

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 5877/2016

(Radhesham s/o Anandrao Shinde vs. State of Maharashtra and Others)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

Mr. B.Kulkarni, Advocate for the petitioner

Mr. Shyamal Kadu, Asst. Government Pleader for respondents 1 & 2

**CORAM : SMT. VASANTI A. NAIK &
MRS. SWAPNA JOSHI, JJ.**

DATED : 30th November, 2016.

Heard.

By this Writ Petition, the petitioner challenges the order of the Maharashtra Administrative Tribunal, dated 6.5.2016, dismissing the Original Application filed by the petitioner.

The petitioner had challenged his placement in the seniority list by filing the Original Application before the Maharashtra Administrative Tribunal. According to the petitioner, the petitioner was promoted on the post of Dairy Development Officer on 17.10.2001, before the respondent nos.3 and 4 were promoted on 1.4.2008 and 15.4.2008. According to the petitioner, though the petitioner was promoted on *ad-hoc* basis on the aforesaid post on 17.10.2001, the petitioner continuously officiated in the said post and hence it was necessary for the respondent nos.1 and 2 to consider the seniority of the petitioner in the cadre of Dairy Development Officer with effect from 17.10.2001. Since the respondent nos.3 and 4 were placed

above the petitioner in the seniority list, the action on the part of the respondent nos.1 and 2 was questioned. The Maharashtra Administrative Tribunal, on an appreciation of the material on record, dismissed the Original Application filed by the petitioner. The petitioner has challenged the said order in the instant petition.

On a reading of the impugned order, we find that the Tribunal was justified in dismissing the Original Application filed by the petitioner after holding that the petitioner did not prove that he was senior to the respondent nos.3 and 4 and was entitled to be placed above the respondent nos. 3 and 4 in the seniority list. The Tribunal observed that the petitioner was substantively promoted to the post of Dairy Development Officer on 21.2.2009, whereas the respondent nos. 3 and 4 were promoted to the said post on 1.4.2008 and 8.4.2008 respectively. The Tribunal held that the seniority of the petitioner in the said post could not have been reckoned from 17.10.2001 as the petitioner was promoted to the said post on the said date on *ad-hoc* basis and he was reverted on two occasions on the lower post. Since the Tribunal found that the petitioner did not continuously officiate on the post of Dairy Development Officer with effect from 17.10.2001 and since the dates of regular promotion of the petitioner and the respondent nos. 3 and 4 were 20.1.2009, 1.4.2008 and 8.4.2008 respectively, the Tribunal held that the petitioner was not entitled to be placed above the respondent nos. 3 and 4 in the seniority list. We do not find any error in the order of the Tribunal so as to interfere with the same in exercise of the writ jurisdiction. The judgments reported in 2014 (2) Mh.L.J. Page 36 and 2010 AIR (SC) 2159 and

relied on by the counsel for the petitioner cannot be made applicable to the facts of this case.

Since the order of the Tribunal is just and proper, we dismiss the Writ Petition, with no order as to costs.

JUDGE

JUDGE

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