



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.3339 OF 2025

Rahul s/o. Ashok Kadam,
Age : 46 years,
Occ. Asst. Regional Transport Officer
at Dhule, r/o.Vasudha Vihar,
Ashok Nagar, Dhule

..Petitioner

Vs.

The State of Maharashtra,
Through the Principal Secretary,
Department of Home (Transport),
Mantralaya, Mumbai 400 032
and 17 others

..Respondents

Mr.Ajay S. Deshpande, Advocate for petitioner
Mr.P.K.Lakhotiya, AGP for respondent nos.1 and 2
Mr.A.S.Deshmukh, Advocate for respondent nos.4 to 6, 9, 11, 14, 15, 17
and 18

**CORAM : R.G. AVACHAT AND
ABASAHEB D. SHINDE, JJ.**
DATE : NOVEMBER 21, 2025

ORDER :-

The challenge in this Writ Petition, under Article 226 of the Constitution of India, is to the order dated 05.02.2025, passed by the Maharashtra Administrative Tribunal (MAT), Bench at Aurangabad, in Original Application No.1443 of 2024. Vide the impugned judgment and order, the application preferred by the

petitioner herein has been rejected. He is, therefore, before us.

2. The case of the petitioner, in short, is that respondent nos.3 to 18 had been granted promotion to the post of Assistant Regional Transport Officer in breach of the Government Resolution dated 12.09.2016. According to the petitioner, had the said Government Resolution been adhered to in letter and spirit, the respondents would not have been considered for the promotional post. It is also his case that had the said Government Resolution been not implemented, the petitioner would have been in the zone of consideration for promotional avenue as Deputy Regional Transport Officer. According to learned counsel for the petitioner, since 2017 to 2024, no final gradation list has been prepared. According to him, the petitioner entered the service in 2004. He was promoted as Motor Vehicle Inspector in the year 2008, he was then promoted to the post of Assistant Regional Transport Officer in the year 2014 with the benefit of social reservation.

3. According to learned counsel for the petitioner, most of the officials in the cadre of Motor Vehicle Inspectors would prefer not to accept further promotional avenue for the reasons best known to them. On account of such refusal, little over 50% of the vacancies of the next promotional posts remained unfilled. The State Government was ultimately required to issue a letter informing all that, if an employee refuses to accept the promotional post, an enquiry would be initiated by the department of Anti Corruption Bureau. According to him, this letter worked and most of the officials withdrew their letters expressing refusal to accept the promotion. Our attention was adverted to the letter dated 27.05.2019 (page 29 of the compilation), whereunder the list of such officials has been given. According to learned counsel, within the period of three weeks from issuance of the letter dated 06.05.2019, these respondents and others expressed their willingness to accept the promotional post. Our attention was adverted to Clause I of the Government Resolution dated 12.09.2016. For better appreciation, first clause thereof is reproduced as under:-

१. वरच्या संवर्गात पदोन्नतीसाठी निवड झाल्यानंतर अथवा तत्पूर्वीच एखाद्या कर्मचार्याने पदोन्नतीचे पद स्विकारण्यास नकार दर्शविल्यास, त्याचे नांव पदोन्नतीसाठी पात्र असणाऱ्या अधिकारी/कर्मचार्यांच्या निवडयादीतून काढून टाकण्यात यावे व पुढील दोन वर्षी होणाऱ्या निवडसूच्यांमध्ये संबंधित अधिकारी/ कर्मचार्याच्या नावाचा विचार न करता तिसऱ्या वर्षाच्या निवडसूचीत संबंधित अधिकारी/कर्मचार्याची पदोन्नतीसाठीची पात्रता तपासण्यात यावी. त्यावेळेच्या गुणवत्तेप्रमाणे संबंधित अधिकारी/कर्मचारी पदोन्नतीसाठी पात्र ठरल्यास त्याचा नियमित निवडसूचीत समावेश करण्यात यावा. (उदा. सन २०१५ च्या निवडसूचीकरिता (दि.१.०९.२०१४ ते दि.३१.०८.२०१५) दि.१५.०९.२०१५ रोजी झालेल्या निवडसूचीत एखाद्या अधिकाऱ्याचा समावेश करण्यात आला असेल व त्यांनी पदोन्नतीस नकार दिल्यास त्यांचे नाव २०१५ च्या निवडसूचीतून वगळून त्यांचा सन २०१६ व सन २०१७ च्या निवडसूचीकरिता देखील विचार न करता सन २०१८ च्या निवडसूचीकरिता विचार करण्यात यावा.)

