

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATIONS 543/2014 & 111/2015

DISTRICT : MUMBAI

1. ORIGINAL APPLICATION NO 543 OF 2014

1. Shri Jeevan Krishna Bhosle,)
Asst. Sub Inspector of Police,)
Armed Police, Worli, Mumbai and)
Residing at 29/02, Worli Police)
Camp, Sir Pochkhanwala Road,)
Worli, Mumbai 400 030.)
2. Shri Ashok Tukaram Rajam,)
Asst. Sub Inspector of Police,)
Kasturba Marg Police Station,)
Borivali [E], Mumbai 400 066.)
Residing at 824/203,)
Sant Chaudhari Nagar,)
Thakur Complex, Kandivali [E],)
Mumbai 400 101.)
3. Shri Madhukar Y. Raorane,)
Asst. Sub Inspector of Police,)
Agripada Division, Byculla Police)
Station, Mumbai and residing at)

C/204, 2nd floor, Amit C.H.S Ltd.)

Yashodhan Nagar, Thane [W] 400 606)

4. Shri Sudhir Arjun Koyande,)
Asst. Sub Inspector of Police,)
Office of Senior Inspector of Police,)
Mahim Division [Traffic], Mahim,)
Mumbai 400 016 and residing at)
03/01, Worli Police Camp,)
Sir Pochkhanwala Road, Worli,)
Mumbai 400 030.)
5. Shri Shivaji Kashiram Kadam,)
Police Head Constable,)
Sahar Police Station, Andheri [E],)
Mumbai and residing at A-102,)
Sai Pavitra C.H.S, Sector-8A,)
Plot no. 31, Airoli, Navi Mumbai,)
Thane.)
6. Shri Shashikant Eknath Jadhav,)
Police Head Constable, Traffic)
Police HQ, Administration Dept,)
Worli Police Camp, Worli,)
Mumbai 400 030 and residing at)
10/08, 1st floor, Worli Police Camp,)
Sir Pochkhanwala Road, Worli,)
Mumbai 400 030.)

)...**Applicants**

Versus

1. Government of Maharashtra)
Through Addl. Chief Secretary,)
Home Department, Mantralaya,)
Mumbai 400 032.)
2. Director General of Police,)
Having office at Old Council Hall,)
Colaba, Mumbai.)
3. Commissioner of Police for Greater)
Mumbai, having office at)
Crawford Market, Mumbai 400 001.)...**Respondents**

2. ORIGINAL APPLICATION NO 111 OF 2015

1. Shri Dipak Rajaram Hindlekar,)
Retd. Police Head Constable,)
Residing at A-2, 1504, Savli C.H.S)
Laxmi Nagar, Rajaram Bane Marg,)
Ghatkopar [E], Mumbai 400 075.)...**Applicant**

Versus

1. Government of Maharashtra)
Through Addl. Chief Secretary,)
Home Department, Mantralaya,)
Mumbai 400 032.)
2. Commissioner of Police,)
Having office at Carwford Market,)
Fort, Mumbai.)

3. Dy. Commissioner of Police)
[Head Quarter-2], Office of the)
Commissioner of Police, Fort)
Mumbai 400 001.)...**Respondents**

Shri M.D Lonkar, learned advocate for the Applicants.

Shri A.J Chougule, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

Shri R.B. Malik (Member) (J)

DATE : 26.08.2016

PER : Shri Rajiv Agarwal (Vice-Chairman)

ORDER

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

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

3. These Original Applications are filed by Assistant Sub Inspector of Police and Head Constables,

who were seeking deemed date of promotion in these posts from the date when their juniors were so promoted.

4. Learned Counsel for the Applicants argued that the Applicants were working as Armed Police Constables. They were subsequently promoted as Police Naik & Head Constables. Some of the Applicants have been promoted as Assistant Police Sub-Inspectors also. Learned Counsel for the Applicants argued that the cadres of Armed and Unarmed Constabulary were integrated and a common seniority list of Police Constables to Assistant Police Sub-Inspectors was prepared as of the year 2010 and it was published on 21.10.2013. Learned Counsel for the Applicants argued that he is restricting the relief in these Original Applications to grant of pay to the Applicants as per the Next Below Rule. A senior employee cannot draw less salary than his junior under this rule. Learned Counsel for the Applicants stated that the seniority list published on 21.10.2013 itself will show that the Applicants are drawing pay less than their juniors and they are entitled to get the same pay as their juniors.

