

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.4511 OF 2012

Leela Govindrao Bhagat
age 56 years, Occu. Service,
r/o Deepraj Bangalow, House No.
3-17-229,
Saraswathi Colony, Near Railway
Station Jalna, Tq. & Dist. Jalna. **..PETITIONER.**

VERSUS

1. The State of Maharashtra,
though its Secretary,
Rural Development and Water Conservation
Department, Mantralaya,
Mumbai.

2. The Divisional Commissioner,
Commissioner Office, Aurangabad.

3. The Chief Executive Officer,
Zilla Parishad, Jalna, Dist. Jalna.

4. B.A. Savant,
age Major, Occu. Service,
r/o Presently working as Child Development
Project Officer, Bhokardan,
Dist. Jalna. **..RESPONDENTS.**

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Mr.S.P. Tiwari, Advocate for the Petitioner.
Mr.S.B. Pulkundwar, AGP for the Respondents – State
Mr.M.P. Kale, Advocate for Respondent No.3.
Respondent No.4 served.

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**CORAM : S.S. SHINDE &
A.M. BADAR, JJ.**

Reserved on : 15th October, 2015.
Pronounced on : 20th October, 2015.

JUDGMENT: [Per S.S.Shinde, J.]:

1. Rule. Rule is made returnable forthwith. By consent of the learned Counsel for the parties, taken up for final hearing.

2. This petition takes exception to the order dated 24th October, 2011 at Exh."G" - (Pages 38 to 40 of the compilation writ petition), passed by the respondent No.1. There is further prayer to promote the petitioner as a Block Development Officer or Child Development Project Officer and to direct the respondent No.2 to declare the deemed date of promotion of the petitioner as 1st October, 2003. There is also prayer seeking direction to respondent No.2 to decide the representations dated 30th October, 2009 and 11th November, 2009.

3. It is the contention of the petitioner that, though the petitioner was appointed on 25th August, 1982 and was shown as senior earlier, surprisingly, in the seniority list published in the month of August, 2008, the petitioner was shown at Sr.No.31; whereas, the names of respondent No.4 and one Shri S.R. Patil were shown at Sr. No.27 and 28 respectively, though the petitioner was senior to them. It is further submitted that in the seniority list published in the month of October, 2009, petitioner's name has been shown at Sr.No.21; whereas, names of Mr.S.R. Patil, Mr.M.R. Bodhale and the respondent No.4 were shown at Sr.Nos. 16, 17, 18 respectively. After raising an objection by the petitioner, his name has been shown at Sr.No.19; whereas, names of Mr. S.R. Patil was shown at Sr.No.20 and name of Mr.Bodhale was shown at Sr.No.21. However, though the respondent No.4 was junior to the petitioner, name of respondent No.4 came to be shown at Sr.No.16 and accordingly, deemed date was fixed by the respondents. Though the petitioner had made representations requesting the respondent No.2 to declare

deemed date of the petitioner as 1st October, 2003, till today, representations are not decided. Another seniority list was published in the year, 2010 wherein, name of the petitioner is shown at Sr.No.15 whereas, name of Mr.S.R. Patil and Mr.M.R. Bodhale have been shown at Sr.Nos.16 and 18, respectively. It is further grievance of the petitioner that, by the impugned order dated 24^h October, 2011 passed by the respondent No.1, the respondent No.4 has been promoted as Child Development Project Officer, Bhokardan, District Jalna. However, proposal of the petitioner for promotion was not forwarded. Hence, this petition.

4. The learned Counsel for the petitioner submits that, during pendency of this petition, on 1st January, 2012, the seniority list was published by the Chief Executive Officer, Zilla Parishad, Jalna wherein, name of the petitioner has been shown at Sr. No.1. The petitioner retired from service on 30th November, 2013. It is specific contention of the Counsel for the petitioner that, during service tenure of the petitioner, respondent – authorities have not promoted the

petitioner though the petitioner was entitled for promotion for the post of Block Development Officer or Child Development Project Officer. Since, the petitioner has retired from service during pendency of this petition, she is further seeking direction to grant pensionary benefits to the petitioner for the post of Block Development Officer or Child Development Project Officer. The learned Counsel for the petitioner invited our attention to the entry taken in the service record of the petitioner wherein, it is mentioned that the petitioner did pass the examination within the stipulated time and attempts.

5. In pursuance to the notices issued to the respondents, respondents No.1 and 2 have filed affidavit-in-reply. The respondents have tried to justify the seniority list and it is stated that, in view of the existing policy, promotions were granted and no promotion to any Section Officer junior to the petitioner has been granted till retirement of the petitioner.

6. We have given careful consideration to the submission of the learned Counsel for the petitioner, learned AGP appearing for the State – respondents No.1 and 2 and the learned Counsel for respondents No.3. Upon careful perusal of the pleadings in the petition and the documents placed on record, it appears that in the year, 2010, the petitioner was shown at Sr.No.15 in the seniority list; whereas, names of Mr. Patil and Mr. Bodhale were shown at Sr.Nos.16 and 18 respectively. However, it appears that, respondent No.4 has been promoted and the petitioner's case for promotion was not recommended. During the pendency of this petition, the petitioner has retired from service on attaining age of superannuation. *Prima facie*, it appears that, the petitioner's case ought to have been considered for promotion on the post of Child Development Project Officer or Block Development Officer.

7. In the circumstances, we direct the respondent No.3 to consider the case of the petitioner for the purpose of giving him deemed date of promotion, if she was entitled during the tenure of his service for the post of Child

Development Project Officer or Block Development Officer, keeping in view the contents in the representations filed by the petitioner on 30th October, 2009 and 11th November, 2009. Such exercise should be done, as expeditiously as possible.

The respondent No.3 is further directed to work out pensionary benefits of the petitioner and after approval of the competent authority, the petitioner be granted pensionary benefits, forthwith. However, the respondent No.3 is directed to complete the entire exercise including consideration of claim of the petitioner on the promotional post, fixing of deemed date of promotion, if she is ultimately found entitled and grant of pensionary benefits, as expeditiously as possible; however, within five months from today.

Petition is allowed in the above terms. Rule is made absolute, accordingly with no order as to costs.

[A.M. BADAR, J.]

[S.S. SHINDE, J.]