

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 1149 OF 2022**

**DISTRICT:- LATUR**

**Dileep Murlidhar Devkate,**  
Age-44 years, Occu. Service,  
R/o. Panchayet Samiti Renapur,  
Ta. Renapur, Dist. Latur.

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**APPLICANT**

**V E R S U S**

**1) The State of Maharashtra,**  
Through its Chief Secretary,  
Revenue & Forest Department,  
Mantralaya, Mumbai.

**2) The Divisional Commissioner,**  
Commissioner office, Delhi Gate,  
Aurangabad.

**3) The Collector Latur,**  
Collector Office, Latur.

.. **RESPONDENTS**

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APPEARANCE : Shri S.K. Mathapati, learned counsel  
along with Smt. Vaishali Kalyankar,  
learned counsel for the applicant.

: Shri V.R. Bhumkar, learned Presenting  
Officer for the respondent authorities.

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**CORAM : JUSTICE SHRI P.R. BORA, VICE CHAIRMAN  
AND  
: SHRI VINAY KARGAONKAR, MEMBER (A)**

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**RESERVED ON : 03.01.2024**

**PRONOUNCED ON : 06.03.2024**  
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**ORDER**

(Per : Justice Shri P.R. Bora, Vice Chairman)

Heard Shri S.K. Mathpati, learned counsel along with Smt. Vaishali Kalyankar, learned counsel for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondent authorities.

2. The grievance of the applicant in the present Original Application is that though he did pass the Sub-Service Departmental Examination (for short S.S.D. Examination) within the stipulated period and chances, as well as, also passed the Revenue Qualifying Examination (for short R.Q. Examination) within the given period and chances, it has been wrongly and illegally held by the respondents that he did not pass both the aforesaid examinations within the given period.

3. The respondents have denied the allegations of the applicant. According to them, the applicant did not pass the aforesaid examination within the given period and chances and in the circumstances for the purpose of promotion the date of seniority has been rightly held as '19.01.2014' i.e. the date on which the applicant passed the R.Q. Examination.

4. Before adverting to the controversy as aforesaid, few facts are relevant to be stated, which are thus:-

(i) The applicant entered into the Government services on the post of Talathi on compassionate ground on 01.01.2000 at Dongargaon in Nanded District.

(ii) On his request, the applicant was transferred to Latur District on 15.04.2006.

(iii) On 11.07.2008, the applicant was transferred from Sub-Division Nilanga to Sub-Division, Latur on his request.

(iv) The applicant passed the S.S.D. Examination on 01.05.2011 and the R.Q. Examination on 19.01.2014.

(v) The applicant belongs to N.T.-C Category. He has submitted caste validity certificate to the respondents.

(vi) The applicant was promoted to the post of Circle Officer on 08.08.2016.

(vii) On 08.12.2022 the applicant was reverted to the post of Talathi. The said order is challenged by the applicant in the present Original Application.

5. As provided under the Maharashtra Sub-Service Departmental Examination (for cadre of Talathis) Rules, 1997, every Talathi appointed to the post after the appointed date shall be required to pass the examination within a period of 04 years from the date of his appointment and within 03 chances. Rule 05 of the said rules provides that:-

*“5. Consequences of failure to pass Examination.- If a Talathi who fails to pass the Examination within the time limit and chances specified in rule 4-*

*(a) shall not, until he passes the examination or is exempted from passing the Examination under Rule 7, be confirmed as Talathi or be allowed to draw his next increment in the scale of Talathi. Increment so withheld shall become payable to him with effect from the date on which he passes the Examination or exempted him from passing the Examination under Rule 7 and all future increments shall accrue as if no increment is withheld. The arrears of past period shall not be admissible:*

*(b) shall lose seniority in the cadre of Talathi that is to say that he will be placed below all those who have passed the Examination before him and also below all those who are senior to such Talathis below whom he is placed and who may pass the Examination after him but within the period and chances specified in Rule 4.”*

6. Promotions to the post of Circle Officer from the cadre of Talathi are governed by the Rules called as Maharashtra Revenue Qualifying Examination for promotion to the post of Circle Officer (from the cadre of Talathis) Rules, 1998. Rule 3, 4, 5 and 6 are relevant so far as the controversy

raised in the present O.A. We deem it appropriate to reproduce the said rules, which read thus :-

“3. Eligibility.- For being eligible to appear for the Examination, a Talathi must have passed Sub-Service Departmental Examination prescribed Talathis and must have completed three years continuous service as a Talathi.

