MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO.486/2018 (D.B.)

Ravindra Rameshwarji Sharma
Aged 49 Years, Occ: Service,
R/o 42, Prasad Nagar, Near Ambika Nagar,
Amravati-444606 District Amravati.

... **APPLICANT**

// V E R S U S //

1] The State of Maharashtra,
Through it Secretary,
Finance Department, Mantralaya,
Madam Cama Marg, Hutatma Chowk,
Mumbai-400032.

2] The Joint Director,
Accounts and Treasury,
University Road, Amravati-444602

3] Arun R. Jadhav
Aged 50 years, Occupation: Service
Sub-Treasury Office, Lonar, District Buldhana.

... **RESPONDENTS**

Shri S.N. Gaikwad, Advocate for the Applicant.

Shri M.I. Khan, learned P.O. for Respondent nos.1&2.

None for respondent no.3.

Coram :- Hon'ble Shri Justice M. G. Giratkar,
Vice Chairman and
Hon'ble Shri Nitin Gadre,
Member (A).

Dated :- 04/12/2024.

J U D G M E N T

Heard Shri S.N. Gaikwad, learned counsel for the applicant and Shri M.I. Khan, learned P.O. for respondent nos.1 and 2. None for respondent no.3.

2. The case of the applicant in short is as under :-

The applicant was not promoted and was kept in waiting for a period of more than 4 years and was ultimately promoted to the post of Deputy Accountant from Open category as per order dated 21st April, 2012. The Respondent No.3 was promoted to the post of Deputy Accountant in Open category bye-passing and circumventing all the Rules, Regulations and Government Resolutions, etc. In fact, Respondent No.3 was promoted in V.J.(A) category, but he is wrongly shown in the Open category. Therefore, the right of applicant was affected. If Respondent No.3 was shown in the proper category, i.e., V.J.(A) category, then the applicant could have got promotion in the Open category. Hence, the applicant approached to this Tribunal for the following reliefs:-

> *"10(i) By an appropriate order or direction the Communication and Order dated 5th December, 2017 passed by the non-applicant no.2-the Joint Director may kindly be quashed and set aside and*

the applicant may kindly be granted deemed date of promotion from the year 2008 on the post of Deputy Accountant alongwith seniority and all monetary benefits accruing therefrom including arrears of salary and yearly increments etc.

(ii) By an appropriate order or direction the Seniority List of Amravati Division as on 1st January, 2009 of Deputy Accountants may kindly be corrected and modified by including the name of the applicant and the non-applicant no.2-the Joint Director may kindly be directed to publish fresh Seniority List of Deputy Accountants incorporating the name of the applicant in the interest of justice.

11(i) By an appropriate order or direction, during the pendency of the instant application the effect, operation and implementation of the Communication and Order dated 5th December, 2017 passed by the non-applicant no.2-the Joint Director and the Seniority Lists dated 1st January, 2009 and onwards published by the non-applicant no.2-the Joint Director may kindly be stayed in the interest of justice.

(ii) Ad-interim relief in terms of prayer clause (i) may kindly be granted in the interests of justice.

3. The respondent nos.1 and 2 have filed reply. In Para 11 of the reply, the Respondent nos.1 and 2 have admitted that the Respondent No.3 was promoted in V.J.(A) category. Para 11 of the reply is reproduced below:-

"11. It is submitted that the respondent no.3 was promoted on the post of Deputy Accountant from the caste category of Vikumta Jati (A) on the basis of recommendation of the Selection Committee meeting held on 30.09.2008. Thereafter, the 100 point roster was submitted to the Backward Class cell for certification. The Assistant Commissioner, Backward Class Cell, Amravati Division, Amravati certified the 100 Point Roster on

07.01.2009. The applicant had stated that the name of the respondent no.3 is shown in the 100 point roster for the year 01.09.2013 to 31.08.2014 against "Open Category" at Serial No.46. But the name of the applicant at Serial No.46 is adjusted against the vacant point for Vimukta Jati (A) at Serial No.83 which was clearly indicated in the said list against the name of the respondent no.3. Therefore, it is not correct on the part of the applicant to state that the applicant was wrongly promoted against the "Open category".

