



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

**WRIT PETITION NO.15187 OF 2017 WITH
CIVIL APPLICATION NO.6819 OF 2020**

Suryakant Deorao Kokane & ors. ... PETITIONERS

VERSUS

The Government of Maharashtra & ors. ... RESPONDENTS

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Mr. R.N. Dhorde, Senior Counsel with Mr. P.S. Dighe and
Mr. V.R. Dhorde, Advocate for petitioners
Mr. P.S. Patil, A.G.P. for R.No.1 and 2
Mr. S.B. Parnere, Advocate for R.No.4
Mr. Avinash S. Deshmukh, Advocate for R.No.15
Mr. A.C. Darandale, Advocate for R.Nos. 18,22,27,32,33,38,
47,50,53 to 55,57 to 59,62,69,85,185,356,346,292,163,112,
14, 169,233,311,205,232,337,105,71,74,76,80,81,83,84,91,94,
103,104,109,110,100,238,172,73 & 86
Mr. N.K. Chaudhari, Advocate for R.Nos.21,31,34,36,42,
45,52,82,86,89,93,97,108,119,146,158,161,164,178,181,
198,208, 213,221,226,235,239,273,274,285,298,303,308,
341,351 & 358

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**CORAM : R.G. AVACHAT AND
ABASAHEB D. SHINDE, JJ.**

Date of reserving order : 3rd October, 2025

Date of pronouncing order : 11th November, 2025

ORDER :

The challenge in this Writ Petition, under Article 226 of the Constitution of India, is to a judgment and order dated 7/6/2017, passed by the Maharashtra Administrative Tribunal (MAT), Bombay, in Original Application, No.1094/2015 and consequential seniority list dated 12/6/2017.

In short, the petitioners, who were appointed to the cadre of Police Sub Inspector (PSI) on the establishment of the State of Maharashtra in the Department of Home, on 1/6/2004, claim deemed date of appointment, dating back to 22/3/2000.

2. The facts, as have been narrated by the learned counsel for the petitioners, are as follows.

The State Government, in 1995, formulated rules for appointment to the post of PSI. 50% of the posts were to be filled up by direct recruitment through Maharashtra Public Service Commission (MPSC). 25% by Limited Departmental Competitive Examination (LDE) through MPSC and remaining 25% officiating examination for promotion conducted for Police

Constables' cadre by the Director General of Police (DGP).

There were total 5717 posts in the year 1997. The break-up thereof is as follows :

50% = 2585 – Direct recruitment – 'A' category.

25% - 1429 – LDE – MPSC - 'B' category.

25% - 1429 – Promotion by DGP - 'C' category.

Out of the 'B' category posts, 850 vacancies have already been filled up. As such, 572 were clear vacancies in the year 1997-98. No examinations were conducted by MPSC until August 1998. The State Government made a requisition to the MPSC for 241 vacancies in 'B' category. The MPSC, in turn, issued advertisement for 241 vacancies. It, however, decided to hold examination for only 179 candidates. In the examination held therefor, 726 candidates ('B' category) were found eligible for physical test. 605 of them cleared both physical test and viva-voce (interview). Although 605 candidates had cleared the examination, only 179 candidates were recommended. These 179 candidates were given appointment on 22/3/2000 and were immediately sent for training.

3. Some of the candidates who were not recommended, filed Original Application (No.630/1999) before the MAT, contending that they were eligible and, therefore, deserved to be recommended. In April 2000, the State Government filed affidavit in the said application, making a statement that 463 vacancies would be filled up by appointing the candidates who cleared the examination held in 1998. The application was thus disposed of. The State Government then sent the requisition to the MPSC for 463 vacancies. The MPSC, however, recommended only 48 candidates. These 48 candidates were appointed and deputed for training in April 2001. Thus, total 227 candidates (179+48) were given appointment.

4. Remaining 378 candidates (including the petitioners) filed Original Application, (No.308/2001), asking for recommendation of their names. In June 2001, the MAT directed the MPSC to further recommend 150 candidates. The MPSC, therefore, recommended 150 candidates (including the petitioners). Remaining 228 candidates filed Writ Petition

(No.4625/2008) for similar relief. The MPSC had also filed Writ Petition challenging the order of the MAT, directing it to recommend 150 additional candidates. The MPSC was directed to fill up the remaining 406 vacancies. As per the record, only 372 candidates were actually recommended. The matter had reached the Apex Court in Special Leave Petition. The MPSC was, however, unsuccessful therein. Its attempt to urge for review and even Curative Petition also failed. Thereafter, on 1/6/2004, the MPSC actually forwarded names of 358 candidates from 'B' category. Thus, the actual appointments numbered as below :

179+48+358. The petitioners were from the batch recommended for appointment on 1/7/2004.