4. Necessity of passing Examination.- Subject to the provisions of the rules, the Talathis who are appointed before or after the Gazette date, unless exempted from a passing the Examination under rule 8, shall have to pass Examination in accordance with the provisions of these rules for being eligible for promotion to the post of Circle Officer.

5. Period and number of chances for passing the Examination.- (1) Subject to the provisions of rule 3 every Talathi appointed after the Gazette date shall be required to pass the Examination unless he is exempted from passing Examination under rule 8 within the period of nine years and three chances from the date of regular appointment to the post of Talathi.

(2) A Talathi appointed before the Gazette date and who is otherwise eligible under rule 3 shall be required to pass the Examination, unless he is exempted from passing the examination under rule 8, within the period of four years and three chances from the Gazette date. So also the Talathi who earlier promoted to the post of Circle Officer shall be required to pass the Examination prescribed for promotion to the post of Circle Officer within three years from the date of his promotion or before the 31<sup>st</sup> December 1999 whichever is later, unless he is exempted from passing the said Examination as per the provisions of the Maharashtra Revenue Department Circle Officer (Recruitment) Rules, 1996.

6. Consequences of failure to pass Examination.- (1) A Talathi who fails to pass the Examination within a period and chances specified in these rules shall be

placed below all the Talathis, who have passed or who have been exempted from passing the Examination before him for the purpose of promotion to the post of Circle Officer. His seniority shall be fixed below all those who are senior to such Talathi and who may pass or may be exempted from passing the Examination after him within the prescribed period and chances specified in these rules.

(2) Those who are promoted to the post of Circle Officer before the Gazette date, if they fail to pass the Examination on or before the 31<sup>st</sup> December 1999, as prescribed in Sub Rule (2) of rule 5, shall not be entitled to any annual increment till they pass the Examination or have been exempted from passing the Examination.”

7. The applicant and respondents both are relying on the aforesaid rules. According to the applicant, he was transferred to Sub-Division, Latur on 11.07.2008 and while working at the said place, he appeared for the S.S.D. Examination and R.Q. Examination. Applicant passed the S.S.D. Examination on 01.05.2011. It is his contention that he passed the said Examination within 03 years from his posting at Sub-Division Latur and he has also not taken more than 04 chances and as such, it has to be held that he passed the Examination within the given period and within the given chances. Same argument is made by the applicant insofar as passing of R.Q. Examination is concerned. He has passed R.Q. Examination on 19.01.2014. According to the applicant, he was eligible to appear for the R.Q. Examination 03 years after

passing the S.S.D. Examination. Accordingly, he appeared for the said examination and passed. The total period provided for passing the said Examination is 09 years. According to the applicant, 09 years were to be completed in the year 2017, whereas he has passed the said Examination in the year 2014. In the circumstances, it is the assertion of the applicant that respondents have committed gross error in holding that he did not pass the S.S.D. Examination, as well as, R.Q. Examination within the stipulated period and chances.

8. After having considered the S.S.D. Examination Rules, as well as, R.Q. Examination Rules, we find it difficult to agree with the submissions as have been advanced on behalf of the applicant. The applicant was admittedly appointed on the post of Talathi on compassionate ground on 01.01.2000 at village Dongargaon in Nanded District. From the record it is quite evident that while in Nanded District the applicant did not pass the S.S.D. Examination nor the R.Q. Examination. He was transferred from Nanded District to Latur District on 15.04.2006. In Nanded District the applicant thus worked for the period of more than 06 years. Then, on his request he was transferred to Latur District, first in Sub-Division, Nilanga and thereafter to Sub-Division, Latur on 11.07.2008.

9. Rule 3 of the S.S.D. Examination Rules, provides that every Talathi shall pass the S.S.D. Examination before he is confirmed in the post of Talathi. Rule 4 thereof provides that every Talathi appointed to the post is required to pass examination within the period of 4 years from the date of his appointment and within 3 chances. Period of 4 years after the appointment of the applicant to the post of Talathi was in fact completed on 31.12.2003. The applicant did not even appear for the S.S.D. Examination during the said period. The applicant has not produced on record any evidence to show that after being appointed on 1.1.2000 he passed the S.S.D. Examination within the period of 04 years from the date his appointment and within 03 chances.

10. Insofar as R.Q. Examination is concerned, unless Talathi has passed the S.S.D. Examination and three years are completed thereafter of his continuous service, he cannot appear for the said examination. As provided in rule 5 of the said Rules, Talathi who is eligible i.e. who has passed the S.S.D. Examination and has completed 03 years period thereafter has to pass the R.Q. Examination within the period of 09 years and 03 chances from the date of regular appointment to the post of Talathi. The applicant has passed R.Q. Examination on

19.01.2014. It is explicit that the applicant failed in passing the R.Q. Examination within the period of 09 years from the date of his regular appointment to the post of Talathi i.e. 01.01.2000.

