

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

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WRIT PETITION NO. 4941 OF 2023

Shashikant Eknath Jadhav Petitioner

Vs.

Government of Maharashtra & Anr. Respondents

Ms. Advaita M. Lonkar a/w. Mr. Om. M. Lonkar for the
Petitioner

Mr. B. V. Samant, AGP for the State

**CORAM: S.V. GANGAPURWALA, ACJ &
SANDEEP V. MARNE,J.**

DATED : APRIL 10, 2023

P.C.

1. The Petitioner seeks deemed seniority. The Original Application filed by the Petitioner is dismissed. Aggrieved thereby the present Writ Petition.

2. The learned Counsel for the Petitioner submits that the Petitioner was appointed on 4th March 1987 as a Constable. The Petitioner was placed in Unarmed Division. The Respondents were maintaining two separate seniority lists of Armed and Unarmed Division. On or about 27th November 1989 a circular was issued by the Department

wherein the integrated seniority list was to be prepared and on the basis of the integrated seniority list, the promotions are to be given.

3. The learned Counsel submits that the integrated seniority list was never prepared till the year 2010. It was prepared in the year 2010. The Petitioner was given promotion as Naik on 1st August 2006. According to the learned Counsel, the person junior to the Petitioner in Armed Division was granted promotion as Naik in the year 1994. The Petitioner seeks deemed seniority as on the said date of the year 1994. The Tribunal erred in observing that the Petitioner, on his own volition, has chosen the Unarmed Division. The Petitioner had no choice. It is for the Department to give posting to the candidates either in the Unarmed Division or Armed Division.

4. The learned Counsel submits that the integrated seniority list and the gradation list has been prepared and as per the same the Petitioner is entitled for the deemed date of seniority to the post of Naik of the year 1994.,

5. We have also heard the learned AGP.

6. It is not disputed that the separate seniority lists from the beginning are maintained of Unarmed and Armed Division. The Petitioner is working in the Unarmed Division. The list of Armed Division, it appears, has progressed fast. Though the circular, it appears, is issued in the year 1989, the integrated seniority list of Armed and Unarmed Division was never prepared till the year 2010. It is only in the year 2010 the integrated seniority list is prepared. However, the Petitioner was promoted on the post of Naik in the year 2006. The integrated seniority list could not have operated retrospectively, as the same would have affected large number of persons. The integrated seniority list would operate prospective only. The Petitioner would be considered at par to the post on which the Petitioner is functioning as on the date of publication of the integrated seniority list. After the publication of the integrated seniority list, the junior to the Petitioner either from Armed Division or Unarmed Division is not promoted.

7. The Tribunal has considered the aforesaid aspects of the matter.

8. Though the circular was issued in the year 1989,

the Petitioner did not raise any grievance about the non preparation of the integrated seniority list till 2008 and on the date the Petitioner had raised the ground of non preparation of integrated seniority list the Petitioner was already promoted to the post of Naik in the year 2006. No explanation is given for not raising the ground for non preparation of the integrated seniority list till the year 2008 which eventually was prepared in the year 2010.

9. In light of the above, the Tribunal committed no error. The Writ Petition, as such, is disposed of. No costs.

(SANDEEP V. MARNE, J.) (ACTING CHIEF JUSTICE)