5. The total 601 candidates were given regular promotion on vacant posts. Though no posts were available, still 284 persons were given nominal/ adhoc promotions in 'C' category. Sr.Nos.1 to 17 were of 1992 and 1995 batches (examinations) while the remaining were from the batch selected in August 2000. 354 candidates from 'C' category

approached the MAT. Their Original Application was allowed, granting them grace marks. These 354 candidates were also given promotion although the posts were not available.

6. The respondent No.2 DGP cancelled earlier promotion list and a fresh list was prepared on the basis of age factor, instead of merit. The same caused intermingling of the candidates from all the three categories (A, B & C). The aggrieved, therefore, approached MAT with a prayer for cancellation of the order of preparing a fresh promotion list. The said application was dismissed. A Writ Petition was, therefore, preferred (465/2009). A compromise was entered into between the petitioners therein and the office of the DGP. The Writ Petition was disposed of in terms of the compromise. Since no consent of the State Government was obtained for settlement, the order disposing of the Writ Petition in terms of the compromise was set aside. In February 2013, Writ Petition (No.465/2009) was ultimately disposed of with the following directions.

“(i) The appointments, seniority and promotion of B- category candidates should not be disturbed.

(ii) The promotion order dated 15/11/2006 was maintained as it is granting the deemed date of promotions. However, modified the three lists of promotion in C-category changing the criteria of preparation from age factor to merit only by showing 601 first, thereafter, 284 and thereafter, 354 below them. This specifically implies that, 601 are granted promotions w.e.f. 30/4/2001, 284 from 15/11/2006 and 354 thereafter.”

7. One Shri Digambar Bhadane, who had appeared for examination of PSI from 'B' category (LDE) in the year 1998, who could not join on 22/3/2000 like the present petitioners, he was given post (appointment) on 1/6/2004 along with the petitioners and other similarly situated candidates. He, therefore, made representation for grant of deemed date of appointment. Shri Bhadane then filed Original Application before the MAT. The same was allowed. The order therein was challenged in Writ Petition. It was partially allowed, remanding the matter back to MAT. The MAT again allowed Shri Bhadane's application. Thereafter, the order passed in favour of Shri Bhadane had not been taken exception to. The same attained finality. On the ground of parity as well, the petitioners claim entitlement for similar relief.

8. Original Application, No.37/2015 was filed by 'B' category candidates for grant of deemed date of appointment. The MAT directed the DGP to consider the pending representations. The DGP allowed the same. The contesting respondents herein challenged the said order before MAT. The MAT allowed the said application along with the Application, 1094/2015. The petitioners are, therefore, before this Court.

9. The learned Senior Counsel would submit that, the case of the petitioners is alike the case of Shri Bhadane. According to him, only a claim for deemed date of appointment is to be given to the petitioners. No candidate from any other category is thereby likely to suffer a prejudice. According to him, it was no fault of the petitioners. Due to pendency of the judicial proceedings before the MAT, High Court and even Apex Court as well, orders regarding issuance of appointment to the petitioners were delayed. He adverted our attention to the observations made by the Division Bench of this Court in Writ Petition No.465/2009 and other connected matters, wherein it has been observed in paragraph No.8 as under :

“8. We once again clarify that neither appointments nor promotions or seniority of PSIs appointed under categories (a) and (b) as referred to in paragraph 3(A) of this order are intended to be affected by virtue of this order or anything stated in this order. This is because, in the present petitions, we are only concerned with appointments to the PSIs made under category (c) i.e. departmental promotions.”

10. The learned Senior Counsel, relying on the Apex Court judgment in case of **Asis Kumar Samanta & ors. Vs. State of West Bengal & ors. (2014) 10 SCC 357**, urged for allowing the Writ Petition.

11. The learned A.G.P. and the learned Advocate representing respondent No.15 reiterated the reasons given by the MAT in support of the order impugned herein.

12. We have considered the submissions advanced. Perused the relevant Seniority Rules (Maharashtra Civil Services (Seniority) Rules, 1982), the order impugned herein and the documents relied on.

