

(1998) 06 BOM CK 0045

In the Bombay High Court

Case No : Writ Petition No. 2687 of 1998

Deoram Atmaram Sankhe

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision : 18-06-1998

Acts Referred:

Citation : (1999) 81 FLR 138 : (1999) 3 LLJ 890

Hon'ble Judges : R.P. Desai, J; Ashok Agarwal, J

Bench : Division Bench

Advocate : N.V. Bandiwadekar, for the Appellant; R.D. Rane, AGP, for the Respondent

Judgement

Ashok Agrawal and R.P. Desai, JJ.—Rule. By consent, rule is made returnable forthwith. Heard parties.

2. By the present petition, petitioner seeks to impugn an order passed by the Maharashtra Administrative Tribunal on January 20, 1998 dismissing his Original Application No. 765 of 1995 on the ground that the same is barred by the law of limitation.

3. Petitioner had sought to impugn, before the Tribunal, an order dated March 27, 1995 issued by the third respondent Deputy Director of Civil Supplies, rejecting petitioner's request for granting him deemed date of promotion and for refixation of his pay at par with other officers who are similarly placed. The aforesaid application, being Application No. 765 of 1995, was filed by the petitioner in July, 1995 which is well within the period of limitation. The Tribunal, however, has made a reference to an earlier order passed by the Supply Commissioner on March 24, 1992 whereby the petitioners representation made on July 17, 1989 was rejected. The aforesaid representation was also for granting petitioner a deemed date of promotion but the same was based on promotions granted to officers who were junior to the Petitioner. As far as the present representation, which was made on August 4, 1992 is concerned, the

same seeks deemed date of promotion on the ground that petitioners caste namely Sankhe Vanjari was held to be a Nomadic Tribe by the Supreme Court pursuant to which the State Government passed a Resolution on August 4, 1992 recognising Sankhe Vanjari as Nomadic Tribe. Based on the aforesaid Government Resolution, the petitioner, on September 1, 1992, made a representation to the third respondent to consider his case for promotion by giving a deemed date on the basis of his belonging to Nomadic Tribe. It is this representation which came to be rejected by Respondent No. 3 on the March 27, 1995, which the petitioner has impugned before the Tribunal in Original Application No. 765 of 1995.

4. In our view, the rejection of the representation dated March 27, 1995 has nothing to do with the rejection of the representation of the petitioner dated March 24, 1992. Hence the rejection of March 24, 1992 will have no bearing on the issue of limitation in respect of Original Application filed in July, 1995. In the circumstances, we find that the Application filed before the Tribunal is not barred by the law of limitation.

5. The impugned order, in the circumstances, is set aside and Rule is made absolute in terms of prayer Clause (b).

6. The Tribunal will now proceed to hear and decide the said Original Application No. 765 of 1995 on its own merits and in accordance with law.

7. No order as to costs.

"Prayer Clause (b):

"By a suitable writ, order of direction the impugned order dated January 20, 1998 passed in Original Application No. 765 of 1995 by the Hon"ble Maharashtra Administrative Tribunal, Mumbai, be quashed and set aside and the said Petition be restored to its file and ordered to be heard and decided on merits."