being O.A no 630/1999 and 128 other matters, it was noted by the Tribunal in its order 19.7.2000, while disposing of the said group of matters that in the affidavit in reply filed on behalf of the respondents on reassessment of the number of posts to be filled in through Limited Departmental Examination, 463 posts are available (including the 179 posts for which the names were already recommended by the P.S.C) and the government have decided to fill in those posts from the Limited examination held in 1998 and PSC is being requested to recommend the names of candidates. Hence, with a direction to the P.S.C that it will take further action on the proposal of the Government, the said applications were disposed of. There was a confusion as to whether or not the said total number i.e 463 included 179 posts. That confusion still continues and on being asked by us to quote the exact figure of vacancies available as in February, 1999, the Government has not come out with a total figure of 454. It may be stated that 14 posts fell vacant from February 1998 to February 1999 and as such, it can be said that anticipated

vacancies which are normally taken into consideration were 14 the said figure of 454 includes the figure 14. Thus, the Government ought in fact to have given requisition for 454 posts instead of 179 posts in February, 1998.”

This Tribunal has concluded that the Government should have given requisition for 454 posts instead of 179 posts in February, 1998. The judgment had quoted Supreme Court judgment in the case of **SURINDER SINGH & ORS Vs. STATE OF PUNJAB & ANR : 1998 SCC (L & S) 65**, where it was held that normally, it is not permissible to make excess appointments over and above the vacancies advertised, but a policy decision can be taken to make excess appointment in rare and exceptional circumstances and in emergent situation. Based on this judgment, this Tribunal directed M.P.S.C to send 150 or so more recommendations, which would have meant that 179+ 48+150 (=377) posts would have been filled. This judgment is clearly based on policy decision of the State Government to fill up 463 posts as the affidavit in reply in O.A no 630/1999 & Ors. It is clear that additional candidates were required to be selected as the policy decision of the State Government and a revised requisition was sent to M.P.S.C after result were declared in respect of initial requisition of 179 candidates. So the candidates whose names are sent before revised requisition of the Government are definitely on a different footing than other selected candidates. They were

selected as per original requisition of the Government in 1998. Later State Government sent an additional requisition to M.P.S.C after selection of 179 candidates, and requested M.P.S.C to select the candidates based on the same examination. However, the requisition was for additional posts, and it will be difficult to hold that 346 candidates recommended by M.P.S.C after the judgment of Hon'ble High Court dated 24.4.2002 are on the same footing as 179 + 48 candidates selected as per original requisition. In fact, Hon'ble High Court has directed as follows:-

“13. The State will then proceed to issue appointment orders as prescribed by it. This be done expeditiously to avoid any loss of period to be caused to the successful candidates.”

This order clearly shows that Hon'ble High Court did not in any manner directed that the 406 candidates to be selected would be given the appointment retrospectively from the date on which 179 + 48 candidates were appointed. Hon'ble High Court only asked for expeditious appointment of remaining candidates. We have already held that Rules do not provide for retrospective appointment. In the present case the appointments were made in batches, due to change in requisition by Government and orders of this Tribunal and Hon'ble High Court. 346 candidates cannot be said to be eligible to get retrospective date of appointment

from 22.3.2000 on the basis of Seniority Rules. This Tribunal (Aurangabad Bench) in O.A no 326/2013 by judgment dated 18.4.2017 in the case of a person, who was selected for the post of Sales Tax Inspector (STI) but could not join as STI and joined as Assistant on 4.7.2005, has held that even if he subsequently joined as S.T.I on 8.2.2007, his seniority in the cadre of S.T.I would be considered only from 8.2.2007 on the basis of Rule 4(1) of the Maharashtra Civil Services (Regulation of Seniority) Rules, 1981. Facts are quite similar here and the private Respondents cannot be given any retrospective seniority in the cadre of P.S.I from a date different from date of their joining as P.S.I.

23. Learned Advocate Shri Bandiwadekar, has relied on the judgment of this Tribunal dated 4.9.2014 in O.A no 6/2013. In this case, the Applicant's services as P.S.I were terminated as his S.T Certificate was held to be invalid. Other similarly placed persons obtained stay order from Hon'ble High Court. The Applicant's termination from service was held to be invalid by Hon'ble High Court and he was reinstated in service. The Applicant was held eligible to get deemed date of appointment as P.S.I and deemed date of promotion as Assistant Police Inspector and Police Inspector. Facts are entirely different in the present Original Application and not applicable here.

