

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

WRIT PETITION NO. 9449 OF 2004

The State of Maharashtra and ors. ...Petitioners
Versus
Smt. Vijaya A. Pawar and ors. ...Respondents

**WITH
WRIT PETITION NO. 9453 OF 2004**

The State of Maharashtra and anr. ...Petitioners
Versus
Shri. D.D. Deshmukh and ors. ...Respondents

Mr. N.C. Walimbe, AGP for the State / Petitioners in both petitions.

Mr. N.V. Bandiwadkar for Respondent No.1 in WP 9449/2004.

Mr. J.G. Aardwad (Reddy) for Respondent No.1 in WP 9453 of 2004.

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

DATE : 14.06.2018.

ORAL JUDGMENT:

1] The learned counsel for the parties agree that both these petitions can be disposed of by common judgment and order, since the common issues of law and fact arise in these matters.

2] The challenge in Writ Petition No. 9449 of 2004 is to the judgment and order dated 22.07.2004 made by the Maharashtra Administrative Tribunal (MAT), Mumbai in O.A. No. 846 of 2003 instituted by the respondents. Similarly, the challenge in Writ Petition No. 9453 of 2004 is to the judgment and order dated 22.07.2004 made by the MAT in O.A. No. 389 of 2001 instituted by the respondents to the said petition.

3] All that, the MAT has ordered is as follows:

- “1. Both these O.A.s are allowed.*
- 2. The impugned final seniority list dated 20.02.2002 is hereby quashed and set aside*
- 3. The respondent is directed to prepare and publish final seniority list, within a period of three months from to day, on the basis of the principles laid down by this Tribunal in O.A.No. 65/1995, O.A. No.74/1995, No.77/1995, No. 137/1995, No. 46/1995 as well as the present O.A. s subject to the outcome of any W.P. Filed in the matter.*
- 4. No order as to costs.”*

4] Since, there was no interim relief granted in both these petitions, the direction to prepare and publish final seniority list has already been complied with. In fact, Mr.Bandiwadekar, learned counsel for respondent No.1 in Writ Petition No. 9449 of 2004 points out that on the basis of such finalised seniority list even further promotions have

been effected and it is possible that several officers have by now retired. This position is not seriously disputed by Mr. Walimbe, learned AGP for the petitioners - State. The impugned orders had directed the petitioners to prepare and publish the final seniority list on the basis of principles laid down by the Tribunal in O.A.No. 65/1995, O.A. No.74/1995, No.77/1995, No. 137/1995, No. 46/1995 subject to the outcome of any W.P. filed in the matter.

5] Mr. Aradwad (Reddy), learned counsel for respondent No.1 in Writ Petition No. 9453 of 2004, has placed on record the orders made in Writ Petition Nos. 2853 of 1999 and 2854 of 1999, which according to him, are the orders in writ petitions referred to by the MAT. He submits that the said writ petitions stand disposed of and the Rule issued therein stand discharged.

6] Mr. Bandiwadekar and Mr. Aradwad (Reddy) rightly pointed out that none of the affected officers before the MAT chose to institute the petitions to question the quashing of final seniority list dated 20.02.2002 or the direction to prepare and publish final seniority list. They

submit that in any case Writ Petition Nos. 2853 and 2854 of 1999 stand dismissed. They submit that at the instance of the State, therefore, there is no good ground to interfere with the impugned judgments and orders, at this length of time.

7] In matter involving disputes of seniority ordinarily, the role of the State should be that of an *amicus curiae*. The officers who are directly affected can always agitate the issues of seniority. However, where such issues are settled by the MAT, ordinarily, the State need not pursue the matters.

8] In ***Sub-Inspector Rooplal and anr. vs. Lt. Governor through Chief Secretary, Delhi and ors. - (2000) 1 SCC 644***, the Hon'ble Supreme Court has held that after laying down appropriate rules governing service conditions of its employees, a State should only play the role of an impartial employer in *inter se* dispute between its employees. If any such dispute arises, the State should apply the rules laid down by it fairly. Still if the matter is dragged to a judicial forum, the State should confine its

role to that of an *amicus curiae* by assisting the judicial forum to arrive at a correct decision. Once a decision is rendered by judicial forum, thereafter the State should not further involve itself in litigation. The matter should be left with the parties concerned to agitate further, if they so desire. When a State, after the judicial forum delivers a judgment, files a review petition, appeal, etc., it gives an impression that it is espousing the cause of a particular group of employees against another group of its employees, unless there are compelling reasons to resort to such further proceedings.

9] Even otherwise, learned AGP has not been able to point out any errors in the view taken by the MAT so as to warrant interference at this point of time.

10] Therefore, upon cumulative consideration of all the aforesaid facts and circumstances, we dismiss these petitions. Rule, in both petitions, is discharged. There shall however, be no order as to costs.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)