4. Close reading of the aforesaid clause would indicate that the official, who, on finding place in the select list for the promotional post or even therebefore, refused to accept the promotional post, he shall not to be considered for the said promotional post for next three years. According to learned counsel for the petitioner, respondent nos.3 to 18 had, in fact, expressed their unwillingness to accept the promotional post; but in view of the letter dated 06.05.2019, issued by the State Government, they withdrew the same and the department gave them promotion. Same is in complete breach of the

Government Resolution dated 12.09.2016. Learned counsel, therefore, urged for setting the things right with the direction to the department to implement the Government Resolution dated 12.09.2016 in letter and spirit.

5. Learned AGP and learned counsel for respondent nos.3 to 18 would submit that the prayers in the Original Application and present Writ Petition have altogether been inconsistent with each other. When the Original Application was dismissed, the same should have been carried as it is before this court, without any change in the prayers in the O.A. According to them, this court is as good as sitting in appeal over the order passed by the MAT and therefore, cannot travel beyond the pleadings in the O.A. According to them, the provisional gradation list was published every year. Fifteen days time was given to one and all concerned to raise objection thereto. The petitioner did not avail the same. He directly approached the MAT, that too, three years after respondent nos.3 to 18 were promoted. According to them, the original application was not within the limitation. Since the MAT

disposed of the application on its own merits, the issue of limitation has not been addressed.

6. According to learned counsel for the respondents, the petitioner does not have any cause of action to file O.A. The petitioner was promoted in view of the reservation policy. Since the decision of this court holding the social reservation policy to have not been applicable for the promotion, the State Government issued the Government Resolution, whereby the petitioner would not be in the zone of consideration until those, who were with him while entered the service, get due consideration for further promotional avenues. According to learned AGP, even the claim of the petitioner could be premature. As and when the final gradation list would be prepared, the petitioner may have occasion to raise objection thereto. On hearing such objections, the final gradation list may be prepared.

7. According to learned counsel for respondent nos.3 to 18, the promotion given to these respondents have not at all

been taken exception to. They are, therefore, unable to defend their promotion in this proceedings. If the petitioner challenges the same before the appropriate forum, these respondents would have opportunity to meet such a case. All in all, according to learned counsel for the respondents, the petition is without merit and therefore, liable to be dismissed.

8. We have considered the submissions advanced. Perused the documents relied on. Most of the facts are not in dispute. Admittedly, the petitioner was promoted to the post of Assistant R.T.O. on 05.07.2014. For him, the next promotional post is Deputy R.T.O. The respondents, who were serving as Motor Vehicle Inspectors, had, in fact, expressed their willingness in writing to forgo their next promotional avenue, i.e. post of Assistant R.T.O. Such willingness was given by them sometime before May, 2019. The moment the department issued the letter dated 06.05.2019, whereby it was informed that the officials refusing the promotional avenue, would be subjected to enquiry by A.C.B., these respondents in no time withdrew their refusal and gave consent to accept the further

promotional post. Admittedly, these respondents were promoted in June, 2020 and October, 2021. It could *prima facie* be said that the department coerced the respondents to change their mind and accept promotion. It may not be voluntary. Be that as it may. It was argued by learned counsel for the respondents that when the petitioner was in service along with these respondents, how come he was unaware of their promotion! The provisional gradation list was published every year. It is true that no final gradation list was prepared since 2017 till date. The petitioner claimed to have come to know about these respondents to have withdrew their disinclination to accept the promotional avenue, only when he received the information under the Right to Information Act on 03.06.2024 and the O.A. was filed in the year 2025. The fact remains that the promotions of these respondents have not at all been challenged in the O.A. Whether those promotions are contrary to the service rules and what shall be the consequence if such promotions are effected in breach of Government Resolution dated 12.09.2016, is a matter to be considered independently, since the promotions of these respondents have not been

challenged in the O.A. and then necessarily in this Writ Petition as well.

9. A glance at the prayers in the O.A. and this Writ Petition would suggest that the main prayers therein are not in consonance with each other.

10. Since the petitioner may have every opportunity to challenge final gradation list and since the promotions of respondent nos.3 to 18 have not been specifically taken exception to in this proceedings, we find the Writ Petition to be without merit and therefore, liable to be dismissed.

11. For the aforesaid reasons, the Writ Petition stands dismissed.

[ABASAHEB D. SHINDE, J.]

[R.G. AVACHAT, J.]

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