5. Learned Presenting Officer (P.O) argued on behalf of the Respondents that the Original Applications are vague and no specific reliefs have been sought. The Applicants were required to point out the name of the junior, who was drawing more pay than them. However,

in the Original Applications no such details have been furnished. Learned Presenting Officer argued that the Applicants have not applied to the Competent Authority for relief and have directly approached this Tribunal. On that ground also, these Original Applications are not maintainable.

6. The Applicants in O.A no 543/2014 has stated in para 6.5 of the Original Application as below:-

“6.5 The Petitioners state that bare perusal of the aforesaid seniority list, more particularly of the cadre of Assistant Police Sub-Inspector, it is evident that the persons who are junior to the Petitioners have been promoted ahead of the Petitioners and are also drawing more salary than their seniors. The relevant information in respect of the said anomaly is reflected in a separate statement, copies of which are enclosed herewith and marked as Exhibit ‘C’ colly.”

Exhibit ‘C’ starts from page 27 of the Paper Book, Title is Gradation List of A.S.I. On Page 29, Gradation List of Head Constable is given, while on page 32, Gradation list of Police Naik is given. Bare perusal of this list does not show that the persons junior to the Applicants are getting higher pay. No specifics have been furnished. In the

affidavit in reply dated 3.12.2014 of the Respondent no. 3, in para 6, it is mentioned that:-

“6. With reference to para 6.5, I say that the promotion has given by the Respondent no. 2 as the due process. The Respondent no. 3 have no power to promote any officer above the rank of PSI. In this respect the petitioner annexed Exh-C with the petition. After careful perusal thereof, it is learnt that the names mentioned in the said list, same Policemen were working as a Police Head Constable Writer. The Respondent further say that all of them have passed the Police Sub-Inspector Examination which was conducted by office of the Director General of Police. Accordingly, the Respondent no. 2 have promoted them as Ad hoc Police Sub-Inspector.”

From this, it appears that some so called juniors of the Applicants might have been promoted on passing requisite departmental examination before the Applicants, as in case of Police Head Constables Writers. The Applicants had submitted representations which are annexed at Exhibit ‘E’ from page 58 to 84 of the Paper Book. The representations of the Applicants are as below:-

1. Shri J.K Bhosle, Applicant no. 1 - 20.3.2014 – p. 58 & 68.
2. Shri S.E Jadhav, Applicant no. 6 – 25.3.2014 – p. 76 & 81.

No other representations are on record.

7. In O.A no 111/2015, the Applicant retired voluntarily on 25.11.2006 as Head Constable. He is seeking relief on the basis of Combined Seniority List published on 21.10.2013 as on the year 2010, for the posts from Police Constables to Assistant Police Sub-Inspectors. The Applicant claims that he was transferred from Armed Division to Unarmed Division on 30.8.1988, and though, he was promoted as Head Constable in Armed Division, he was posted as Constable in Unarmed Division and his pay scale was also reduced. Though there were instructions to have a common seniority for Armed and Unarmed Wings, the Applicant was put to arbitrary and discriminatory treatment by the Respondents. The Applicant had made representations after the publication of final seniority list. He was informed on 18.12.2014 (Exhibit D, page 13 of the Paper Book) that his representation dated 22.8.2014 is under consideration of the Respondent no. 2. That letter is at p. 14 of the Paper Book. The Applicant has raised this issue in para 6.8 of the Original Application. The reply to this contention is contained in para 9 of the affidavit in reply dated 24.6.2015, which reads:-

“9. With reference to para 6.7 & 6.8, I say it is true that applicant submitted representation dated 21.7.2009. However, interim reply vide letter dated 22.4.2010 was given to applicant. I say and submit that said reply was given before preparation of gradation list, however said applicant took voluntary retirement on 25.11.2006 and this fact might be not consider while replying said letter that time. However applicants name was included in gradation list of year 1998 which is published in 2000 and put for information to all concern. The said gradation list was not challenged by applicant and he has submitted his place in the gradation list and not any complaint.”

It is quite clear that the case of the Applicant has not been considered by the Respondent no. 2 in the light of circular dated 7.4.2010 and no reply has been given to him.

8. Considering the facts mentioned above, the Applicants in O.A no 543/2014 can make representations to the Respondent no. 3 regarding their pay fixation as per Next Below Rule. If such representations are received within one month of this order, the Respondent no. 3 will duly consider them and inform the Applicants of his decision within a further period of one month. As regards Original Application no.

111/2015, the Respondent no. 2 is directed to consider the representation dated 22.8.2014 received from the Applicant in the light of Circular dated 7.4.2010 and inform the Applicant of his decision within one month from the date of this order. These Original Applications are disposed of accordingly with no order as to costs.

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

Sd/-
(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai
Date : 26.08.2016
Dictation taken by : A.K. Nair.