

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.50 OF 2017

Smt. Hemlata Sainath Koli)
Age 51 years, Reverted as Sr. Clerk,)
From the post of Head Clerk in the office of)
Desk No.15, North Region Division, Mumbai)
R/o. Room No.162B, Naigaon Koliwada,)
Tal Vasai, Dist. Palghar) **....APPLICANT**

VERSUS

1) The Commissioner of Police,)
Mumbai, through Joint Commissioner)
of Police (Administration),)
having office at Mumbai Police)
Commissionerate, L.T. Marg,)
Opp. Crawford Marg, Fort,)
Mumbai 400 001)

2) The State of Maharashtra,)
Through Principal Secretary,)
Home Department, having office at)
Mantralaya, Mumbai 400 032) **.... RESPONDENTS.**

Mr. Bhushan A. Bandiwadekar, learned Counsel for the Applicant.

Ms. K.S. Gaikwad, learned Presenting Officer for the Respondents

CORAM : Justice Mridula Bhatkar (Chairperson)
Ms. Medha Gadgil, Member (A)

RESERVED ON : 18.07.2024

PRONOUNCED ON : 02.08.2024

J U D G M E N T

1. The applicant prays that the impugned order dated 19.11.2016 passed by the Respondent No. 1 under which the applicant was reverted to the post of Senior Clerk from the post of Head Clerk on account of the alleged loss of seniority in the cadre of Head Clerk and accordingly the applicant be granted all the consequential service benefits.

2. Applicant was working as Junior Clerk w.e.f. 01.12.1984. By appointment order dated 05.01.1989 her service was confirmed. The period of service of Applicant during the period from 1984 to 1989 was regularized as continuous service by order dated 5.6.2015.

3. Learned Counsel has submitted that the Respondent-Department by Circular dated 08.04.1996 conducted qualifying examination for promotion to the post of Head Clerks. However, the Applicant was not allowed to appear for the said qualifying examination on the ground that she did not complete the mandatory period of one year after her promotion to the post of Senior Clerk. Learned Counsel has submitted that applicant had in fact completed one year and three months period at the relevant time i.e. in the year 1995. Learned Counsel has further submitted that in the year 1995 again the Applicant was not allowed to appear for the said examination on the ground that her Caste Certificate was invalidated by the Caste Scrutiny Committee and in view of which Preliminary Enquiry and Departmental Enquiry was initiated against the Applicant.

4. Learned Counsel has submitted that the Applicant's Caste Certificate was sent for validation in the year 2008. Learned Counsel has pointed out the order dated 25.03.1996 issued by the Committee of Scrutiny and Verification of Tribe Claims, Pune wherein the Scrutiny Committee has concluded that Applicant Smt. Hema Sai Koli does not belong to Mahadeo Koli, Scheduled Tribe Community and her claim towards the same is invalid. Learned Counsel has submitted that by G.R. dated 15.06.1995 at Sr. No.4, State of Maharashtra has declared the list of particular castes as SBC. Hence, the persons who are not declared by the Scrutiny Committee as Scheduled Tribe will be included in the SBC category under 'Hindu Koli'. Learned Counsel has pointed out the Caste Certificate of the Applicant wherein it is mentioned that the Applicant belongs to Scheduled Tribe i.e. Hindu Mahadeo Koli'.

5. Learned Counsel has submitted that the issue in the present O.A. pertains to the reversion of Applicant. The Applicant produced the Caste Validity Certificate on 30.08.2008. The order of exemption dated 13.06.2010 was passed on behalf of the Applicant as she has attained the age of 45 years. Applicant was given promotion by order dated 14.03.2012 to the post of Head Clerk. By order dated 19.11.2016 (Exhibit-A) Applicant was reverted from the post of Head Clerk to the post of Senior Clerk. However, other Senior Clerks namely, Mr. Manoj R. Ahire, Ms. Archana Jawkar, Ms. Sadhana S. Mhatre and Head Clerks Mr. Yashwant Desai and Mr. Arvind Kandalkar have approached the Tribunal for the seniority, promotion and deemed date of promotion. By order dated 24.08.2015 passed by this Tribunal in O.A.Nos.906 & 908 of 2013, Mr. Yashwant A. Desai & Anr. Versus The Commissioner of Police, Mumbai and order dated 25.06.2015 passed in O.A.Nos.256, 1248 and

