

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 7044/2019

Nitish Ramji Shende,
Aged 48 years, Occ. Assistant Engineer - Grade I,
Nagpur Improvement Trust, Nagpur.
R/o. Plot No.45, behind Ashish Traders,
Ayodhya Nagar, Nagpur-440 024.

..... **PETITIONER**

..V E R S U S..

- 1] State of Maharashtra, through Secretary,
Urban Development Department,
Mantralaya, Mumbai- 400 032.
- 2] The State of Maharashtra, through Secretary to
the Government of Maharashtra,
General Administration Department
(12 and 16-B), Mantralaya, Mumbai-400 032.
- 3] Nagpur Improvement Trust,
Nagpur through its Chairman,
Near Liberty Cinema, Sadar, Nagpur.

..... **RESPONDENTS**

Shri M.M.Sudame, Advocate for petitioner.
Shri A.M.Deshpande, Additional Government Pleader for respondent nos. 1 & 2.
Shri S.M.Puranik, Advocate for respondent no.3.

CORAM : A.S.CHANDURKAR and G.A.SANAP, JJ.
DATE : 25th FEBRUARY, 2022.

ORAL JUDGMENT (Per A.S.CHANDURKAR, J.)

Rule. Rule made returnable forthwith and heard the learned
counsel for the parties.

2. The petitioner who possesses a degree of Bachelor of Engineering (Civil) belongs to 'NT(B)' category and was appointed as 'Assistant Engineer Grade-II' on 04.11.2003. In the seniority list as published on 01.01.2013 his name was shown at serial no.4. According to the petitioner by an office order dated 27.11.2012 another Assistant Engineer Grade-I, Shri Anil Rathod who was placed below the petitioner in the seniority list was granted deemed date of promotion which is 01.04.2009. It is the further case of the petitioner that another Assistant Engineer-Grade I Shri Sanjay Chimurkar who is also junior to the petitioner had approached Maharashtra Scheduled Caste and Scheduled Tribe Commission seeking deemed date of seniority list. While granting such deemed date of promotion to Shri Sanjay Chimurkar, the junior to petitioner Shri Anil Rathod was also promoted on the same date. This order has been subsequently modified on 16.09.2015 by altering the deemed date to 01.04.2007. It is thus the grievance of the petitioner that though in the final seniority list that was published on 01.04.2006 the petitioner was shown at serial no. 8 while Shri Anil Rathod was shown at serial no. 9 and Shri Sanjay Chimurkar at serial no.10 and despite being senior to both, the petitioner has been denied similar deemed date of promotion.

3. Reply has been filed on behalf of the respondent no.3 in which reliance is placed on the Government Resolution dated 01.07.2005 to indicate

the manner in which the promotions are effected. Reference is also made to the background in which juniors to the petitioner were promoted and granted deemed date of seniority as 01.04.2009.

4. After hearing the learned counsel for the parties and after perusing the relevant documents on record, it is clear that in the final seniority list published on 01.01.2006 the petitioner has been shown senior to Shri Anil Rathod and Shri Sanjay Chimurkar. Both of them now have been granted the deemed date of promotion as 01.04.2007. The petitioner claims that he be granted the deemed date of promotion with effect from 03.11.2006 when the vacancy in question became available. We find that in the light of revised order dated 16.09.2015 issued by the respondent no.3 granting deemed date of promotion to petitioner's juniors, the petitioner's case can be conveniently considered by directing the respondent no.3 to constitute a Revised Departmental Promotion Committee which could examine the claim of the petitioner.

5. Accordingly, the writ petition is disposed of by passing the following order:

(i) The respondent no.3 shall within a period of six weeks from today constitute Revised Departmental Promotion Committee for considering the claim of the petitioner for grant of deemed date of promotion to the post of Assistant Engineer, Grade I.

(ii) The said Committee shall consider the request of the petitioner for grant of deemed date of promotion from 03.11.2006 or at least from 01.04.2007 on which date his juniors have been promoted. It is open for the petitioner to place before the Committee all relevant material which shall be taken into consideration in that regard.

(iii) The Committee shall take appropriate decision within a period of four weeks from its meeting and communicate the same to the petitioner. All points on merit raised in the writ petition are kept open.

Rule accordingly. No costs.

(G.A.SANAP, J.)

(A.S.CHANDURKAR, J.)

Andurkar..