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

WRIT PETITION NO. 11501 OF 2015

Maharashtra Public Service
Commission

..Petitioner

Versus

Smt. Varsha Nivrutti Zalte
and Others

..Respondents

Mr. N.P. Dalvi, Advocate for the Petitioner - MPSC

Mr. N.K. Rajpurohit, AGP for Respondent Nos. 2 and 3.

**CORAM: B. R. GAVAI &
N. J. JAMADAR, JJ.**

DATE: 7th March, 2019

P.C.:-

1] This is totally an unworthy litigation at the behest of the Petitioner – Maharashtra Public Service Commission (“MPSC”), which is the constitutional authority.

2] Respondent No.1 – Original Applicant had approached the learned Maharashtra Administrative Tribunal in order to claim her

seniority from the date on which, according to her, she was entitled to be selected in the selection process conducted by the present Petitioner. The selection process was conducted in the year 2001. Three candidates from women category secured 548 marks. Amongst the said candidates, two were recommended for appointment and Respondent No.1 – Original Applicant was not recommended. The Original Applicant was therefore required to approach this Court twice by filing Writ Petition No. 5473 of 2003 and Writ Petition No. 267 of 2005. Since the affidavit was filed in Writ Petition No.267 of 2005 that the name of the Petitioner (Original Applicant) would be recommended and she would be appointed, this Court recorded the same and disposed of the Petition vide its Order dated 08/04/2005.

3] However, since the Petitioner was not given seniority from the date from which two other women candidates who had also obtained the 548 marks, were appointed and given the seniority from the date of their appointment, she was again required to approach the learned Maharashtra Administrative Tribunal. The learned Tribunal, after considering the material placed on record and hearing the parties, came to the considered conclusion vide its order dated 4/12/2014

against which the present Petition has been filed by the Petitioner – MPSC.

4] The learned Tribunal found that the attempt on the part of the Respondent - MPSC was nothing else but to teach a lesson to the Original Applicant for audacity shown by her to approach the Court for seeking justice. The Tribunal therefore directed the concerned Respondent to grant seniority to the Original Applicant alongwith two other women candidates who were selected alongwith the Original Applicant.

5] Firstly, the role of the MPSC is only limited to the extent of recommending the names of the candidates to the State of Maharashtra for appointment. It is the State, which is an appointing authority. As such, direction which was issued was to the State Government and not to the present Petitioner – MPSC. Apart from that, if any person was aggrieved by that direction on account of his/her displacement of seniority, only such person had a locus to challenge the order of the Tribunal. Merely because Office bearers of MPSC do not have to pay for the hefty expenditure on litigation, they

should not file unnecessary litigation when they are not at all concerned with the same.

6] We are therefore of the considered view that the present Petition is nothing else but an abuse of process of law. In the result, Petition is dismissed with costs, which is quantified at Rs 1,00,000/- (One lakh) to be paid by the Petitioner – MPSC to the Tata Memorial Hospital within 10 days from today and receipt of payment thereof be placed on the record and proceedings of the present Petition.

(N. J. JAMADAR, J.)

(B. R. GAVAI, J.)