

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2123 OF 2015

Kapali P. Meshram and Others ...Petitioner
vs.
Tata Memorial Hospital, Mumbai and Others ...Respondents

Mr. Ramesh Ramamurthy, for the Petitioner.
Mr. S.K. Talsania, Senior Advocate a/w. Mr. Agnel Carneiro, Mr.
Vaibhav Shah i/b. Mulla & Mulla Craigie Blunt & Caroe, for the
Respondents-Hospital.

**CORAM : SHANTANU S. KEMKAR &
M. S. SONAK, JJ.**

DATE : AUGUST 01, 2017

P.C.:

. Parties through their counsel.

2. The learned counsel for the parties submits that the question involved in this Petition had already been considered and decided by the Hon'ble Supreme Court in the case of **Dev Dutt vs. Union of India and Ors.**¹. It has been stated that the said judgment of the Supreme Court has been approved by the Supreme Court in yet another case of **Sukhdev Singh vs. Union of India and Ors.**² The learned counsel for the parties submit that this Petition may be disposed of in terms of the order passed in the case of **Dev Dutt** (supra).

1 (2008) 8 Supreme Court Cases 725

2 (2013) 9 Supreme Court Cases 566

3. It is not in dispute that the Petitioner has been denied the promotion on the basis of some un-communicated APAR gradings/entries. In the circumstances, we find that the grievance in the Petition is covered by the law laid down in the cases of **Dev Dutt** and **Sukhdev Singh** (supra).

4. As a result, in terms of the judgment passed by the Supreme Court in the case of **Dev Dutt** (supra), we dispose of this Petition by directing the Respondents to communicate the APAR gradings/entries to the Petitioner within one month from today. On receipt of the said communication the Petitioner to make an representation if any, against the APAR gradings/entries within two months thereafter and the representation as may be filed by the Petitioner shall be decided by the Respondents within two months thereafter.

5. If the grade is upgraded the Petitioner shall be considered for the promotion retrospectively as per the DPC held in January, 2014 by the Respondents within three months thereafter and if the Petitioner get selected for the promotion retrospectively, they may be given the consequential benefits with arrears.

6. However, we further observe that while taking decision as aforesaid in the light of **Dev Dutt** and **Sukhdev Singh** (supra), the Respondents shall not be influenced by the subsequent order of rejection dated 26th November 2014 (Exhibit 'R') by which the representation submitted by the Petitioner has been rejected subsequent to the denial of the promotion on the basis of DPC.

7. With the aforesaid observation, the Petition is disposed of.

(M. S. SONAK, J.)

(SHANTANU S. KEMKAR, J.)