IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION 227 OF 2016

DISTRICT : MUMBAI

Shri Mahesh Madhukar Patankar,)
Junior Clerk, residing at 87/Sarayu)
Narayan Guru CHS Ltd,)
P.L Lokhande Road, Chembur [W],)
Mumbai 400 080.)...**Applicant**

Versus

1. The State of Maharashtra)
   Through the Chief Secretary,)
   Mantralaya, Mumbai 400 032.)
2. The Principal Secretary,)
   Revenue & Forest Department,)
   Mantralaya, Mumbai 400 032.)
3. Additional Controller of Stamps,)
   Mumba, Town Hall, Fort,)
   Mumbai 400 001.)
4. Inspector General of Registration)
   & Stamps Controller,)
   Maharashtra State,)
   Opp. Council Hall, Pune 411 001.)...**Respondents**

Smt Punam Mahajan, learned advocate for the Applicant.

Shri N.K. Rajpurohit, learned Chief Presenting Officer for the Respondents.

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

DATE : 04.05.2016

PER : Shri Rajiv Agarwal (Vice-Chairman)

O R D E R

1. Heard Smt Punam Mahajan, learned advocate for the Applicant and Shri N.K. Rajpurohit, learned Chief Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicant seeking promotion to the post of Supervisor, as he was over looked for promotion in 2006, when his junior were promoted as Supervisors.

3. Learned Counsel for the Applicant argued that the Applicant joined Government service as Stamp Vendor on compassionate ground. He later on passed the departmental examination for the post of Clerk-cum-typist. By G.R dated 15.2.2002, cadre of Stamp Vendors

and Clerks were merged retrospectively w.e.f 1.9.1995 and a common seniority list for the merged cadre of Clerk-cum-typist was prepared. Though the Applicant was senior, his juniors were promoted as Supervisor on 28.2.2006. The Applicant was not granted seniority in the merged cadre of Stamp Vendors and Clerks on the ground that he had not passed the Typing Examination. The Applicant and others filed O.A no 591/2010 challenging the seniority list dated 23.3.2010. By order dated 24.4.2015, this Tribunal struck down the seniority list dated 23.3.2010. The seniority list was revised bythe authorities on 3.7.2015 and the Applicant is at Sr. No 30 in the said list. On 24.8.2015, the proposal to promote the Applicant as Supervisor was sent by the Inspector General of Registration to the Respondent no. 4. Another person Shri Sada S. Kamadi who was also denied promotion in 2006 has filed O.A no 1112/2015 and by order dated 4.2.2016, the Original Application was allowed and Shri Kamadi has since been promoted. However, the Applicant has not been promoted, though he is similarly placed as Shri Kamadi.

4. Learned Chief Presenting Officer (C.P.O) argued on behalf of the Respondents that situation has undergone change after order dated 4.2.2016 was passed by this Tribunal in O.A no 1112/2015. By G.R dated 15.2.2016 various cadres in Registration and Stamp Duty Department have been merged. After the common

seniority lists of these merged cadres are prepared the issue regarding seniority of the Applicant will be decided. This Original Application is premature.

5. We find that G.R dated 15.2.2016 only provides for merging equivalent cadres in Registration and Stamp Duty Departments, while the Departments were merged way back by G.R dated 29.9.1988. However, even after merger, the establishment of both the Departments remained separate and separate seniority lists of different cadres in both the Departments were being maintained. Now by G.R dated 15.2.2016, equivalent cadres in both the erstwhile departments are being merged. The cadre of 'Supervisor' in Stamp Duty department is being merged with the cadre of Senior Clerk. On careful reading of this G.R we do not find any mention that till this merger is completed, all the establishment matters will be put on hold or the genuine grievance of the staff will have to wait till the merger is completed. The argument that this Original Application is premature has to be firmly rejected.

6. The Applicant had earlier filed Original Application no. 591/2010 in this Tribunal challenging fixation of his seniority in the cadre of Clerk-cum-typist on merger of cadres of Stamp Vendors and Clerks. The Applicant was not granted correct seniority. This Tribunal by order dated 24.4.2015 quashed the seniority

list of merged cadre of Clerk-cum-typist which was published on 23.3.2010. The Applicant has stated in para 6.7 and 6.8 of this Original Application that in the seniority list published on 3.7.2015 the Applicant is at Sr. No. 30. In para 15 and 16 of the affidavit in reply filed by the Respondent nos 3 & 4 on 23.3.2016, the contents of paragraph 6.7 and 6.8 of the Original Application are admitted. It is clear that the Applicant is senior to persons who were promoted in 2006 as Supervisors. This fact is also admitted in the letter dated 17.10.2015 in the letter sent by I.G, Registration and Controller of Stamp Duty, Pune (Annexure A-5). It is mentioned that Shri Shelke and Shri Saindane, who are junior to Shri Kamadi and Shri Patankar, were promoted as 'Supervisors' in 2006. Shri Kamadi has since been promoted as Supervisor pursuant to the order dated 4.2.2016 passed by this Tribunal. We see no reason to deny promotion to the Applicant. The Respondents claim that Shri Kamadi was promoted as he belongs to S.T category and the present Applicant belongs to O.B.C category. However, it is not understood as to how the present Applicant is not eligible to be promoted from 2006 when the letter dated 17.10.2015 clearly mentions that he was eligible to be promoted as Supervisor in 2006 itself considering the vacancies in the cadre of Supervisors and backlog position. All these issues have already been examined and the Applicant was apparently found eligible for promotion from 2006. The affidavit in

reply dated 23.3.2016 is evasive on this issue and it has to be held that the Respondents have not been able to give any reason as to why the Applicant should not be considered for promotion to the post of Supervisor considering the fact that persons admittedly his juniors were promoted as Supervisors in 2006.

7. Having regard to the aforesaid facts circumstances of the case, the Respondents are directed to place the case of the Applicant for promotion before an appropriate Departmental Promotion Committee and promote him as Supervisor, if found fit, within a period of four weeks from the date of this order. If and when promoted, the Applicant may, if he so desires, seek appropriate deemed date of promotion. This Original Application is allowed accordingly with no order as to costs

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

Sd/-
(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai
Date : 04.05.2016
Dictation taken by : A.K. Nair.