

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4108 OF 2016

1. The State of Maharashtra,
Through the Commissioner of Agriculture
Maharashtra State, Pune,
Dist-Pune.

2. The Deputy Director of Agriculture
(Employees Welfare), Office of
Commissioner of Agriculture
Maharashtra State, Pune

**...Petitioners
(Orig. Respondents)**

: V E R S U S :

Shri. Sanjeev Lavhaji Salvi,
Assistant Superintendent,
Commissioner of Agriculture, M.S.
Pune and residing at 57/5, A,
Parvati Darshan, Pune-9

**....Respondent
(Orig. Applicant)**

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Mr. N.K. Rajpurohit, AGP for the petitioners.

Mr. Manoj A. Patil, Advocate for the respondent.

Coram : A.S. Oka, &

Sandeep K. Shinde, JJ.

Tuesday, 11th December, 2018.

JUDGMENT (PER : SANDEEP K. SHINDE, J) :

1. The State has preferred this petition under Articles 226 and 227 of the Constitution of India against the judgment and order dated 16th April, 2014 passed by the Maharashtra Administrative Tribunal in O.A. No. 96 of 2010. The Original Application was preferred by respondent no.1 herein.

FACTS :

2. Vide order dated 16th November, 2004 respondent/original applicant was promoted as a Senior Clerk, on 21st February, 2005. He was awarded a deemed date of promotion in the rank of Senior Clerk w.e.f. 6th February, 1999. This fact is not in dispute.

4. The petitioner was promoted to the rank of Assistant Superintendent by order dated 24th July, 2008. The respondent, made a representation to the petitioners and requested to award a deemed date of promotion in the cadre of Assistant Superintendent from 29th January, 2003.

His representation was not answered and therefore he approached the MAT by filing O.A. No. 1011 of 2009 seeking directions to the petitioners to decide his representation. The O.A. was allowed and the petitioners were directed to decide the representation of the respondents within two months. The petitioners vide order dated 9th November, 2009 rejected the request of the respondent in respect of grant of deemed date of promotion. Aggrieved by the said order, the respondent had preferred O.A. No. 96 of 2010.

5. This O.A. No.96 of 2010 was allowed by judgment and order dated 16th April, 2014 whereby the petitioners-original respondents were directed to grant the deemed date of promotion in favour of the respondent in the cadre of Assistant Superintendent as 29th January, 2003 with all consequential benefits such as seniority, difference in arrears of pay and allowances within a period of two months. Aggrieved by the said order, this petition is preferred.

6. It is not in dispute that the petitioner was promoted in the cadre of Senior Clerk in February, 2005 and was awarded deemed date of promotion w.e.f. 6th

February, 1999.

7. Rule 5(1) of the Maharashtra Civil Services (Regulation of Seniority) Rules, 1982 reads as under :

“5(1) Assignment of deemed dates appointment.

(1) Notwithstanding anything contained in Rule 4, (on recommendation of the Competent Authority, the Government may), in accordance with the provisions contained in the following sub-rules, assign to a Government servant, a deemed date of appointment to a post, cadre or service which is different from the date of his actual appointment thereto; and on such a deemed date having been assigned, the length of his service in the said post, cadre or service shall be computed as commencing from (The deemed date assigned under this rule and the seniority list prepared in pursuance of the same shall not ordinarily, be altered at the time of preparation of seniority list on the subsequent occasions or in the subsequent years), date.”

8. It is clear from the aforesaid Rule that the seniority list prepared in pursuance to the deemed date

shall not ordinarily be altered at the time of preparation of seniority list on the subsequent occasions or in the subsequent years.

. In the case in hand, the respondent/applicant was promoted in the cadre of Assistant Superintendent on 24th July 2009, however, petitioners refused to grant deemed date on the ground that he had not completed three years of service in the cadre of Senior Clerk.

9. We do not agree with this reason as, once deemed date of promotion was given to the applicant in the cadre of Senior Clerk as mentioned hereinabove, the said date is to be considered in the promotional cadre of Assistant Superintendent and so on.

10. In view of the facts aforesaid, we do not see any reason to interfere with the orders passed by the Maharashtra Administrative Tribunal. The petition deserves no consideration. It is rejected accordingly.