

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

**ORIGINAL APPLICATION NO 680 OF 2014
WITH
M.A 417 OF 2015 IN O.A 680 OF 2014**

DISTRICT : SOLAPUR

Shri Govind Sharadrao Ahankari,)
Occ : Service, R/o: Juni Mill Clerk Chawl)
B-30, Morarji Peth, Solapur and also)
District Information Office, Central Bldg,)
Ground floor, Collectorate Campus,)
Solapur.)...**Applicant**

Versus

1. The Principal Secretary,)
General Administration Department)
Government of Maharashtra,)
Mantralaya, Mumbai 400 032.)
2. The Director General,)
Information & Public Relation,)
Office of the Director General)
New Administrative Building,)
17th floor, Opp Mantralaya,)



- Mumbai 400 032.)
3. The Director Administration)
 Information & Public Relation)
 Office of the Director General)
 New Administrative Building,)
 17th floor, Opp Mantralaya,)
4. The Desk Officer [34A],)
 General Administration Department,))
 Government of Maharashtra,)
 Mantralaya, Mumbai 400 032.)
5. The Divisional Promotion Committee))
 General Administration Department,))
 Government of Maharashtra,)
 Mantralaya, Mumbai 400 032.)
6. Shri Y.K Bhandare,)
 District Information Officer,)
 Aurangabad, now having taken)
 Charge of Dy. Director,)
 Information Office, Pune.)...**Respondents**

Shri P.S Pathak, 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 : 02.05.2016

PER : Shri Rajiv Agarwal (Vice-Chairman)

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ORDER

1. Heard Shri P.S Pathak, 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 Deputy Director in the office of the Director General, Information and Public Relations, Mumbai from open category and he has also challenged the order dated 9.9.2014 promoting the Respondent no. 6 to that post.

3. Learned Counsel for the Applicant argued that the Applicant was appointed as District Information Officer on 13.2.1995. There are 10 posts of Deputy Directors and as per Rule 7 of the Director (Information), Deputy Director (Information), Senior Sub-Editor, Senior Assistant Director (Information), District Information Officer and Public Relations Officer, Group-A, Assistant Director (Information), Examiner of Book and Publications and Information Officer, Group-B (Gazetted) under the Director General of Information and Public Relations (Recruitment) Rules, 2015 (hereinafter called Recruitment Rules), the ratio of promotion and nomination is 75:25. 2 posts are to be filled by nomination and 8 by promotion. In the seniority list as on 1.1.2014 published on 25.5.2015, the Applicant is at

Sr. no 3. The persons at Sr. no 1 & 2 belong to open category and have been promoted as Deputy Director. The Applicant, is effectively the senior most person in his category. Person at Sr. No. 9 has been promoted from VJ category. The Respondent no. 6, who is junior to the Applicant has also been promoted as Deputy Director on 9.9.2014, overlooking the claim of the Applicant. Learned Counsel for the Applicant argued that there is one vacancy at present of Deputy Director, where the Applicant may be directed to be promoted.

4. Learned Chief Presenting Officer (C.P.O) argued on behalf of the Respondents no 1 to 5 that out of 10 sanctioned posts of Deputy Director, 2 are to be filled by direct recruitment on the recommendations of the Maharashtra Public Service Commission. Against these two posts, one general candidate has been given ad hoc promotion. As in temporary/ ad-hoc promotions also, reservation has to be followed, other post is filled by promoting a person belonging to Backward Caste. The Applicant belongs to open category and, therefore, cannot claim promotion in a reserved post. Out of 8 posts, 33% reservation is provided for promotion, which comes to 2.64, rounded off to 3. At present, two open posts are filled by giving ad hoc promotion to Shri Ganesh Mule from open category and Shri Y.K Bhandare from S.C category. There are following persons working as Deputy Directors on promotion:

Sr No	Name	Caste	Remarks
1.	Shri Shivaji Mankar	NT-D	Promoted as Deputy Director from open category - post vacant as Shri Mankar promoted as Director.
2.	Shri Satish Lalit	Open	
3.	Shri Suresh Vandile	Open (OBC)	
4.	Smt Varsha Shedge	Open	
5.	Shri D.M Kamble	S.C	
6.	Vacant		Due to retirement of Shri Vasave from S.T category.
7.	Shri Mohan Rathod	VJ(A)	
8.	Shri R.B Mali	Open	

Learned Chief Presenting Officer argued that the vacant posts will be filled after application of roster as advised by B.C section of G.A.D.

5. Learned Chief Presenting Officer has made available the roster register for the post of Deputy Director for our perusal. It is seen that till 2006, all the posts were filled from open category candidates. The reservation was made applicable as per G.R dated 25.5.2004 and 29.1.2004. In 2007, out of 9 posts, six were filled, all by open candidates. The same situation continued in 2008. No information is available for 2009. However, in 2010, out of 9, 5 posts were filled by open category candidates. Situation remained unchanged in

2011. In the year 2012, the same situation continued. 3 persons came to be promoted in 2012, and Shri P.K Gawali, came to be adjusted in the vacancy reserved for S.C category. In the year 2013, Shri Kamble was promoted from S.C category and, Shri Vasave from S.T category. The position in the year 2014 is as follows:-

Sr No	Name	Caste	Remarks
1.	Smt Shradha Bedsare	Open	Retired on 31.8.2014.
2.	Shri D.T Bhujbal	Open	
3.	Shri S.S Mankar	Open	
4.	Shri D.M Kamble	S.C	
5.	Shri R.D Vasave	S.T	Retired on 31.1.2016
6.	Shri S.R Lalit	Open	
7.	Shri S.P Wandile	Open	
8.	Smt Varsha Shedge	Open	

Names of Shri Mohan Rathod, said to be promoted from VJ-A category from Direct Recruit quota and Shri R.B. Mali, from open, promoted from Direct Recruits quota names, do not appear in this register. It is mentioned in the note dated 20.10.2015 by Secretary (सा.वि.स) that for the year 2014-15, 6 posts will be available and reservation will be as follows:- S.C-1, S.T-1, Open-4. After that there is no entry in the Register. As per 100 point roster prescribed by G.R dated 18.10.1997, first three roster points are for S.C, S.T and V.J-A category. From the list of persons, who have actually been

promoted, it is seen that 5 persons from open category and 1 from S.C and one from VJ-A category are at present working as Deputy Director. One post from promotion quota and both posts from nomination quota are vacant (if the two persons promoted against direct recruits quota are adjusted in promotion quota). As was done in the case of Shri Mali and Shri Rathod, who were given ad hoc promotion against direct recruit's quota, the open post can be used for promoting an open candidate. As regards two posts, one each from promotion and direct recruit's quota from reserved category, the reserved post should be filled as per 100 point roster for promotion and direct recruitment. The Respondent no. 6 has already been given promotion from reserved post from Direct Recruit's quota. The Applicant appears to be eligible for promotion from open category, he should be considered for promotion on ad hoc basis.

6. Incidentally, the Applicant has claimed that Shri Mankar actually belongs to NT-D category, but was promoted from open category. If that claim is correct, he has to be adjusted from VJ-NT category, as the post in these category are inter-transferable. The fact should also be kept in mind while considering candidates for promotion.

7. Having regard to the aforesaid facts and circumstances of the case, the Respondent no. 1 is

directed to consider the Applicant for promotion/ad hoc promotion from open category within a period of 3 months from the date of this order. This Original Application is allowed accordingly with no order as to costs. As the Original Application is disposed of, nothing survives in the Misc Application which also stands disposed of.

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

Sd/-
(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai
Date : 02.05.2016
Dictation taken by : A.K. Nair.