

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.140 OF 2016

DISTRICT : NASHIK

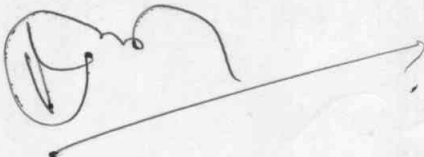
Mr. Ramdas S. Sapkale.)
Age : 57 years, Occu. Junior Engineer,)
Residing at At-Post : Borgad, Ujwal Nagar,))
Nasik.)...**Applicant**

Versus

1. The State of Maharashtra.)
Through the Secretary,)
Irrigation Department, Mantralaya,)
Mumbai - 400 032.)
2. The Superintending Engineer.)
(Gates Central Design Organization))
Nasik Circle, Dindori Road, Nasik.)
3. The Superintending Engineer.)
Data Analysis Circle, Hydrology)
Project, Dindori Road, Nasik - 4.)...**Respondents**

Shri K.R. Jagdale, Advocate for Applicant.

Shri K.B. Bhise, Presenting Officer for Respondents.



CORAM : RAJIV AGARWAL (VICE-CHAIRMAN)
R.B. MALIK (MEMBER-JUDICIAL)

DATE : 22.12.2016

PER : R.B. MALIK (MEMBER-JUDICIAL)

JUDGMENT

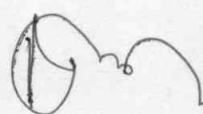
1. This Original Application (OA) is made by a Junior Engineer who has since retired and the relief claimed is a direction that the order dated 4.12.2015 whereby his request for granting deemed date of promotion came to be rejected. He seeks a deemed date in the prayer clause (c) to the post of Sectional Engineer with effect from 1.4.1996, while it appears from the body of the OA that, that date should be of 1986. His grievance is also directed against his colleague Mr. Chaudhari. [

2. We have perused the record and proceedings and heard Mr. K.R. Jagdale, the learned Advocate for the Applicant and Mr. K.B. Bhise, the learned Presenting Officer (PO) for the Respondents.

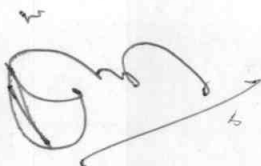
3. Reading the OA and the Affidavit-in-reply filed on behalf of the Respondents 1 to 3 by Shri Mandar R. Karnik, an Under Secretary in the Department of Water



Resources, Mantralaya, it would appear that the Applicant came to be appointed as Technical Assistant Class-III (Group-C) at Wadhad Division on 22.10.1980. According to the Applicant, the above named Shri Chaudhari was appointed as Technical Assistant on 6.11.1980. On 18.4.1984, after passing the qualifying examination, the Applicant came to be promoted as Sub Overseer Class III Group C in the same Division. The Applicant and Mr. Chaudhari both passed the qualifying examination for the post of Junior Engineer on 31.3.1986. A seniority list for the post of Sub Overseer as well as Civil Engineering Assistant came to be published on 3.8.1987. The Applicant was absorbed in the Civil Engineering Assistant post, but he was shown at Serial No.30 while Mr. Chaudhari's name appeared above him at Serial No.27. The date of appointment of the Applicant was wrongly mentioned as 22.11.1980 while his real date of appointment was 22.10.1980. This lapse was found and the Applicant on 15.1.1990 raised objection to the seniority list. The correction was made only in so far as the date was concerned, but his place in the seniority list was not altered to be consistent with the said date of appointment. On 24.5.1995, the said Shri Chaudhari came to be promoted as Junior Engineer and deemed date on that post was granted w.e.f. 01.02.1986. This order was made

