

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

WRIT PETITION NO.2248 OF 2015

Laxman Ramchandra Pachpute.

Petitioner.

Versus

State of Maharashtra and others.

Respondents.

Mr. S.P. Chaudhary-Bolkar, Advocate for the petitioner.

Mr. N.T. Bhagat, A.G.P. for the State/respondent Nos.1 to 4.

CORAM : **S.V. GANGAPURWALA &
SUNIL K. KOTWAL, JJ.**

Dated : **17th July, 2018.**

FINAL ORDER :-

. Mr. Bolkar, learned Counsel for the petitioner submits that the petitioner was working in Class-IV post as 'Choukidar'. He was also temporarily promoted as Junior Clerk. In the year 1999 selection process was conducted. The employees junior to the petitioner were promoted to the post of Junior Clerk. The promotions ought to be governed as per the letter dated 16.02.1996 issued by the Department, which states that a candidate should obtain minimum 20 Marks out of 75 Marks, then as per the seniority the promotion has to be made. The petitioner being senior, ought to

have been promoted in the year 1999. The respondents be directed to give deemed promotion to the petitioner from the year 1999 with consequential benefits. Even Government Resolution dated 18th April 1995 would not come in the way of the petitioner. Clause-(3) also requires the promotions to be made as per the seniority.

2. We have also heard learned Additional Government Pleader.

3. The Tribunal has dismissed the Original Application filed by the petitioner. It had observed that the petitioner became eligible to be considered for the promotional post in Class-III cadre having passed typing examination in May 1989. The selection process was carried out in July 1997. The petitioner participated in the same, but was not appointed. Again the petitioner's written examination was held on 08.03.1999 wherein the fresh selection process was conducted. It appears that the petitioner secured less marks in the written as well as oral examination as has been specified in the affidavit-in-reply. The last candidate who was promoted got 56 marks and the petitioner secured 41 marks. 25% posts are only to be filled in by the promotion. Government Resolution of 1995 at one place says that the seniority has to be considered at the time of granting the promotion, however, at other place it says that written examination of 75 Marks and oral examination of 25 Marks is to be

held by the Selection Committee and as per the said procedure 25% posts are to be filled in by the promotion.

4. The letter issued on 16.02.1996 by the Department would not supersede the Government Resolution.

5. Considering the above, the Tribunal has not committed any error.

6. Writ Petition is disposed of. No costs.

(SUNIL K. KOTWAL)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

vdd/