

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

WRIT PETITION NO. 3760 OF 2018

**TANHAJI DIGAMBAR KUBADE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr.S.D.Dhongade Advocate for the petitioner.
Mr.S.P.Sonpawale, AGP for respondent/State.

**CORAM : S.V.GANGAPURWALA &
S.M.GAVHANE, JJ.
DATED : 21.08.2018**

P.C. :-

1. Mr.Dhongde, learned advocate for the petitioner submits that the petitioner was selected for the post of Peon in August, 2004. The petitioner was interviewed on 18.08.2004 and he was appointed. He was directed to submit Validity Certificate and in September, 2004, the Validity Certificate of his caste was submitted. Learned Counsel submits that though there was no delay on the part of the petitioner, the appointment order came to be issued in 2009. It is not the fault of the petitioner. The petitioner is deprived of old pension scheme because of negligence and fault on the part of the respondents. The petitioner is entitled for deemed date of appointment from the year 2004.

2. Learned AGP supports the order passed by the Tribunal.

3. No concept of deemed date of appointment has been pointed out to us. The petitioner has been issued with appointment order for the post of Peon on 13th November, 2009. The Tribunal observed that no declaration can be granted in law that any earlier date shall be deemed date of appointment. Nothing is brought before us to suggest that the petitioner can be given deemed date of appointment prior to the date of appointment order and the petitioner's joining service. In absence thereof, the judgment of the Tribunal cannot be faulted with.

4. The writ petition is disposed of. No costs.

[S.M.GAVHANE, J.]

[S.V.GANGAPURWALA, J.]