24. Learned Advocate Shri Lonkar has relied on the following judgments:-

(i) **STATE OF RAJASTHAN Vs. FATEH CHAND SONI: (1996) 1 SCC 562.** Hon'ble Supreme Court has held that:-

“The direction given by the High Court for revising the seniority list of the officers in the selection scale of the service on the basis of their seniority in the senior scale, therefore, cannot be upheld and has to be set aside. The seniority of the officers in the selection scale of the service has to be fixed as per Rule 33 on the basis of the date of selection.”

In the present case, seniority was fixed on the basis of date of selection, which is disturbed by the impugned order. The facts are entirely different. The judgment is based on a specific rule. The impugned order has not been passed by the Respondent no. 2 on the basis of any rule.

(ii) **K. AJIT BABU & ORS Vs. UNION OF INDIA & ORS : 1997 SCC (L & S) 1528.**

In this case, seniority list was prepared in accordance with the principles laid down by C.A.T. However, certain employees were not party to the said decision. It was held that they would maintain an O.A

under Section 19 of the Administrative Tribunals Act. In the present case, interim order of this Tribunal dated 7.7.2015 in O.A no 37/2015 did not lay down any principles to determine seniority in the cadre of P.S.I. The present Applicants were not party in O.A no 37/2015. They can maintain these O.As.

(iii) U.D LAMA & ORS Vs. STATE OF SIKKIM & ORS : 1997 SCC (L &S) 142.

In this case, in the peculiar circumstances, the appointment of the former batch has been upheld by the Supreme Court, treating the latter batch of appointees to the service to have been recruited on the date on which the former batch was recruited held not illegal. In the case before Hon'ble Supreme Court, no Public Service Commission was constituted and the State Government held written and oral tests and appointed officers. Later Public Service Commission was constituted and selected candidates. The facts and circumstances are quite different and this judgment will have no application in the present case.

(iv) Smt K.N BHOIR Vs. MUKUND LAXMAN PAWAR & ORS in WRIT PETITION NO 1141 OF 2008, dated 28.7.2008. This judgment is cited to show that the Tribunals cannot disregard pleadings and record finding for which there is no basis in the pleadings.

In the present Original Applications, the issue of continuous officiation should be the basis of seniority is mentioned in para 6.8 of O.A no 918/2015. In para 6.9, it is mentioned that seniority of P.S.I was granted as per standing orders and Rule 89(3) of Bombay Police Manual. In fact, the Respondent no. 2 has also claimed that Rule 89(3) is applicable. In para 7.1, the Applicants have challenged grant of seniority with retrospective effect. In para 7.3, it is mentioned that:

“Hence the policy of the Respondents in issuing the impugned order is purely arbitrary and not based upon any sound principles of law.”

In para 7.22, it is stated that:

“...the Respondent no. 2 has followed the procedure which is unknown to the services jurisprudence.”

In para 7.25, it is mentioned that:

“7.25. The Applicants submits that the issue raised is no more res judicata in as much as this Hon’ble Tribunal not once, but atleast twice has recorded a finding that retrospective seniority contrary to rules and regulations and in violation of rules of natural justice cannot be sustained. For the third time, the same error has been committed by the Respondents.”

It is true that in O.A no 918/2015, the Applicants have relied heavily on Rule 89 of the Bombay Police Manual. But there are numerous other pleadings on the basis of which the impugned order is challenged.

In O.A no 1094/2015, in para 6.19, the following grounds are pleaded for challenging the impugned order dated 31.8.2015, viz.

“(iv) The Applicants of O.A no 37 of 2015 were not even borne on the cadre of PSI when the Applicants were promoted as a PSI. Therefore, it is incorrect to assign a date of appointment as 22.3.2000 as against 16.4.2001 and 1.6.2004.”

In para 6.18, it is stated that:

“6.18. Applicants state that as it was predetermined by respondent no. 2 without stating any legal reason and without referring to any provision of rules regarding seniority, the objection were rejected, stating that the Applicants in O.A no 37 of 2015 and other candidates were appeared for the examination in 1998 and were appointed on 1.6.2004 and 1.4.2005 for which they are not responsible. On the same reason the impugned order dated 31.8.2015 was passed.”

