

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO. 362 OF 2005

Alka M. Joshi. ... Petitioner.
V/s.
Union of India and another. ... Respondents.

Ms.Delilah Fernandes for the petitioner.

CORAM : A.S.OKA & SANDEEP K. SHINDE, JJ.

DATE : 13th December 2018.

ORAL JUDGMENT : (Per A.S.Oka, J.)

Called out for final hearing. The learned counsel appearing for the petitioner has tendered on record the judgment and order dated 14th June 2018 passed in Writ Petition No.9279/2004 (*Prabha V. Nair v. Union of India*). By the impugned order dated 29th October 2004, three Original Applications were decided. The petitioner in Writ Petition No.9279/2004 was one of the petitioners along with present petitioner in the said Original Applications. In the impugned order, it is mentioned that the Original Applications involve common question of law and fact. The learned counsel appearing for the petitioner pointed out that the present case will be governed by the judgment and order dated 14th June 2018 passed in Writ Petition No.9279/2004. After having gone through the impugned judgment and order and the said judgment and order dated 14th June 2018, we find that the petition will have to be disposed of in terms of the order dated 14th June 2018.

2. Accordingly, for the reasons recorded in the judgment and order dated 14th June 2018 passed in Writ Petition No.9279/2004, we pass the following order:

- (i) The impugned judgment and order dated 29.10.2004 made by the Central Administrative Tribunal is hereby set aside;
- (ii) We declare that the petitioner was validly promoted as Inspector with effect from 10th June 1997 by taking into consideration the year of her passing the prescribed examination;
- (iii) We declare that the clarification in letter dated 23.01.2003 will not apply to the case of the petitioner and on basis of the same or otherwise, the respondents are restrained from reverting the petitioner;
- (iv) We direct that the case of the petitioner be considered for promotion by DPC to be constituted within three months from today on the basis that the promotion of the petitioner to the grade of Income Tax Officer with effect from 10th June 1997 was legal and valid;
- (v) If the DPC finds that the petitioner deserves further

promotion, then, the petitioner to be granted all consequential benefits within a period of three months from the date of determination by the DPC. There is no question of actual promotion, since, the petitioner has already retired from service;

(vi) Rule is made absolute in the aforesaid terms;

(vii) There shall, however, be no order as to costs.

(SANDEEP K. SHINDE, J.)

(A.S.OKA, J.)