

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2986 OF 2000
WITH
CIVIL APPLICATION NO. 1392 OF 2011

Dhananjay Mahesh Nayak	.. Petitioner
Vs.	
The State of Maharashtra and ors.	.. Respondents

AND
CIVIL APPLICATION NO. 246 OF 2017

State of Maharashtra and anr.	.. Applicants
Vs.	
Shri Dhananjay M. Naik and ors.	.. Respondents

ALONG WITH
WRIT PETITION NO. 2982 OF 2000
WITH
CIVIL APPLICATION NO. 247 OF 2016

Shri Rajesh Ghadge and ors.	.. Petitioners
Vs.	
The State of Maharashtra and ors.	.. Respondents

WITH
CIVIL APPLICATION NO. 2832 OF 2010
IN
WRIT PETITION NO. 2982 OF 2000

State of Maharashtra and ors.	.. Applicants
Vs.	
Shri Rajesh Ghadge and ors.	.. Respondents

Mr.Ramdas P Sabban a/w Mr.Pravin Sabban & Mr.Subhash Gutte, for the Petitioners in WP/2986/2000 & WP/2982/2000.

Mr.Nikhil Pujari i/b Mr. P.N.Joshi, for Respondents No. 5, 6, 9 & 14 in WP/2982/00.

Mr.O.M.Kulkarni, AAGP for State.

**CORAM : SMT. V.K.TAHILRAMANI ACTING C.J.
AND M.S.KARNIK, J.**

DATE : 18th JANUARY, 2018

ORDER (PER M.S.KARNIK, J.) :

1. The dispute in these Petitions is regarding seniority between direct recruits and promotees.

2. The petitioner in WP/2986/2000 challenges to the order passed by the Tribunal dated 05/11/1999 in OA/713/1997. Learned Counsel Shri Sabban appearing for the petitioner in WP/2986/2000 and 2982/2000 is aggrieved by the implementation of the Section Officer's Recruitment Rules. According to the learned Counsel Rules prescribed the date of coming into force as 01/01/1986 but the Tribunal contrary to these Rules specified the date as 01/06/1990 for interse

seniority purpose.

3. During the pendency of the Petition, respondent - State of Maharashtra filed Civil Application No. 246 of 2017 for early hearing. It would be material to reproduce the averments from paragraph 2 to 5.

“2. The Applicant State that the aforesaid Writ Petitions came up before the Hon'ble Court (Coram : Mr.Justice A.M.Khanwilkar and Mr.Justice R.M. Sawant) on 5th May, 2010. After hearing the Hon'ble Court was pleased to pass the following order :-

CORAM: A.M. KHANVILKAR AND R.M. SAVANT JJ

“Special Counsel for the State submits on instructions that the Department has now started the process of revising the list, keeping in mind the Government Resolution issued after the decision of the Apex Court in Sabarwal's case. That process may take sometime and hopefully conclude by end of May, 2010. In that case, the appropriate course is to defer the hearing of these matters. To be listed after summer vacation on 18th June, 2010. Liberty to apply before appropriate Bench. Ordered accordingly.”

3. The Applicants state that the new cadre of Section Officer has come into existence w.e.f.1.1.1986. The Government Resolution dated 5.2.1986, laid down steps in formation of the Section Officer's cadre. The Recruitment Rules of the post of the Section officer were framed on 17.05.1989. The issue about Seniority of section officer cadre was challenged by way of filing Original Application in Maharashtra Administrative Tribunal. The following writ petitions are pending against the orders of Hon'ble Maharashtra Administrative Tribunals.

Sr.No.	Writ Petition No.	Applicants	Matter in challenge
1	W.P. No. 2982/2000	Shri Rajesh Ghadge and Others	Hon'ble MAT judgment dated 10.04.2000 in OA No. 200 of 1997.
2	W.P. No. 2986 of 2000	Shri D.M. Nayak and others	Hon'ble MAT order dated 5.11.1999 in OA No. 713 of 1999.
3	W.P. No. 4958 of 2003	Shri V.R.Vedpathak and others	Hon'ble MAT order dated 5.11.1999 in OANo. 713 of 1999

4. In July 2008 this issue was discussed in a Calling Attention motion in the Legislative Council. During the discussion, some assurances were given by the Government and also it was directed by the Legislative Council that a committee under the Chairmanship of retired Chief Secretary should be constituted to examine the matter and make recommendation. As per these directions, one member committee under the Chairmanship of Shri Satish Tripathi, the then Additional Chief Secretary (Services), General Administration Department was constituted. The Tripathi Committee submitted its recommendations on 31st Dec. 2008. The State Government accepted those recommendations vide Government Resolution dated 26.05.2011. One of the recommendation was that the State Government will fix total number of sanctioned posts/cadre strength in the cadre of Desk Officers in each year from 1986. Considering other two recommendations, the seniority lists published earlier were revised in view of fixation of cadre strength. The draft seniority lists for the year 1986 to 2000 are prepared but are not published yet, as the matter is sub-judiced in the High Court. These facts were brought to the notice of the Hon'ble High Court by filing an affidavit dated 26th March 2010.

5. In view of the aforesaid affidavit, the matter was heard by Hon'ble Court and the following order was passed on 30.04.2010 :-

“In these matters, affidavit has been filed by the Deputy

Secretary, General Administration Department, Government of Maharashtra dated 26th March, 2010 stating that the drafter list of working Section Officers from 1st January 1986 to 1st January 2000 will be published on or before 30th April 2010. Since the matters are already part-heard and are presently on Board, we hope and trust that the State Government will not precipitate the matter which would result in multiplicity of proceedings.” In view of the Orders of the Hon'ble High Court the action of publishing the annual seniority lists was withheld.”

4. Learned Counsel for the petitioner states on instructions that having regard to the passage of time and the events subsequent to the filing of these Petitions, he would be satisfied if the seniority lists are finalized in terms of the recommendations of the Tripathi Committee as accepted by the State Government vide G.R. dated 26/05/2011 so mentioned in paragraph 4 of the Civil Application No. 246 of 2017 quoted above. Learned AGP on instructions submits that draft seniority list for the year 1986 to 2000 are prepared but not published as matter is subjudiced in this Court.

5. In the light of the stand taken by the learned Counsel for the petitioner Shri Sabban representing the petitioner in WP/2989/2000 & 2986/2000 and in the light of the statement

made by learned AGP on instructions that seniority list will be published in accordance with the recommendations of the Tripathi Committee as accepted by the State Government, present Petitions are disposed of. Rule disposed of on the above terms with no order as to costs.

6. In view of the disposal of the Writ Petitions, Civil Applications No. 1392/11, 246/16, 2832/2010, 247/2016 stand disposed of.

(M.S.KARNIK, J.)

(ACTING CHIEF JUSTICE)