

**Central Administrative Tribunal  
Principal Bench, New Delhi**

**OA No. 564/2021**

**This the 12<sup>th</sup> day of March, 2021**

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman  
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Hemant Kumar Vasantrao Pawar  
 Age 57 years, Occupation: Government Service  
 Working as Chairman  
 District Caste Scrutiny Committee Nagpur  
 Working in additional charge of Addl. Commissioner  
 Nagpur Metro Region Development Authority  
 Resident of Flat No. 501, Kamal Spacia  
 Plot No. 49, Kadbi Chowk, Kamptee Road  
 A/P Tahsil & District Nagpur-440013  
 Maharashtra. ...Applicant

(By Advocate: Sh. Ravindra K. Adsure with Sh. Yash Sonavane, Sh. Sidheshwar Namdev Biradar, Sh. Yogesh Ramesh Joshi and Sh. Gopal Balwant Sathe)

**VERSUS**

1. Union of India  
 Through its Secretary  
 Department of Personnel & Training  
 Ministry of Personnel, Public Grievances & Pension  
 North Block, Central Secretariat  
 New Delhi-110001.
2. Union Public Service Commission  
 Through its Secretary  
 Dholpur House, Shahjahan Road  
 New Delhi-110069.
3. Chairman, Selection Committee  
 U/R 3 of IAS (Appointment by Promotion)  
 Regulation, 1955  
 i.e. Chairman, Union Public Service Commission  
 Dhopur House, Shahjahan Road



New Delhi – 110069.



4. Government of Maharashtra  
Through its Additional Chief Secretary(Services)  
General Administration Department  
Mantralaya, Mumbai-400032  
Maharashtra.
5. Additional Chief Secretary (Revenue)  
Revenue & Forest Department  
Government of Maharashtra  
Mantralaya, Mumbai-400032  
Maharashtra.
6. Mr. Chintamani Dattatray Joshi  
Age: Major, Occupation- Government Service  
Commissioner, State Common Entrance Test Cell  
8<sup>th</sup> Floor, New Excelsior Building  
A.K. Nayak Road, Fort, Mumbai-400001  
Maharashtra. ...Respondents

(By Advocate: Sh. Ranjan Tyagi)

### **ORDER (Oral)**

#### **Justice L. Narasimha Reddy:**

The applicant seems to be a chronic litigant. Initially, he was appointed as Deputy Collector on being selected through Maharashtra Public Service Commission (MPSC) exam on 16.06.1987. The vacancy was reserved in favour of ST category. Thereafter, his caste certificate was cancelled. The same was affirmed in the appeal. He filed Writ Petition No.4055/1988 and obtained an interim order therein. When the same was pending, the Government passed an order dated 15.06.1995, taking a decision to the effect that wherever the candidates who got appointed against the vacancies reserved for ST, and the certificate of caste is either in doubt or



cancelled, they will be accommodated under Special Backward Category (SBC), and 2% reservation was made for this purpose. The applicant was extended the benefit under this category. He earned promotion to the post of Additional Collector in the year 2000. Being senior in the cadre, he became otherwise eligible for considered for promotion to the IAS, of the Maharashtra Cadre. At one stage, his name was also included in the list of eligible officers.

2. Recently, the Hon'ble Supreme Court rendered its Judgment in Civil Appeal No.8928/2015 (**Chairman & Managing Director, FCI vs. Jagadish Balaram Bahira**), directing that wherever such exemptions or benefits were given, such officers shall be accommodated against supernumerary vacancies and shall not be treated as part of the original cadre. A policy decision in this behalf was taken on 21.12.2019 and a general order for creating supernumerary post was also passed on 27.01.2020. It is also stated that the applicant filed OA No.125/2020 before the Maharashtra Administrative Tribunal, Nagpur Bench, challenging the GR dated 27.1.2020, and an interim order dated 24.02.2020 was also passed in his favour.

3. The State Government of Maharashtra, addressed a letter dated 27.02.2020 to the UPSC in continuation of their earlier



recommendations by making a reference to the posting of the applicant against the supernumerary vacancy. They replaced the name of the applicant with another officer by name Shri J.G. Miniyar. This OA is filed challenging the order dated 27.02.2020 and other consequential notifications issued on 03.09.2020 and 04.09.2020.

4. The applicant submits that once his name has been included in the list of eligible officers for promotion to the IAS, there was absolutely no basis for the respondents in deleting his name and substituting it with that of another officer.

5. Today we heard Sh. Ravindra K. Adsure, assisted by Sh. Gopal Balwant Sathe, the learned counsel for the applicant, Sh. Ranjan Tyagi, learned counsel for the Union of India and Shri Naresh Kaushik, learned counsel for UPSC.

6. It is no doubt true that the name of the applicant figured in the list of SBC officers, forwarded by the State of Maharashtra to the UPSC, for consideration for promotion to the IAS of the Maharashtra Cadre. However, some important developments have taken place before the process could be completed. It has already been mentioned that the applicant was appointed as Deputy Collector against the vacancy reserved in favour of ST and thereafter, his caste certificate as ST was cancelled. The



cancellation remained, and the applicant was not certified as ST thereafter. The Government came forward with a proposal in 1995 to accommodate such officers. Though we have our own reservations about such a step, we are not concerned with that at this stage. The applicant was continuing on the same post, on the strength of the orders passed by the Government in the year 1995.

7. The issue, in its larger purport, fell for consideration before the Hon'ble Supreme Court in the ***Chairman & Managing Director, FCI & Others v. Jagdish Balaram Bahira*** in Civil Appeal No. 8928/2015, etc. vide Judgement dated 06.07.2017, their Lordships took the view that once the candidates did not fit into the social status meant for the post, they cannot be continued in the same category. With a view to avoid hardship to them, it was directed that they shall be continued in supernumerary posts. In other words, the post would not be part of regular cadre and the officer would not be part of the main stream. In the case of the applicant, such a step was taken. The Maharashtra Administrative Tribunal, no doubt has stayed the operation of the order dated 27.01.2020. That however, did not have the effect of continuing the applicant as part of the main cadre of the Revenue Department. At any rate, the State Government cannot continue its recommendations to



the applicant, once the Hon'ble Supreme Court declared the law in this behalf.

8. The applicant, as of now, is stated to be on the supernumerary vacancy. For a person of State service to be promoted to IAS, the record must be clear. We do not find any serious flaw on the part of the Government of Maharashtra, in forwarding the name of another candidate in the place of the applicant. We make it clear that as and when the status of the applicant becomes clear in the proceedings pending before the Maharashtra Administrative Tribunal or otherwise, he can certainly stake his claim, which in turn can be without retrospective effect.

9. With the above observations, we dispose of the O.A. There shall be no order as to costs.

**(Mohd. Jamshed)**  
**Member (A)**

**(Justice L. Narasimha Reddy)**  
**Chairman**

/lg/jyoti/ns/akshaya/