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

WRIT PETITION NO. 14559 OF 2022

Smt. Sonali Ramesh Chavan & Anr. .. Petitioners
Vs.
The State of Maharashtra & Anr. .. Respondents

**WITH
WRIT PETITION NO. 14539 OF 2022**

Smt. Trupti Brijlal Nag & Ors. .. Petitioners
Vs.
The State of Maharashtra & Anr. .. Respondents

**WITH
INTERIM APPLICATION ST. NO. 29091 OF 2022
IN
WRIT PETITION NO. 14539 OF 2022**

Yogesh B. Kulkarni .. Applicant

In the matter between:

Smt. Trupti Brijlal Nag & Ors. .. Petitioners
Vs.
The State of Maharashtra & Anr. .. Respondents

Dr. Abhinav Chandrachud, Pranil Sonawane, Varsha Gangawne, Sunny Udasi i/by KLS Legal for petitioners in WP/14559/2022.

Mr. Suhas Oak, Mr. Vinod Utekar, Mr. Nikhil Agrawal for petitioners in WP/14539/2022.

Mr. A. Y. Sakhare, Senior Advocate a/w Mr. Joel Carlos for applicant/intervener in IAST/29091/2022.

Mr. M. M. Pabale, AGP for respondent nos.1 and 2/State.

**CORAM: DIPANKAR DATTA, CJ. &
ABHAY AHUJA, J.**

DATE : NOVEMBER 25, 2022

P.C.:

1. Maharashtra Administrative Tribunal, Mumbai (hereafter "the Tribunal", for short) is seized of a dispute relating to promotion to the post of Superintending Engineer from the cadre of Executive Engineer at the instance of Mr. Suresh Deshpande and others, who have instituted Original Application No. 912 of 2015. Certain other connected applications are also pending. The Tribunal has concluded hearing of Original Application No. 912 of 2015 on 14th October, 2022 and has reserved its judgment. It is likely that the judgment would be rendered by the end of this month.

2. An interim order dated 14th September, 2022 passed in Original Application No. 912 of 2015 restrains the official respondents from proceeding with grant of any promotion on the post of Superintending Engineer from the cadre of Executive Engineer till final decision is rendered on Original Application No. 912 of 2015 and the other connected applications.

3. The petitioners in Writ Petition No. 14539 of 2022 sought to intervene in Original Application No. 912 of 2015 by filing Misc. Application No. 626 of 2022 contending that the interim order dated 14th September, 2022 was affecting their right to be considered for promotion. They sought, *inter alia*, the following relief: -

"(a) This Hon'ble Tribunal be pleased to allow the Applicants to intervene and be added as party – Respondents in the proceeding of Original Application No. 912 of 2015 pending before this Hon'ble Tribunal;

(b) This Hon'ble Tribunal be pleased to vacate the stay granted vide Interim Order dated 14th September, 2015 passed in O.A. No. 912 of 2015 upon the promotion to the post of Superintendent Engineer from the cadre of Executive Engineer and the Applicant be allowed to be promoted to post of Superintending Engineer;"

4. Misc. Application No. 626 of 2022 was considered by the Tribunal on 7th November, 2022. By the impugned order of even date, the said Misc. Application has been dismissed on the ground that the judgment in Original Application No. 912 of 2015 would be dictated within a fortnight. This order is under challenge in Writ Petition No. 14539 of 2022.

5. We have heard Mr. Oak, learned advocate for the petitioners in Writ Petition No. 14539 of 2022, Mr. Sakhare, learned senior advocate for the original applicants in Original Application No. 912 of 2015 and who seek intervention in Writ Petition No. 14539 of 2022 by filing Interim Application No. 29091 of 2022, as well as Dr. Chandrachud, learned advocate for the petitioners in Writ Petition No. 14559 of 2022.

6. Once a party approaches the Tribunal with a grievance that it has not been impleaded as a respondent but any order to be passed by the Tribunal in favour of the original applicant is likely to affect the interests of the party aggrieved, such party may intervene for protection of his rights. With a view to exercise such a right, Misc. Application No. 626 of 2022 came to be filed before the Tribunal.

7. It appears from the impugned order dated 7th November, 2022 that the Tribunal declined intervention on the ground that hearing of Original Application No. 912 of 2015 along with the connected applications had been closed and that the judgment would be rendered shortly, and not on the ground that the applicants were neither necessary nor proper parties to the proceedings. If indeed the judgment is rendered in favour of the original applicants and such order affects the rights of parties represented by Mr. Oak and Dr. Chandrachud, who are non-parties, the remedy of such non-parties would be to again approach the Tribunal under Section 19 of the Administrative Tribunals Act, 1985 for a judicial review of the Tribunal's said earlier order. This follows from the decision of the Supreme Court reported in (2007) 14 SCC 54 (**Ramarao vs. M. G. Maheshwararao**). In such an eventuality, the Tribunal would be required to devote time in respect of the same dispute twice over. Since Original Application No. 912 of 2015 has not yet been finally decided, it would be just and proper in the circumstances that all the parties are heard before a final decision on the dispute is rendered.

8. We, therefore, see no reason not to allow Writ Petition No. 14539 of 2022 and to set aside the impugned order, only with a view to avoid generation of multiple proceedings. Since the Tribunal is likely to pronounce its judgment on Original Application No. 912 of 2015 and connected applications shortly, it would be appropriate if the Tribunal proceeds to grant an opportunity of hearing to the interveners (petitioners in Writ Petition No. 14539 of 2022)

so that rights of all the parties, namely, the original applicants as well as the interveners who all are seeking promotion on the post of Superintending Engineer can be considered and decided once and for all.

9. In such view of the matter, we set aside the order dated 7th November, 2022. Misc. Application No. 626 of 2022, on the file of the Tribunal, shall stand partly allowed in terms of prayer clause (a). The applicants in the said Misc. Application shall be added as respondents in Original Application No. 912 of 2015. The Tribunal, prior to finally deciding Original Application No. 912 of 2015, shall proceed to hear the applicants in the said Misc. Application and thereafter pronounce its judgment.

10. Since we are informed that the petitioners in Writ Petition No. 14559 of 2022 did not file any application for intervention, they shall be at liberty to file an application for intervention by Tuesday next. If such an application is filed, the Tribunal shall proceed to decide the same in accordance with law.

11. The writ petitions as well as the interim application stand disposed of. No costs.

12. It is made clear that no opinion on the merits of the rival claims has been expressed and all points are left open for being urged before the Tribunal for a decision by it.

SALUNKE
J V

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by SALUNKE J V
Date: 2022.11.25
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(ABHAY AHUJA, J.)

(CHIEF JUSTICE)