13. Way back in the year 1998, a requisition was made

by the State Government to the MPSC for holding examination for appointment/ recruitment to the post of PSI ('B' category). The advertisement was, therefore, issued for 241 vacancies. The MPSC held examination only for 179 vacancies. Little over 600 candidates had cleared the examination, written, physical and oral as well. Only 179 candidates were recommended. Those who had cleared the examination but not recommended, approached the MAT. On the MAT's intervention, additional 48 candidates were recommended. The others so claimed to have been left out, preferred Original Application. The MAT directed the MPSC to recommend further 150 candidates. The petitioners herein are from those 150 candidates. The said direction was issued in June 2021. Before the said order was issued, the first batch of 179 candidates was given appointment on 22/3/2000. The direction given by the MAT for giving appointment to additional 150 candidates was subject to judicial review, in Writ Petition and in SLP as well. The order of the MAT was ultimately maintained/ affirmed in May/ June 2004. Thereafter only those 150 candidates including the petitioners were given appointment on 1/6/2004. Here, the learned counsel would

submit that, it was not the fault of the petitioners. It is only on account of the judicial proceedings wherein the selection of the petitioners was under challenge. In the case of Asis Kumar (supra), it has been observed :

Service Law – Seniority – Retrospective operation of applicable service rules – Can be effected from a date prior to the vacation of Court stay order, provided the selection process commenced after the vacation of the stay.

Vacancy against promotion quota occurring on 1/1/1989 but no promotions made because of interim order passed by High Court restraining authorities from giving promotion – Stay order vacated on 11/12/1990 – Selection process for promotion commenced only thereafter – For this reason Public Service Commission recommended that private respondents be given retrospective seniority with effect from 31/12/1990 – As per R. 6(2) of the 1981 Rules, however the promotees shall be en bloc senior to the direct recruits of the same year – Thus, as per R. 6(2) the private respondents in the writ petition were given notional seniority with effect from 1/1/1990 – Held, since the selection process was commenced after the vacation of the stay order, the benefit of R. 6(2) that the promotees shall be en bloc senior to the direct recruits of the same year, cannot be denied to the private respondents – W.B. Services (Determination of Seniority) Rules, 1981, R.6(2) – Administrative Law – Administrative Action – Administrative or Executive Function – Implementation of Court orders/ Compliance with judicial precedents – Contempt of Court – Civil Contempt – Instances of civil contempt – Disobedience of interim/ interlocutory orders – What is not – Action taken after vacation of stay, but rules

providing for retrospective effect.

14. In paragraph No.3 of its judgment, it has been observed thus :

“3. Applying the above legal position to the facts of the present case, it may be noted that vacancy against promotion quota in the cadre of 22 Forest Rangers occurred on 1.1.1989. But their case could not be processed because of the interim order passed by the High Court restraining the authorities from giving them promotion to the West Bengal Forest Service. The stay order was vacated on 11.12.1990. It was only thereafter the selection process for promotion commenced. It was for this reason that the Public Service Commission recommended that private respondents be given retrospective seniority with effect from 31.12.1990. As per Rule 6(2) of the W.B. Services (Determination of Seniority) Rules, 1981 (for short, "1981 Rules") the promotees shall be en bloc senior to the direct recruits of the same year; the private respondents in the writ petition were given notional seniority with effect from 01.01.1990.”

15. In the first blush, it may appear the petitioners to have a good case. The facts are, however, otherwise. When the State Government made a requisition to the MPSC way back in August 1998, there were only 249 vacancies. The number of vacancies was reduced to 179. The examination was conducted for filling up only 179 vacancies. Even the MPSC recommended those successful 179 candidates who

were in order of merit in the select list. They were given appointment on 22/3/2000. It is only on account of the petitioners and other candidates who were found to have cleared the examination/ selection process, approached the MAT and this Court as well, and on the statement made by the State Government, that more than 463 posts would be filled up from the very selection process, a few more candidates in two batches, namely 48 and 150 were, therefore, given appointments on 1/6/2004. The petitioners are from amongst those second and third batch. Now they want a notional date of appointment as that of the first 179 candidates given appointment on 22/3/2000. Admittedly, during the intervening period, that too in 2001, a few candidates from 'C' category were appointed. The contesting respondents herein are from the said category. In terms of the Seniority Rules, a gradation list was prepared. For better appreciation, the relevant Rules of 1982 are reproduced below :

“4. General Principles of seniority :-

(1) Subject to the other provisions of these rules, the seniority of a Government servant in any post, cadre or service shall ordinarily be determined on the length of his continuous service therein :

Provided that, for the purpose of computing such service, any period of absence from the post, cadre or service due to leave, deputation for training or otherwise or on foreign service or temporary officiating in any other post shall be taken into account, if the competent authority certifies that the Government servant concerned would have continued in the said post cadre or service during such period, had he not proceeded on leave or deputation or been appointed temporarily to such other post :

Provided further that, the service, if any, rendered by him as result of a fortuitous appointment (except in a case where the competent authority certifies that, it was not expedient/ possible or practicable to make a regular appointment strictly in accordance with the ratio of recruitment as prescribed in relevant recruitment rules, with the brief reasons recorded therefor), shall be excluded in computing the length of service and for the purpose of seniority he shall be deemed to have been appointed to the post or in the cadre or service on the date on which his regular appointment is made in accordance with the provisions of the relevant recruitment rules.