The impugned order is challenged as no rules are mentioned in the impugned order. The impugned order is also challenged on the ground of limitation. In ground (g), continuous officiation in the post is the rule in case of seniority is mentioned. That Rule is contained in Rule 4(1) of the Maharashtra Civil Services (Regulation of Seniority) Rules, 1981, which need not have been pleaded specifically. We are not convinced that these O.As are not maintainable only because in one of the Original Application, emphasis has been laid on Rule 89 of the Bombay Police Manual. In fact, in both the Original Applications, two facts have been emphasized, viz:-

- (i) Seniority has to be decided on the basis of continuous officiation in a post, and
- (ii) there is no provision of granting retrospective date of appointment different from the date of actual appointment.

Both these provisions are contained in Rule 4 and Rule 5 of the Maharashtra Civil Services (Regulation of Seniority) Rules, 1981. Issue of limitation is also raised specifically in one of the Original Applications. In both O.As, it is specifically mentioned that the Respondent no. 2 in the impugned order has not mentioned any specific rule or law upon which the order is based. These are pleadings on the basis of which these Original Applications can be maintained.

(iv) Dr. S.D CHOUDHARY & ANR Vs. STATE OF ASSAM & ORS : AIR 1976 SC 487.

In this case, seniority fixed according to merit list of the Public Service Commission was upheld. In the present case, it is not the inter-se seniority of the persons selected on the basis of Limited Departmental Examination which is the issue to be decided. Inter se seniority was never the issue. The issue is retrospective date of appointment granted to 346 persons, when they were not even in the cadre of P.S.I. The facts are entirely different and this judgment is not applicable.

(v) STATE OF U.P & ANR Vs. JOHRI MAL : (2004) 4 SCC 714:

It is held that Courts while exercising the powers of judicial review, do not sit in appeal over the decision of administrative bodies and no interference is warranted unless it is shown that the decision was perverse or illegal. In the present case, we have concluded that there was no legal provision under which the impugned order could have been passed. It is, therefore, both perverse and illegal. Judicial review is fully justified in the present case.

25. Learned Advocate Shri Bandiwadekar, relied on several judgments, some of which have already been discussed. Some more judgments are discussed below:-

(i) **Dr. CHDNARA PRAKASH & ORS Vs. STATE OF U.P & ANR : 2003 SCC (L & S) 808.**

In this judgment, Hon'ble Supreme Court has held that:

“47. In any event as already noted under Rule 18, seniority is to be determined from the date of their order of appointment and not from the date of their selection by PSC or receipt of the selection list by the Government.”

We are also of the view that the seniority of the 346 P.S.Is selected on the basis of Limited Departmental Examination should be based on the date of their appointment only.

(ii) **TIKA RAM Vs. UNION OF INDIA & ORS : 2006 (3) SCT 375.** It is held that a judgment of lawfully constituted Court or Tribunal is required to be given primacy of Rules. In the present case, this Tribunal by judgment dated 24.4.2002 in O.A no 308/2001 etc. have not directed to give retrospective date of appointment to the private Respondents. This Tribunal is also of the

view that any order has to be based on statutory rules and impugned order is not based on any rule.

26. Learned Advocate Shri M.R Patil, has cited the following judgments:

(i) In **AMARJIT SINGH AHLUWALIA Vs. THE STATE OF PUNJAB & ORS : (1975) 3 SCC 503**, Hon'ble Supreme Court has observed as follows:-

“9. But the question then arises whether the State Government could issue the order dated December 4, 1967 providing that the seniority of the respondents 3 to 19 shall be reckoned from the date of issue of their order of appointment, namely April 8, 1964, irrespectively, as to when they assumed charge of the higher posts, if such order was in contravention of the principle of seniority laid down in clause 2() of the Memorandum dated October 25, 1965. The argument urged on behalf of the State Government was that it was competent to fix an assumed date on which the continuous service of respondents no 3 to 19 should be deemed to have commenced for the purpose of determining their seniority in the integrated service and the order dated December, 4, 1967 was, therefore, not beyond its power. But we do not think this argument is well founded. Clause 2(ii) of the memorandum dated October 25, 1965 provided that the seniority

of the officers in the integrated service shall be determined by reference to the length of continuous service from the date of appointment in the group within their respective service. What was, therefore, required to be taken into account was the actual length of continuous service reckoned from an artificial date given by the State Government.”

From this, it is clear that a Government servant cannot be given any seniority from a date before the date of his actual appointment. Clause 2(ii) of the memorandum dated 25.10.1965 is pari-materia to Rule 4(1) of the Maharashtra Civil Services (Regulation of Seniority) Rules, 1981.

