

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5069 OF 2014

Shri. Atul Ramdas Manvatkar ...Petitioner
Versus
State of Maharashtra and anr. ...Respondents

Mr. C.T. Chandratre for the Petitioner.
Mr. N.C. Walimbe, AGP for the State/Respondent No.1.

**CORAM : SMT. V. K. TAHILRAMANI, Acting C.J. &
M. S. SONAK, J.**

DATE : 03.07.2018.

ORAL JUDGEMENT:

- 1] Heard learned counsel for the parties.
- 2] Rule. With the consent of and at the request of learned counsel for the parties, Rule is made returnable forthwith.
- 3] The challenge in this petition is to the order dated 29.11.2013 made by the Maharashtra Administrative Tribunal (MAT), Mumbai dismissing Contempt Application No. 34 of 2011 taken out by the petitioner, on the ground that the petitioner, being noway concerned with the directions given in the judgment and order dated 20.10.2008, was not proper relator to complain about its

alleged non-compliance.

4] With assistance of Mr. Chandratre and Mr. Walimbe, we have examined the matter. According to us, the contempt application could not have been rejected by holding that the petitioner had no concern with directions in the judgment and order dated 20.10.2008 in O.A. No. 88 of 2008, which had been, incidentally, instituted by the petitioner and four others who were then working as Assistant Controllers of Legal Metrology. The petitioner and other applicants had instituted O.A. No. 88 of 2008 questioning the legality and validity of the order dated 22.05.2007, publishing seniority list of Assistant Controller of Legal Metrology on 1.1.2007 and the promotions made to the post of Assistant Controller of Legal Metrology.

5] The MAT, by its judgment and order dated 20.10.2008, which runs into over 250 pages, was pleased to in fact grant several reliefs to the applicants in O.A. No. 88 of 2008 and connected O.As. The operative portion, at paragraphs 176 to 180 of the judgment and order dated 20.10.2008 disposing of O.A. No. 88 of 2008, read as follows:

"176. In view of the above findings, consequently, the Resolution dated 1.9.2005 regularising the promotions is being set aside. As a consequence, the Circular dated 2.9.2005 is also to be declared in valid, inoperative and bad in law.

177. Both the Orders dated 1.9.2005 and 2.9.2005 are set aside. On setting aside the same, we, accordingly, direct that-

A) The State Government shall reconsider the issue of regularisation of the promotions made between 1983-1984 to 1995 by applying the ratio of appointment as per circular dated 26th March 1970 i.e.50:50.

B) By applying that ratio of 50:50, the excess promotions made during this period shall be adjusted according to the quota, for the subsequent years up to 14th March, 1996.

C) On applying the ratio of quota, the cases of all those promotees made between 1983-84 and 1995 shall be placed before the Departmental Promotion Committee for its review by providing not only the Annual Confidential Reports but also their qualifications as provided by the Act and Rules.

D) If any promotee had not completed the training referred to in the Act, their confirmation shall be from the date of completion of the training as observed and held by this Tribunal in the judgments referred to (supra).

E) After adjusting the promotions as per the quota of 50:50 the recommendations or approval of the Departmental Promotion Committee in all cases shall be forwarded to the Commission for approval.

F) On getting approval from the Commission, the seniority shall be determined, accordingly.

G) In case of excess promotion, vis-a-vis quota, by pushing them down the seniority be adjusted, strictly in terms of the Seniority Rules.

H) If any promotee is found ineligible or could not be adjusted in the promotional post, as per quota, they shall be reverted to their substantive posts.

178. The above directions shall be complied with by the Respondent Nos.1 and 2 within six months from today. Thereafter, they shall publish the final seniority list of the cadre of Assistant Controller of Legal Metrology.

179. Till the above exercise is done by the Respondent No.1 and 2, the parties are directed to maintain the status quo as on today. The promotions so made during pendency of this application shall be made final only after the above exercise is completed.

180. We direct the parties to bear their own cost. All Misc. Applications are also disposed of as the Original Applications are finally decided."

6] Since, according to the petitioner, there was no compliance with the aforesaid directions, the petitioner took out Contempt Application No. 34 of 2011. The MAT has disposed of this contempt application by making a very short order comprising in all five paragraphs. The reasoning is also entirely contained in paragraph 4, which reads thus:

"4. After hearing both the learned Advocate for the Applicant and the learned Chief Presenting Officer for the Respondents, it is explicitly clear that the directions given in the above Original Application pertains to finalizing the seniority list between the periods 1.1.1985 till 1.4.1996 in the cadre of Assistant Controller of Legal Metrology. There is also no dispute that the Applicant came to be appointed as an Assistant Controller of Legal Metrology by way of nomination on 19th June, 1998. Obviously, the above

direction in the Original Application will have no application whatsoever as far as the Applicant is concerned. There is absolutely no case made out for initiation any contempt action against the Respondents."

7] According to us, the application taken out by the petitioner could not have been disposed of in this manner. One of the directions issued by the MAT in its judgment and order dated 20.10.2008, no doubt, relates to finalisation of seniority list in the cadre of Assistant Controller of Legal Metrology for the between 1.1.1985 and 1.4.1996. There is also no dispute that the petitioner himself came to be appointed as Assistant Controller of Legal Metrology only on 19.6.1998. However, from this, it cannot be concluded that the petitioner has no concern with the seniority position in the cadre of Assistant Controller of Legal Metrology for the periods between 1.1.1985 and 1.4.1996. Precisely, because the petitioner and other applicants were aggrieved by improper manner of finalisation of seniority in the cadre of Assistant Controller of Legal Metrology, the petitioner and others had instituted O.A. No. 88 of 2008. As noted earlier, this O.A. was in fact allowed by the MAT by detailed judgment and order. The seniority list prepared earlier was quashed and directions were issued for preparation of

finalised seniority list. The petitioner obviously, has interest in ensuring that the seniority list in the cadre of Assistant Controller of Legal Metrology is prepared in accordance with the directions in the judgment and order dated 20.10.2008, because, it is on the basis of this seniority list that the promotions to the next cadre might have to be determined. Therefore, it is not correct to say that since one of the directions was to finalise the seniority list for the periods between 1.1.1985 and 1.4.1996 and since, admittedly, the petitioner was appointed only on 19.6.1998, the petitioner had no concern with the compliance or non-compliance of directions issued by the MAT itself in its judgment and order dated 20.10.2008.

8] For the aforesaid reasons, we set aside the impugned judgment and order dated 29.11.2013 and restore Contempt Application No. 34 of 2011 to the file of MAT for fresh consideration in accordance with law. We express no opinion as regards compliance or non-compliance with the directions in the MAT's judgment and order dated 20.10.2008, because this is a matter which will have to be examined by the MAT itself, in the light of affidavits to be

filed by the authorities who were enjoined to comply with such directions.

9] This petition is therefore, allowed in the aforesaid terms. Rule is made absolute in the aforesaid terms. The parties to appear before the MAT on 23.07.2018 at 10.30 a.m. and produce the authenticated copy of this order.

10] All concerned to act on the basis of authenticated copy of this order.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)

Dinesh
Sadanand
Sherla

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by Dinesh
Sadanand
Sherla
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