(2) Notwithstanding anything contained in sub-rule (1), --

(a) the inter se seniority of direct recruits selected in one batch for appointment to any post, cadre or service, shall be determined according to their ranks in the order of preference arranged by the Commission, Selection Board or in the case of recruitment by nomination directly made by the competent authority, the said authority, as the case may be, if the appointment is taken up by the person recruited within thirty days from the date of issue of the order of appointment or within such extended period as the competent authority may in its

discretion allow;

(b) the inter se seniority of Government servants promoted from a Select List shall be in the same order in which their names appear in such Select List. If the Select List is prepared in two parts, the first part containing the names of those selected unconditionally and the second part containing the names of those selected provisionally. All persons included in the first part shall rank above those included in the second part.

Provided that, if the order in which the names are arranged in the Select List is changed following a subsequent review of it, the seniority of the Government servants involved shall be rearranged and determined afresh in conformity with their revised ranks;

(c) the seniority of a transferred Government servant vis-a-vis the Government servants in the posts, cadre or service to which he is transferred shall be determined by the competent authority with due regards to the class and pay-scale of the post, cadre or service from which he is transferred, the length of his service therein and the circumstances leading to his transfer.

(3) Where the dates of appointing in posts, cadre or service of any two or more persons determined after assigning the deemed dates, if necessary, are identical the person senior in age shall be considered as senior for the purpose of determining the seniority.

5. Assignment of deemed dates of appointment:-

(1) Notwithstanding anything contained in Rule 4, on recommendation of the Competent Authority, the Government may, in accordance with the provisions contained in the following sub-rules, assign to a

Government servant, a deemed date of appointment to a post, cadre or service which is different from the date of his actual appointment thereto; and on such a deemed date having been assigned, the length of his service in the said post, cadre or service shall be computed as commencing from the deemed date assigned under this rule and the seniority list prepared in pursuance of the same, shall not ordinarily, be altered at the time of preparation of seniority list on the subsequent occasions or in the subsequent years, date.

(2) Where the direct recruits selected in the same batch report for the dates and the actual dates on which they are appointed are not chronologically in conformity with their inter se seniority as provided in Clause (a) of sub-rule (2) of Rule 4, the recruit higher in rank, out reporting for duty later than his junior shall be assigned, as deemed date of appointment, the date on which the recruit lower in rank reports for duty, provided the recruit higher in rank has reported for duty within the period of thirty days from the date of his appointment or within such further period as may be extended by the competent authority.

(3) Where two or more Government servants who are eligible for promotion to any higher post, cadre or service according to any Select List are promoted to such higher posts, cadre or service and the actual dates on which such Government servants report for duty in such higher posts, cadre or service are not chronologically in conformity with their inter se seniority as provided in Clause (b) of sub-rule (2) of Rule (4), the senior person, who reports for duty later than his junior, shall be assigned as deemed date of appointment, the date on which the junior reports for duty.

Provided that, in a case where a Government servant himself is deemed responsible for delay in assuming

charge of the promotional post, his inter se seniority shall be fixed with reference to the date he actually assumes charge of such posts.

(4) Where the seniority of promotees is rearranged and determined afresh as provided in the proviso to Clause (b) of sub-rule (2) of Rule 4, deemed dates of promotion shall be assigned to them or if already assigned shall be revised in such manner as to be chronologically in conformity with their ranks in the order of seniority as so rearranged and determined.

(5) Where a Government servant whose name is included in a Select List is not actually promoted according to his rank in that Select List owing to a disciplinary proceeding then pending against him, and is promoted subsequently on the conclusion of such disciplinary proceeding, on recommendation of the Competent authority, the Government may, having due regard to the circumstances of the case and the result of the disciplinary proceedings, assign to him a deemed date of appointment determined otherwise than in accordance with his rank in the Select List.

(6) Where a Government servant is superseded while preparing the Select List and if the supersession is subsequently set aside following a review of his case either by the competent authority acting on its own motion or by a Court of Law or by any other authority empowered in that behalf, such Government servant shall on actual promotion, be assigned a deemed date of appointment on which he would have been promoted had he not been so superseded.