1260/2013, Mr. Manoj R. Ahire & Ors. Versus. The Secretary, Home Department & Ors. Learned Counsel has submitted that the Applicant was affected due to implementation of order dated 24.08.2015 and 25.06.2015 when the shuffling took place. Learned Counsel has submitted that by the orders of the Tribunal the seniority list for the cadre of Serial Clerks for the period from 01.01.1995 to 31.01.2000 was directed to be verified and correct list to be 1

6. Learned P.O. for the Respondents has relied on affidavit-in-reply dated 11.06.2024, to the rejoinder dated 08.02.2024 in pursuance of order dated 23.04.2024 on behalf of Respondent No.1, through Mr. Deepak Rajaram Shinde, Assistant Commissioner of Police, office of Commissioner of Police, Greater Mumbai. She has pointed that the office issued Circular dated 08.04.1996 regarding conducting of qualifying examination for promotion to the post of Head Clerks. Respondents issued office order dated 09.06.1995.

7. The applicant was reverted twice. However, she did not challenge her order of reversion. It is an admitted fact that the applicant joined as Junior Clerk on 1.12.1984 through Employment Exchange. She belonged to Mahadeo Koli community, i.e., S.T reserved category. She was confirmed from 5.1.1989. On 29.4.1994 she was promoted to the post of Senior Clerk in the vacancy by giving the benefits of reservation. However, she could not obtain the Caste Validity Certificate and therefore by order dated 28.8.1988 the applicant came to be reverted to the post of Junior Clerk. The applicant should have challenged that reversion order at the relevant time. She accepted the same without questioning her

order of reversion. She got her Caste Validity Certificate on 25.4.1999 that she belonged to Special Backward Class category as according to her the caste Hindu Koli was to be treated in Special Backward Class. We make it clear that in the G.R dated 15.6.1995 certain Castes are considered as Special Backward Class wherein at Sr No. 4 Koli the specific sub-caste of Koli is included. However, in the said list Mahadeo Koli caste is not mentioned.

8. Be that as it may. Ultimately, she got the valid Certificate of belonging to Special Backward Class and she has not challenged her reversion are the facts taken into account. The applicant attained the age of 45 years on 13.6.2010 and till then she has not cleared the departmental examination and she was exempted from passing the departmental examination. She was gradually promoted to the post of Head Clerk on 14.3.2012. Then again she was reverted on 16.11.2016 from the post of Head Clerk to the post of Senior Clerk. The applicant has grievance about this reversion order dated 16.11.2016. However, it is necessary to understand that the said order was passed due to shuffling and revision of the seniority list of the Senior Clerk and Head Clerks as per the order dated 25.6.2015 passed in O.A 259, 1248 & 1260/2013 and order dated 24.8.2015 passed in O.A Nos 908 & 960/2013 and in that order though the applicant was not a party to the said Original Applications, the Tribunal directed to give them deemed seniority and consider their cases of seniority. The submissions of learned counsel that the order of the Tribunal about revising the seniority list was misinterpreted by unsettling the seniority of the applicant cannot be accepted as it was the effect of shuffling and revision

of the entire seniority list as the applicants in the said Original Applications were the colleagues of the applicant. As a necessary corollary, there was a change in the position of the applicant and other colleagues in the seniority list.

9. We have perused the office order dated 19.11.2016. It is a reasoned order wherein the reasons for shuffling and revision of the seniority list are mentioned in detail. Therefore, we are of the view that our indulgence is not required.

10. In view of the above, we find no merit in the Original Application and the same is accordingly dismissed.

Sd/-
(Medha Gadgil)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 02.08.2024
Dictation taken by : A.K. Nair.