

(2018) 07 BOM CK 0023

In the Bombay High Court

Case No : Writ Petition No. 2521, 6522 Of 2015

Jahid Ali Kamruddin Shaikh

APPELLANT

Vs

State of Maharashtra and ors.

RESPONDENT

Date of Decision : 05-07-2018

Acts Referred:

Constitution of India, 1950 — Article 309

Citation : (2018) 07 BOM CK 0023

Hon'ble Judges : V. K. TAHILRAMANI, J;M. S. SONAK, J

Bench : Division Bench

Advocate : Sandip Shinde, C.P. Yadav

Final Decision : Disposed Off

Judgement

Sr.No.,Names,"Date of appointment

As Peon (Class-IV)",Category

1,Shri. V.R. Katkari,02.03.1987,ST

2,,19.12.1994,SC

3,Shri.Narendra Sangle,11.01.1994,NT(D)

4,Shri.Durgasingh Rathod,01.09.1992,SBC

5,Shri.Male K. Rane,11.01.1994,Open

6,Shri.Jahid Ali K. Shaikh,25.04.1997,Open

to certain reserved categories in contrast to the petitioner Jahid Ali, who belongs to the open category." ,,,

15] Learned AGP has stated that between 2000 and 2007, there were no promotions effected from Class IV to Class III posts and in any case, none" ,,,

of the juniors of Jahid Ali were promoted during the said period. The MAT, in its

order dated 22.12.2014, at paragraph 8, has clearly recorded the",,,

findings of fact to the effect that there were no promotions during this period or in any case, no employees junior to the petitioner Jahid Ali were",,,

promoted during this period. Mr.Shinde did produce on record a letter dated 26.09.2006 received by the petitioner Jahid Ali under R.T.I. to submit that,,,

some promotions had taken place during this period. The letter is not at all clear. In any case, the letter only gives the dates on which, six employees",,,

referred to in the aforesaid promotion order dated 7.08.2007 became eligible for promotion. This is not the same thing as saying that the said persons,,,

were actually promoted earlier than 7.08.2007 or were actually promoted on the date they acquired the eligibility qualification. In any case, these are",,,

the very six names which are referred to in the promotion order dated 7.08.2007. There is nothing shown to us in order to interfere with the findings of,,,

fact recorded by the MAT in its order dated 22.12.2014.,,,

16] The two GRs, upon which, the petitioner Jahid Ali places reliance do not mandate award of promotions no sooner the employer in the feeder",,,

category attain eligibility qualifications. The GRs, at the highest, state that if some employees are denied promotions on the dates they were due for",,,

promotions, then, the question of deemed dates can be construed. No sooner an employee attains the eligibility qualifications, it cannot be said that he",,,

has become due for promotion. Then again, the issue of vacancies is also relevant in this regard. As long as there is no arbitrariness or discrimination",,,

employees cannot insist on promotion, no sooner they acquire the eligibility qualifications. In the present case, as noted earlier, the order dated",,,

7.08.2007 makes it clear that the petitioner Jahid Ali was the junior most member in the feeder cadre. Accordingly, based upon the two GRs or",,,

even otherwise, the petitioner Jahid Ali has not made out any case for grant of deemed date.",,,

17] Admittedly, the petitioner Jahid Ali, had not made any of the employees referred to in the promotion order dated 7.08.2007 as parties to his O.As.",,,

If, at this stage, the deemed date from the year 2000 or 2003 is to be granted to the petitioner Jahid Ali, then, the petitioner Jahid Ali might as well",,,

claim seniority over such remaining employees who were in fact, senior to the petitioner Jahid Ali in the feeder category. The grant of any such relief",,,

is therefore, bound to affects the rights and interests of such employees. Apart from the fact that the petitioner Jahid Ali had made out no case for",,,

grant of any relief on merits, it is quite clear that the O.A. was required to be dismissed for non-impleadment of necessary parties. This is an additional",,,

ground for dismissal of Writ Petition No. 2521 of 2015.,,,

18] For all the aforesaid reasons, we see no good ground to interfere with the judgment and order dated 22.12.2014 dismissing the petitioner Jahid Ali's",,,

O.A. No. 579 of 2008. Accordingly, Writ Petition No. 2521 of 2015 is liable to be dismissed and is hereby dismissed.",,,

19] Consequent upon dismissal of Writ Petition No. 2521 of 2015, the issues raised inÂ Writ Petition No. 6522 of 2015 are only academic and",,,

therefore, there is no necessity to decide such issues. Accordingly, we dispose of Writ Petition No. 6522 of 2015 as infructuous.",,,

20] For all the aforesaid reasons, we dismiss Writ Petition",,,