

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.5512 OF 2013

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
--	---------------------------

Mr.P.L.Shahane, advocate for the petitioner.
Smt.S.D.Shelke, Asstt. Govt. Pleaders for the State.
Mr.A.S.Bajaj, advocate for Respondent No.4.

**CORAM : S.V.GANGAPURWALA &
V.L.ACHLIYA, JJ.**

Date : 20.01.2015.

PER COURT :

1. Heard.
2. The petitioner vide the present Writ Petition seeks deemed date of promotion i.e. he ought to be granted deemed date of promotion with effect from 30.7.2004 as a Deputy Executive Engineer. The learned counsel for the petitioner submits that time and again the petitioner made representations. For the first time in the year 2012, the petitioner was communicated the reasons for not considering the claim of the petitioner. The learned counsel submits that the only reason for not promoting the petitioner in the year 2004 is stated that the petitioner was punished as caution letter was issued. The learned counsel submits that the petitioner is exonerated and he has been communicated orally that the

punishment of issuance of caution letter has been set aside. The learned counsel further submits that juniors to the petitioners are promoted, however, the petitioner is not promoted. The seniority is the only criteria for promotion. According to the learned counsel, the facts have not been properly construed by the Respondents. As reasons were communicated only in the year 2012, the same was the cause to file the present Writ Petition. Before the year 2012, at no material point of time, the reasons were communicated for not considering the case of the petitioner.

3. Mr.Bajaj, learned counsel for Respondent No.3 submits that in the year 2008 itself, the petitioner was communicated of rejection of his claim for giving deemed date of promotion. In the year 2004 i.e. the period when the petitioner claims to be in the zone of consideration, the punishment was imposed. The petitioner is not exonerated. The petitioner never preferred any appeal against the punishment. For seeking promotion along with the seniority the other aspects are also required to be considered, such as Confidential reports, vigilance reports, disciplinary action, service record etc.

4. We have considered the submissions canvassed by the learned counsel for respective parties. In fact, the petitioner vide letter dated 24.12.2008 was specifically communicated that his case for deemed date of promotion is considered by the competent

Selection Committee and after examining all the papers decided to reject the case of the deemed date as sought by the petitioner. The petitioner could have approached the Court in the year 2008 itself after the said order was passed. The petition is filed only in the year 2013, seeking deemed date of promotion. Be that as it may, the fact that punishment was imposed and during the said period i.e. in the year 2004, the same was in force is not disputed. The case of the petitioner is that the petitioner was exonerated. There is no order exonerating the petitioner. The claim of the petitioner is that he was orally intimated about the same. This fact is specifically disputed by the Respondents.

5. Naturally, all the other aspects such as Confidential reports, Disciplinary action taken against the petitioner, service record were considered by the Selection Committee and the case of the petitioner for promotion in the year 2004 was negated.

6. In light of the above, no case for interference is made out. The Writ Petition is dismissed. No costs.

(V . L . ACHLIYA, J .)

(S . V . GANGAPURWALA, J .)

Dt..20.01.2015.
asp/office/wp5512.13