(7) A transferred Government servant may be assigned such deemed date of appointment as on the recommendation of the Competent Authority, the Government may determine, with due regard to the class

and pay-scale of the post, cadre or service from which he is transferred, the length of his tenure therein and the circumstances leading to his transfer. Where the appointment of the transferred Government servant is made in consultation with the Commission, the deemed date shall be determined with its consultation.”

16. Meanwhile, the petitioners and others had made a representation to the DGP. The DGP had allowed the same, giving the petitioners and other representationists the deemed date of appointment. Necessarily, those from ‘C’ category aggrieved by the said decision, approached this Court and were successful therein.

17. The MAT, while dismissing the application of the petitioners, observed the application to have been made so late and the DGP, by allowing the representation, unsettled the settled position. When the petitioners were given appointment on 1/6/2004, by no stretch of imagination, they could be given the deemed date of appointment, dating back to March 2000. More so, when the contesting respondents herein and the candidates recommended and given appointment in 2001 were likely to be affected. They were from ‘C’ category batch. The record indicates that, the petitioners accepted the appointment

without any demur, way back in 2004. The DGP had allowed the representation in 2015 under the so called misreading of the interim order passed by the MAT in Original Application, (No.37/2015). Admittedly, the State Government recalled the order of the DGP. Even before that, the said order had been upset by the MAT. The petitioners then could very well have approached the Court to ventilate their grievance, if any, regarding the claim deemed date of appointment. The seniority list was prepared in terms of the appointment given to the candidates from 'A' to 'C' category. Even promotions were effected. The MAT was thus right in observing that the DGP had in fact unsettled the settled position. Moreover, the petitioners who had even not worked or not born in the cadre before the date of their appointment, could not be given a claim deemed date of appointment, dating four years back to their actual date of appointment. The learned counsel for the petitioners submitted that, the MAT did not consider the judgment of the High Court nor it gave due interpretation to Rule 4(2A) and Rule 5(2) of the Rules of 1982. As per the Rules, it is only the State Government which can give deemed date of appointment or promotion. The State Government has

admittedly withdrawn the decision of the DGP which had already been upset by the MAT.

18. The observations referred to hereinabove are self-speaking. The petitioners cannot derive any benefit therefrom. It was the Writ Petition wherein a dispute inter-se the seniority of the candidates appointed from Class 'C' category was the subject matter. Whereas in the present petition, it is a question of clash between 'B' and 'C' category candidates. If the petitioners are granted relief, they would, even notionally, be placed above the candidates appointed from 'C' category. Thus, 'C' category would be affected thereby.

19. So far as regards claim of parity on the ground of relief granted to Shri Bhadane is concerned, it appears, the said ground was not at all or seriously raised before the MAT in first instance. Shri Bhadane although was a selectee from the examination held in 1998, he was given appointment in 2004, as there was criminal case pending against him. Rightly or wrongly, his application for giving him deemed date of appointment dating back to the date of appointment of the

candidates from his batch was allowed. The said order was not assailed by the Department, State or any affected candidate. Shri Bhadane was granted the relief way back in 2011. The case of Shri Bhadane was altogether different than the case of the petitioners. In our view, the petitioners cannot seek parity with the case of Shri Bhadane. Needless to mention, there can be no parity in case of illegality. Be that as it may. The fact remains that, if the petitioners are granted the deemed date of appointment, the candidates who were appointed before the petitioners were actually appointed, would necessarily get affected. If the deemed date of appointment is given to the petitioners, there would be notional pay fixation and consequential financial burden. Since the petitioners were not the candidates selected in the first batch of 179 candidates, for which in fact the recruitment process was held and it is only thereafter the State Government made a statement that few more vacancies would be filled up from the very recruitment process, the petitioners were lucky to find place in the subsequent select list. Needless to mention that, before they were given actual appointment, one batch from Class 'C' category was given appointment. If the petitioners

are granted relief as has been prayed, those 'C' category candidates (contesting respondents herein) would necessarily get affected. Much water has flown since the initial recruitment process was held. Financial implications of giving notional date of appointment has to be one of the factors to weigh against grant of such relief.

20. For all the aforesaid reasons, we find the MAT to have rightly turned down the Original application preferred by the petitioners herein. No interference with the order impugned herein is, therefore, warranted. The petition is, therefore, dismissed.

21. Civil Application No.6819/2020 also stands dismissed in view of the final order passed in this Writ Petition. However as there was an ad-interim relief operating in the Civil Application till date, the same shall continue for the next two months.

(ABASAHEB D. SHINDE, J.)

(R.G. AVACHAT, J.)