4. Learned advocate for applicant Shri S.N. Gaikwad has pointed out the decision of D.P.C. dated 30/09/2008. The material part of the decision is reproduced below:-

''वर नमूद केल्याप्रमाणे पदोन्नती विषयक १०० बिंदु नामावलीचे संदर्भातील तसेच पदोन्नती विषयक शासनाचे निर्णय/परिपत्रके यांचे संदर्भाधिन आदेश तथा निर्देशानुसार बैठकीचे दरम्यान उपयुक्त चर्चा होऊन निवडपात्र ०९ कर्मचा-यांना बिंदुनामावलीनुसार ज्या क्रमाने उपलेखापाल/ उपकोषागार अधिकारी (निम्नश्रेणी)संवर्गातील पदे रिक्त झालीत त्याप्रमाणे जेष्ठतेनुसार खुल्या प्रवर्गातील तथा मागास प्रवर्गातील निवड केलेल्या कर्मचा-यांमधुन रिक्त झालेली पदे भरण्यास पदोन्नती समितीने सर्वानुमते निर्णय घेऊन शिफारस केली त्यास पदोन्नती समितीचे अध्यक्ष तथा सभेस उपस्थित सर्व सदस्यांनी एकमताने मान्यता दिली. त्या निवडपात्र कर्मचा-यांची नावे खालील प्रमाणे आहेत.

अ.क्र.	जेष्ठता क्रमांक	कर्मचा-यांचे नांव व पदनाम	कोषागार कार्यालय	प्रवर्ग
१	३७	श्री.स.ब.गुडधे,कनिष्ठ लिपीक	यवतमाळ	खुला
२	१७१	श्री.आर.बी.डोंगरे,कनिष्ठ लिपीक	यवतमाळ	अ.जा.
३	१७५	श्री.एस.आर.उपश्याम,वरिष्ठ लिपीक	अकोला	खुला
४	१८१	श्री. जे.व्ही.चोपडे, वरिष्ठ लिपीक	अकोला	इमाव
५	१८२	श्री.डी.बी. मोघरे, वरिष्ठ लिपीक	अमरावती	अ.जा.
६	१८४	श्री. एम.ए. लिखिते, कनिष्ठ लिपीक	यवतमाळ	ठमाव
७	१९१	श्री. डब्ल्यु.एन.डोंगरे, वरिष्ठ लिपीक	अमरावती	अ.जा.
८	२१०	श्री.सी.पी.आत्राम, कनिष्ठ लिपीक	वाशीम	अ.ज.
९	२४०	श्री.ए.आर.जाधव, कनिष्ठ लिपीक	बुलडाणा	विजा-अ

5. From the reading of the decision of D.P.C. cited above, it is clear that Respondent No.3 was promoted in V.J.(A) category. Learned Advocate for applicant has pointed out the roaster. In the category roaster, name of Respondent No.3 is at Serial No.46 and he was shown in Open category.

6. The claim of the applicant is that if the Respondent No.3 was not promoted in Open category, then the applicant would have got promotion in Open category. From the perusal of the decision of D.P.C. and Para 11 of the Reply, it is clear that the Respondent No.3 was promoted in V.J.(A) category, but in the roaster, he is shown in Open category. Hence, the respondent authorities may grant promotion to the applicant, if he was eligible in the Open category on the date of D.P.C. meeting dated 30/09/2008. Hence, we proceed to pass the following order:-

O R D E R

(i) O.A. is partly allowed.

(ii) The respondent nos.1 and 2 are directed to consider the claim of applicant in the Open

category for promotion, if he was eligible in Open category on the date of D.P.C. dated 30/09/2008.

(iii) No order as to costs.

(Nitin Gadre)
Member (A).

(Justice M.G.Giratkar)
Vice Chairman.

Dated :-04/12/2024.

PRM.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno	:	Piyush R. Mahajan.
Court Name	:	Court of Hon'ble Vice Chairman & Member (A).
Judgment signed on	:	04/12/2024