(ii) **SURAJ PRAKASH GUPTA Vs. STATE OF J & K : (2000) 7 SCC 561.** Hon'ble Supreme Court has held that:-

“61. This contention, in our view, cannot be accepted. The reason as to why this argument is wrong is that in service jurisprudence, a direct recruit can claim seniority only from the date of his regular appointment. He cannot claim seniority from a date when he was not borne in the service. This principle is well settled. In **N.K CHAUHAN Vs. STATE OF GUJARAT** (SCC at p. 325, para 32) Krishna Iyer, J. stated:

“Later direct recruits cannot claim deemed date of appointment for seniority with effect from the time when direct recruitment vacancy arose. Seniority will depend upon length of service.”

In the present case also, the persons selected as P.S.I on the basis of Limited Departmental Examination are akin to Direct Recruits and they cannot claim deemed date of appointment from a date when they were not even borne in the cadre of P.S.I.

(iii) UTTRANCHAL FOREST RANGERS' ASSOCIATION (DIRECT RECRUITS) & ORS Vs. STATE OF U.P & ORS : (2006) 10 SCC 346. Hon'ble Supreme Court has observed that:

“37. We are also of the view that no retrospective promotion or seniority can be granted from a date when an employee has not been borne in the cadre so as to adversely affect the direct recruits appointed validly in the meanwhile, as decided by this Court in Keshav Chandra Joshi Vs. Union of India, held that when promotion is outside the quota, seniority would be reckoned from the date of the vacancy within the quota rendering the previous service fortuitous.”

In the present case, 346 candidates were not borne on the cadre of P.S.I on 22.3.2000 and they cannot be given that seniority at the cost of the regularly promoted P.S.Is.

27. Learned Advocate Shri M.R Patil, has cited many more judgments, which are not discussed, as the judgments already cited support fully the contentions raised by the Applicants.

28. Learned Advocate Shri Chandratre has cited the following judgments, viz:

GOVERNMENT OF ANDHRA PRADESH & ORS Vs. M.A KAREEM & ORS : 1991 SCC (L & S) 1206. Hon'ble Supreme Court has held that position settled 13 years back could not be unsettled. In the present case, the Respondent no. 2 has unsettled the settled seniority without any legal basis.

29. To sum up, the impugned order dated 31.8.2015 passed by the Respondent no. 2, D.G.P, the only ground to change the seniority of P.S.Is selected on the basis of Limited Departmental Examination on 16.4.2001 and 1.6.2004 is that they were selected on the basis of same examination conducted by M.P.S.C in which some P.S.Is were appointed on 22.3.2000. It is stated that it was not the latter's fault that they were not appointed on 22.3.2000. However, on scrutiny of the aforesaid order, no law or rule is cited, which will permit

such an order to be passed. In fact, the relevant rules viz. Maharashtra Civil Services (Regulation of Seniority) Rules, 1981 do not permit grant of retrospective date of appointment, before the date of actual appointment in the cadre. Deemed appointment from a date different from actual appointment can be granted only by the State Government under Rule 5(1) of Seniority Rules. The Respondent no. 2 has no legal authority to pass any such order. There are various judgments of Hon'ble Supreme Court, wherein it is clearly held that a person cannot be given retrospective appointment/seniority in the cadre from a date on which he was not even borne on that cadre. The Respondent no.2, D.G.P, in our opinion, should not have quoted interim order of this Tribunal dated 7.7.2015 in O.A no 37/2015 in the impugned order, as this Tribunal had not passed any order and only taken note of assurance given by the Respondent no. 2 himself. The Respondents no 1 & 2 have also not explained the circumstances as to why the Respondent no. 2 entertained representations, which were clearly time barred. The Respondent no. 2 has failed to give any convincing reasons unsettling the settled position of seniority in the impugned order. No law or rule has been cited in the aforesaid order. The order is clearly perverse and against the law laid down by Hon'ble Supreme Court, and therefore, illegal.

30. Having regard to the aforesaid facts and circumstances of the case, the impugned order dated

31.8.2015 passed by Respondent no. 2, D.G.P, is quashed and set aside. Both the Original Applications are allowed accordingly with no order as to costs.

Sd/-
(R.B Malik)
Member (J)

Sd/-
(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai
Date : 07.06.2017
Dictation taken by : A.K. Nair.

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