

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO 760 OF 2024**

DISTRICT : MUMBAI

Shri Narsingh Pancham Yadav,)
Occ-Assistant Commissioner of Police)
R/o: Flat No. 606, Tower-4,)
Spring Grow Tower, Lokhandwala,)
Kandivali [E], Mumbai 400 101.)...**Applicant**

Versus

1. The State of Maharashtra)
Through the Principal Secretary)
Home Department,)
Mantralaya, Mumbai 400 032.)
2. Director General of Police,)
Shahid Bhagat Singh Road,)
Colaba, Mumbai 400 001.)
3. Commissioner of Police,)
D.N Road, Opp. Crawford Market,)
Mumbai 400 001.)...**Respondents**

Shri S.S Dere, learned advocate for the Applicant.

Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents.

**CORAM : Justice Mridula Bhatkar (Chairperson)
Mrs Medha Gadgil (Member) (A)**

DATE : 23.07.2024

J U D G M E N T

1. The applicant prays that the Respondent No. 1, be directed to open the seal cover and grant him ad hoc promotion to the post

of D.C.P/S.P and further his promotion may be subject to the outcome of the Criminal Proceeding.

2. Learned counsel for the applicant seeks permission to amend the prayer clause. Permission granted. Amendment to be carried out forthwith and copy to be served on the Respondents.

3. Learned counsel for the applicant submitted that the meeting of the Departmental Promotion Committee was held on 29.5.2024 and the name of the applicant was considered in the said meeting. One officer junior to the applicant was also considered in the D.P.C meeting. Learned counsel further submitted that as the applicant was facing charges under Section 129(2) of the Representation of People Act, 1951, his case was kept in sealed cover. Learned counsel for the applicant produced copy of the order dated 18.7.2024 passed by the Learned Sessions Judge in Criminal Revision Application No. 161/2024, wherein the Learned Sessions Judge quashed and set aside the issue process against the applicant and the entire proceedings on the ground that the charge sheet was filed beyond the period of limitation as mentioned in Section 468 of Cr. P.C (Old Act) and Section 514 of Bharatiya Nyaya Sanhita, 2023 (New Act). Learned counsel further submitted that the applicant has submitted that as the criminal proceedings are over the later portion of the prayer is not to be considered by the Tribunal. However, the case of the applicant is to be considered for regular promotion under clause 12(a) of G.R dated 15.12.2017, which was issued in view of the decision of the Hon'ble Supreme Court in the case of Union of India & Anrs Vs. K.V Jankiraman & Ors, AIR 1991 SC 2010.

4. Learned C.P.O on instructions submitted that the meeting of the D.P.C was held on 29.5.2024, that is prior to the decision of

the Learned Sessions Judge dated 18.7.2024 in Criminal Revision Application No. 161/2024. Learned counsel therefore submitted that the Respondents will require time to consider the case of the applicant as per clause 12(a) of the G.R dated 15.12.2017.

5. It is to be noted that by interim order dated 27.6.2024, we have directed to keep one post of D.C.P. In view of the above, we pass the following order:-

ORDER

- (a) The applicant's amended prayer is carried out as per amendment dated 23.7.2024 is allowed.
- (b) The, Respondent, competent authority, is hereby directed to open the seal cover without conducting fresh D.P.C meeting and consider the case of the applicant for promotion to the post of D.C.P, if otherwise found eligible.
- (c) The said decision is to be taken by the Respondent, competent authority, within four weeks, i.e., on or before 24.8.2024.
- (d) If the applicant is found fit and eligible for promotion, then he is to be granted the deemed date of promotion as and when if his junior was so promoted.

Sd/-

**(Medha Gadgil)
Member (A)**

Sd/-

**(Mridula Bhatkar, J.)
Chairperson**

**Place : Mumbai
Date : 23.07.2024
Dictation taken by : A.K. Nair.**