FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 5858 OF 2015

Pandurang Shankarrao Pandagale

-vs-

The State of Maharashtra, thr.the Upper Sales Tax Commissioner, Mumbai and others

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

Mr. G.N.Khanzode, counsel for the petitioner.
Ms Tajwar Khan, AGP for the respondent Nos.1 to 4.

CORAM : SMT. VASANTI A. NAIK &
A. I. S. CHEEMA, JJ.

DATE : 20.10.2015.

By this petition, the petitioner impugns the order of the Maharashtra Administrative Tribunal, Nagpur, dated 24/12/2014, dismissing the original application filed by the petitioner.

The petitioner, who was working as a Sales Tax Inspector had filed an original application before the Maharashtra Administrative Tribunal seeking the correction of the provisional seniority list of clerks, dated 01/01/2005, as the petitioner was shown to be junior to the respondent Nos.5 and 6, though he was senior. The petitioner had also sought the deemed date of promotion with effect from 09/09/2008, the date on which the respondent Nos.5 and 6 were promoted.

During the pendency of the original application, the respondent Nos.1 to 4 corrected the seniority list and the petitioner was shown to be senior to the respondent Nos.5 and 6. The grievance of the petitioner in regard to the seniority list stood redressed during the pendency of the original application with the correction of the seniority list. The Tribunal found that the respondent Nos.1 to 4 had realized their mistake of excluding the name of the petitioner from the seniority list of clerk-cum-typist, published on 14/07/2006 and the name of the petitioner was included in the seniority list and the petitioner was also shown to be senior to the respondent Nos.5 and 6. By realizing the mistake, the respondent Nos.1 to 4 had promoted the petitioner as a Sales Tax Inspector on 07/06/2011.

The Tribunal, however, rejected the prayer of the petitioner for deemed date of promotion with effect from 09/09/2008 on the ground that the promotions of the respondent Nos.5 and 6 by the orders, dated 09/09/2008 were fortuitous in nature and a stop gap arrangement. The Tribunal dismissed the original application filed by the petitioner in respect of the prayer for grant of deemed date of promotion with effect from 09/09/2008.

On a perusal of the order of the Tribunal and on hearing the learned counsel for the parties, it appears that the Tribunal was justified in rejecting the prayer of the petitioner for deemed date of promotion with effect from 09/09/2008. We find that no cause of action accrued to the petitioner for seeking deemed date of promotion with effect from 09/09/2008, as the promotions of the respondent Nos.5 and 6 were fortuitous and as a stop gap arrangement. The respondent Nos.5 and 6 are not regularly promoted as Sales Tax Inspectors with effect from 09/09/2008. The promotions were contingent and in the circumstances of the case, the Tribunal held that the petitioner could not have sought the deemed date of promotion, specially when the respondent Nos.5 and 6 were not regularly promoted with effect from 09/09/2008.

Since the order of the Tribunal is just and proper, the writ petition is dismissed with no order as to costs.

JUDGE **JUDGE**

KHUNTE