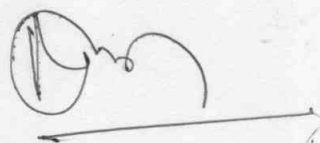


on 18.2.1999. The Applicant on the other hand was promoted as Junior Engineer on 2.7.2007. It is the case of the Applicant that on 9.4.2010, the Tapi Irrigation Development Corporation recommended his case for deemed date. On 31.7.2010, the Applicant submitted a representation before the Respondent No.1 for deemed date of promotion so as to be at par with the above named Shri P.V. Chaudhari. The Superintending Engineer of the Circle vide his communication of 21.9.2010 recommended the case of the Applicant. Representations were then made. The details thereof have been furnished. However, on 21.10.2013, the 1st Respondent – State of Maharashtra in Irrigation Department rejected the request of the Applicant mainly on the ground in effect that, for all practical purposes because of the considerable delay, a staleness had marred the claim of the Applicant. The Applicant again made a representation on 7.12.2013 to the said Respondent NO.1 for the same relief. Two such representations were made, the other one being of 12.2.2014. No response was forthcoming. The Applicant brought OA 610/2015 pending which the State rejected the representations of 31.7.2010 and 29.1.2011 on 4.12.2015. In the above background, the OA 610/2015 was disposed of reserving the liberty for the Applicant to bring a fresh OA on new set of circumstances as well as on



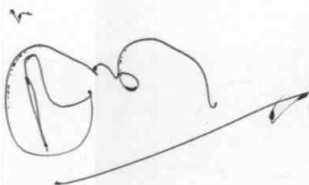
the facts therein mentioned. It is, thereafter, that the present OA for the afore-stated relief was brought.

4. Both the sides advanced their respective submissions in keeping with their respective briefs. Once we bear in mind carefully the dates hereinabove mentioned, it becomes quite clear that granting all latitude to the Applicant, he in the year 1990 itself became aware of the fact that even though the relevant date was corrected, but the placement in the seniority was not corrected as it were and that was the time where in fact, it had become necessary for him to move the appropriate forum for the ventilation of his grievances. The said Shri Chaudhari came to be actually promoted in 1995 while the Applicant was promoted in 2007. Coupled therewith, as we mentioned above, if the whole matter is studied in the context of the various dates relevant hereto, it would become quite clear that the Applicant became aware of the manner in which the Respondents were disposed towards his claim and yet he did not take timely action. Even in the year 2013, when as noted above, his representation was rejected instead of moving this Tribunal, he repeated the cycle of representations. In that view of the matter, therefore, we are very clearly of the opinion that in the circumstances, such as these, when the Applicant did not



move in time, then not so much for the bar of limitation, as the merit of the matter, the Applicant cannot at this stage be allowed to rake-up the stale claim. Although may not be exactly in the similar set of circumstances, but the Judgment of the Hon'ble Supreme Court in **C. Jacob Vs. Director of Geology & Mining & Anr., Special Leave Petition (C) No.25795 of 2008, dated 3rd October, 2008**

is an authority, the principles whereof will have to be applied hereto. That was also a matter where the Petitioner of the Hon'ble Supreme Court raked-up the controversy 20 years afterwards and the Hon'ble Supreme Court was pleased to hold that in set of circumstances, such a move should not be allowed to succeed. Even otherwise, it so happens that with passage of time, the matter with regard to the maintenance of record, etc. in view of the manner in which the official functioning takes place presents a factual scenario where it may become difficult to ascertain the truism or otherwise of the case of the party concerned. Here, we must repeat, it is a matter of great significance that rightly or wrongly, the rejection of Applicant's claim was quite categorical by the Respondents, and therefore, that was all the more the reason why the Applicant should have taken recourse to his proper remedy. Now, it is too late in the day for him to do so.

A handwritten signature in black ink, consisting of a stylized 'B' followed by a flourish and a long horizontal line extending to the right.

5. In view of the foregoing, we find no merit in the OA and the same is dismissed with no order as to costs.

Sd/-

(K.B. Malik)
Member-J
22.12.2016

Sd/-

(Rajiv Agarwal)
Vice-Chairman
22.12.2016

Mumbai

Date : 22.12.2016

Dictation taken by :

S.K. Wamanse.

E:\SANJAY WAMANSE\JUDGMENTS\2016\12 December, 2016\O.A.140.16.w.12.2016.Promotion.doc