

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

WRIT PETITION NO. 3417 OF 2013

The State of Maharashtra, thr.its Secretary and others

-vs-

Pradip Gopalrao Apale,

WRIT PETITION NO. 2175 OF 2013

The State of Maharashtra, thr.its Secretary and others

-vs-

Keshao Bhaiyalal Mishra

AND

WRIT PETITION NO. 2367 OF 2013

The State of Maharashtra, thr.its Secretary and others

-vs-

Hariram Janbaji Rahangdale

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

Court's or Judge's Orders.

Mr. A.S.Fulzele, Addl.G.P. for the petitioners.
Mr. G.G.Bade, counsel for all the respondents.

CORAM : SMT. VASANTI A. NAIK &
A.S.CHANDURKAR, JJ.

DATE : 01.02.2016.

Since all these writ petitions raise a challenge to the judgment of the Maharashtra Administrative Tribunal, dated 24/09/2010, they have been heard together and are being decided by this common order.

The respondent No.1 in Writ petition No.3417 of 2013 came to be appointed as a Junior Clerk on 23/10/1984. In the departmental examinations that were held in the year 1995 for being promoted to the post of Aval Karkun, the respondent No.1 passed the said examination. In the meanwhile, however, the respondent Nos.4 to 51 and thereafter the respondent Nos.52 to 62 were granted *ad hoc* promotion on the post of Aval Karkun. Being aggrieved, the

respondent No.1 filed an original application challenging the promotion granted to the respondent Nos.4 to 62. The Maharashtra Administrative Tribunal after considering the provisions of the Maharashtra Revenue Department Aval Karkun (Recruitment) Rules, 1986 held that respondent Nos.4 to 62 had been granted *ad hoc* promotion which was by way of stop gap arrangement. It further held that the respondent No.1 having passed the departmental examination, he was entitled for being promoted with effect from 21/10/1995. On that basis without disturbing the position of respondent Nos.4 to 62 in the seniority list, a direction was issued to grant deemed date of promotion to the respondent No.1. This order passed by the Tribunal is under challenge in these writ petitions.

Shri A. S. Fulzele, learned Additional Government Pleader for the petitioners, submitted that the respondent No.1 could not have been granted deemed date of promotion, inasmuch as respondent Nos.4 to 62 were senior in service to the respondent No.1. According to him, the respondent No.1 was rightly promoted after promotion was granted to the respondent Nos.4 to 62. He submitted that on a proper consideration of the Recruitment Rules of 1986, the impugned order passed by the Tribunal was liable to be set aside.

Shri G.G.Bade, learned counsel for the respondent No.1, supported the impugned judgment. He submitted that as the respondent No.1 had passed the departmental examination, he was entitled for being promoted from 21/10/1995. He submitted that the respondent Nos.4 to 62 before the Tribunal had been granted *ad hoc* promotion and hence no right was created in them to be treated as senior to the respondent No.1. He, therefore, submitted that the Tribunal had rightly considered the provisions of Rules 12 and 13 of the Recruitment Rules of 1986 while allowing the original application.

Having perused the relevant Recruitment Rules of 1986 along with the judgment of the Tribunal, it can be seen that the respondent No.1 had admittedly passed the qualifying examination on 21/10/1995. The respondent Nos.4 to 62 were merely granted *ad hoc*

promotion which was by way of a stop gap arrangement. The Tribunal on considering the effect of Rules 3, 12 and 13 of the Recruitment Rules of 1986 rightly found that the respondent No.1 was entitled for being promoted on the day he had passed the qualifying examination. A reference was also made to the recommendation made by the Collector for grant of deemed date of promotion to the respondent No.1 on that basis. Therefore, no fault can be found with the judgment of the Tribunal when it held in favour of the original applicants.

In view of aforesaid, there is no case made out to interfere in writ jurisdiction. The writ petitions are, therefore, dismissed with no order as to costs.

JUDGE

JUDGE

KHUNTE