

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

BENCH AT AURANGABAD.

WRIT PETITION NO.7350 OF 2016

Bhaskar S/o Kaduba Dabhade ... Petitioner.

Versus

The State of Maharashtra
and others. ... Respondents.

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Mr.I.G.Durrani, advocate with Mr.V.C.Patil
(Ashtekar), advocate for the petitioner.
Mr.M.M.Nerlikar, A.G.P. for the State.
Mr.Sham B.Patil, advocate for Respondent No.2.

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**CORAM : S.V.GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

Date : 22.08.2017.

PER COURT :

1. The petitioner had filed Original Application before the Tribunal, seeking deemed date of promotion to the post of Canal Inspector. The Original Application is rejected. Aggrieved thereby, the present petition.

2. The learned counsel for the petitioner

submits that one Mr.Gawali and the petitioner were appointed on the same date as Patkari. Said Mr.Gawali was promoted as Canal Inspector on 29.10.1976, whereas the petitioner was given promotion as a Canal Inspector only on 1.3.1982. According to the learned counsel, the petitioner had made representation and the Committee had recommended the claim of the petitioner for deemed date of promotion as that of Mr.Gawali. However, the Government without hearing the petitioner and without assigning any reasons rejected the said claim. According to the learned counsel, the Government and the Tribunal did not consider the case of the present petitioner. The seniority list discussed by the Tribunal showing Mr.Gawali at serial No.29 and the petitioner at serial No.53 is the seniority list of Canal Inspector and not Patkari. The seniority list of Patkari is required to be considered.

3. We have heard learned A.G.P. and learned counsel for the Respondent.

4. It is a fact that the petitioner and one Mr.Gawali were appointed as Patkari on 1.3.1976 and Mr.Gawali was promoted as a Canal Inspector on 29.10.1976. The petitioner at no point of time challenged the promotion of Mr.Gawali. The petitioner was promoted as Canal Inspector with effect from 1.3.1982. After a long slumber had moved the Court and the authorities.

5. While promoting a person various factors are required to be considered, such as the availability of the post, the roster etc. It is submitted by the learned counsel for the Respondent that Mr.Gawali was appointed from the quota of Defence Services Personnel and in fact, was required to be appointed on Class III post as at the relevant time Class III post was not available, Mr.Gawali, was appointed as Patkari and upon availability of post was promoted to the post of Canal Inspector.

6. Considering the aforesaid conspectus of the matter, no error has been committed by the

Tribunal. The Writ Petition is dismissed. No costs.

(MANGESH S. PATIL, J.)

(S.V.GANGAPURWALA, J.)

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