

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

WRIT PETITION NO. 5505 OF 2018

State of Maharashtra and Others

..PETITIONERS

VERSUS

Anand Madhavrao Thakur

..RESPONDENT

....

Mr. S.B. Joshi, A.P.P. for petitioner - State.

Mr. A.S. Deshpande, Advocate for respondent.

....

**CORAM : S.V. GANGAPURWALA AND
R.G. AVACHAT, JJ.**

DATED : 22nd NOVEMBER, 2018

ORDER :

The State assails the order dated 24th August, 2017 passed by the Maharashtra Administrative Tribunal, thereby allowing the original application filed by the respondent claiming the deemed date of promotion to the cadre of Superintendent of State Excise Group-A as 17th June, 2008 i.e. ahead of Mr. K.S. Dahikar, who is junior to the respondent.

2. The learned A.G.P. submits that Mr. Dahikar was promoted as Superintendent on 17th June, 2008. Rules are framed by State Government in promoting the candidates in Group-A i.e. on the post of Superintendent of State Excise. Promotion to the post of Superintendent of State Excise Group-

A is amongst the persons holding the post of Group-B in State Excise. The rules do not provide for any deemed date of promotion. Rule 5 provides that the persons to be promoted on Group-A post should have three years regular service on the post of Deputy Superintendent Group-B of State Excise. The circular dated 06th June, 2002 Appendix-B Clause (2) provides deemed date to the promotion made in regular category and thereby disentitle the deemed date of Ad-hoc post under order dated 17th Jun, 2008. The order states that the promotion be given in the nomination quota. The respondent was promoted on 25th February, 2009 on Ad-hoc basis. The respondent cannot claim the deemed date of promotion as of right.

3. Mr. Deshpande, the learned Counsel for the respondent supports the order.

4. The Tribunal has found that Mr. Dahikar was junior to the respondent. The respondent was promoted six months earlier to Mr. Dahikar in the cadre of Inspector. It appears that Mr. Dahikar was granted deem date of promotion to the post of Deputy Superintendent of State Excise earlier to the respondent. The respondent filed Original Application No. 799 of 2005 and the respondent was granted the deemed date of promotion from 15th September, 2004 ahead of Mr. Dahikar. Writ petition filed by the State

assailing the said order also came to be disposed of without disturbing the order of the Tribunal.

5. The respondent also filed affidavit before the Tribunal to the following facts :-

“As regards Para No.6 of the application I say and submit that the applicant is already promoted as per deemed date of Deputy Superintendent dated 15.09.2004 to the post of Superintendent on 24.09.2009. But assignment of a deemed date of his junior Shri. K.S. Dahikar 17.09.2008 should be given after proper sanction of General Administration Department and Finance Department. Since the proposal of petitioner is under consideration of the Government, it will take some sort of time.”

6. It is not disputed that Mr. Dahikar is granted all the benefits to the post of Superintendent of State Excise Group-A. Naturally, the respondent also has to be given same benefits and also from the same date. The Tribunal, as such, has not committed any error in passing the impugned order. Writ petition, as such, is disposed of. No costs.

(R.G. AVACHAT, J.)

(S.V. GANGAPURWALA, J.)

SSD