

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

WRIT PETITION NO. 1979 OF 2015

Tukaram Huna Bhalerao,
Age 58 years, Occ. Now retired,
r/o. Ring Road, Forest Colony,
Jalgaon, Dist. Jalgaon ..Petitioner

Vs.

- 1] The State of Maharashtra,
Through Secretary,
Forest Department,
Mantralaya, Mumbai – 32
- 2] The Chief Conservator of Forest,
(Administration), M.S. Seminar
Hill, Nagpur
- 3] The Conservator of Forest,
Nashik Circle, Nashik
- 4] The Deputy Conservator of Forest,
Yawal Division at Jalgaon,
Dist. Jalgaon
- 5] Vilas Yeshwant Joshi
Age:Major, Occ. Service,
r/o. Van Vihar Colony,
Jalgaon, Dist. Jalgaon
**(Respondent no.5 is deleted
as per the Court's order
08.12.2015)** ..Respondents

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Mr.S.D.Dhongade, Advocate for petitioner

Mr.S.K.Kadam, AGP for respondent nos.1 to 4

**CORAM : S.S. SHINDE AND
SANGITRAO S. PATIL, JJ.
DATE : JUNE 16, 2016**

PER COURT :

Heard.

2] This petition takes exception to the impugned judgment and order dated 10.10.2012 passed by the Maharashtra Administrative Tribunal in Original Application No.848 of 2005.

3] The learned Counsel appearing for the petitioner submits that the petitioner was appointed as a Watchman on 26.08.1974, while one Vilas Joshi was appointed as a Watchman on 05.10.1974. It is submitted that the petitioner belongs to a Scheduled Caste. The learned Counsel submits that though the petitioner was in advantageous position by virtue of the relevant Government Resolutions, the said Vilas came to be promoted to the post of Clerk on 04.02.1980. The

petitioner was promoted to the post of Clerk on 05.11.1984. The learned Counsel further submits that the petitioner came to know about promotion of the said Vilas prior to the petitioner in Class-III post, though he was junior to the petitioner, only after publication of the Gradation list in the year 2005. Therefore, since the petitioner was unaware about promotion of the said Vilas, the petitioner could not challenge it. It is submitted that though it is observed in the impugned judgment and order of the Maharashtra Administrative Tribunal, that the petitioner was considered for the promotion and he was found to be unfit on the basis of his performance, the said reason was not communicated to the petitioner. The learned Counsel, therefore, submits that the present Writ Petition deserves to be allowed and the petitioner is entitled to get deemed promotion from the date when Vilas Joshi came to be promoted.

4] On the other hand, the learned A.G.P., relying on the reasons recorded by the Maharashtra Administrative Tribunal submits that this petition is filed belatedly and secondly, that the petitioner was found unfit for promotion on the basis of his performance though he was considered for the promotion at the appropriate time. He, therefore, submits that the petition may be rejected.

5] We have given careful consideration to the submissions advanced by the learned Counsel appearing for the petitioner and the learned A.G.P. for the respondents – State. With their able assistance, perused the pleadings in the petition and the reasons recorded by the Maharashtra Administrative Tribunal.

6] It is not necessary to reproduce the reasons recorded by the Maharashtra Administrative

Tribunal. Suffice it to say that in paragraph 5, the Maharashtra Administrative Tribunal has discussed about the prayer of the petitioner for being promoted prior to the said Vilas, who was appointed as Watchman after the appointment of the petitioner. The Maharashtra Administrative Tribunal has observed in the said paragraph that the petitioner's performance was assessed and it was found that his performance was not satisfactory.

7] Further, We are not satisfied with the explanation of the petitioner that he could not take exception to the promotion of said Vilas prior to 2005, on the ground that he was unaware about the promotion of said Vilas. Therefore, apart from the reasons assigned by the Maharashtra Administrative Tribunal in the impugned judgment and order, the belated attempt of the petitioner to take exception to the promotion of said Vilas,

cannot be countenanced. Therefore, in our opinion, no case is made out for interference in the impugned judgment and order. The view taken by the Maharashtra Administrative Tribunal is a plausible and reasonable view and is in consonance with the material on record.

8] For the aforementioned reasons, the Writ Petition deserves to be rejected. The Writ Petition is accordingly rejected. No costs.

[SANGITRAO S. PATIL, J.]

[S.S. SHINDE, J.]