11. From the arguments advanced by the learned counsel appearing for the applicant, it appears that holding the date of appointment of the applicant as 11.07.2008, it is contended that he has passed S.S.D. and R.Q. Examinations well within the stipulated period and stipulated chances. From the record it is further obvious that the mistake had also occurred on part of the respondents in promoting the applicant to the post of Circle Officer on 08.08.2016. There is reason to believe that even the officers concerned considered the applicant's date of appointment as 11.07.2008. While preparing the seniority list of the cadre of Talathis also the same mistake seems to have occurred. However, while finalizing the seniority list in the year 2021 the said mistakes were noticed and thereafter the remedial measures were taken.

12. If the S.S.D. Examination and R.Q. Examination Rules are considered, there may not be any confusion that the date of appointment as envisaged therein can only one. Applicant's date of appointment is 01.01.2000. Thereafter, on his request the applicant was transferred first in Nilanga

Division on 15.04.2006 and thereafter on 11.07.2008 in Latur Division. 11.07.2008, thus, is not the date of appointment of the applicant on the post of Talathi, but it is the date of his transfer from Nilanga to Latur Division on the post of Talathi. The date of transfer cannot be in any case said to be date of appointment. For passing S.S.D. Examination and R.Q. Examination the period provided in the respective Rules has to be reckoned from the date of appointment i.e. 01.01.2000 and not from the date of transfer i.e. 11.07.2008. The applicant has misread and misinterpreted the provisions under both the aforesaid Rules.

13. Insofar as the judgments relied upon by the applicant are concerned, the facts involved in the said matters were altogether different than the facts which exist in the present matter. Even the issue is quite different. As such, the said judgments cannot be of any help to the case of the present applicant. The discrimination alleged by the applicant by referring to the candidates namely S/shri T.D. Chavan and S.P. Waghe is also without any substance.

14. The learned counsel has vehemently argued that Shri T.D. Chavan and Smt. S.P. Waghe were similarly situated candidates and though both had passed the S.S.D. Examination

and R.Q. Examination after the applicant, have been shown in the seniority list above the applicant. The submission so made is fallacious. The respondents have held in the case of Shri T.D. Chavan also that since he did not pass the S.S.D. Examination, as well as, R.Q. Examination within stipulated period has lost the seniority and, as such, he has been pushed down in the final seniority list. However, in the final seniority list he is placed above the applicant for the reason that he entered into the services in the year 1999 i.e. prior to the applicant. So also he is elder in age to the applicant. Insofar as Smt. S.P. Waghe is concerned, she entered into the Government services in the year 2008 and passed the S.S.D. Examination, as well as, R.Q. Examination within the stipulated period and, as such, she was bound to be above the applicant in the final seniority list. She joined the Government services on 16.12.2010. She passed the S.S.D. Examination on 21.10.2012 and R.Q. Examination on 15.08.2014 and, as such, her seniority is reckoned from the date of her appointment i.e. 16.12.2010. The applicant since passed the R.Q. Examination on 19.01.2014, his seniority has been reckoned from the said date.

15. The learned counsel for the applicant though has referred to and relied upon the Full Bench judgment of this Tribunal delivered in O.A. No. 354/2015 that may not be of any

help in the present matter. In this matter the issue, which falls for our consideration is '*which shall be the date relevant for reckoning the period for passing the S.S.D. Examination, as well as, R.Q. Examination?*' Applicant entered into the Government services and resumed the duties as Talathi w.e.f. 01.01.2000. On his request he was first transferred from Nanded District to Latur District in Nilanga Sub-Division on 15.04.2006. Thereafter, on his request the applicant was transferred from Nilanga Sub-Division to Latur Division on 11.07.2008. (In the documents annexed by the applicant the said date is everywhere mentioned as 11.08.2008). The applicant has reckoned 03 years' period for passing S.S.D. Examination w.e.f. 11.07.2008 and, as such, according to him, he passed the S.S.D. Examination within the stipulated period. (Applicant passed the S.S.D. Examination on 01.05.2011). As we have noted above, initially the respondents also reckoned the period for passing the S.S.D. Examination from the said date. Similarly the R.Q. Examination passed by the applicant on 19.01.2014 was also held to have been passed within the stipulated period counted from 1.7.2008. This was the faux pas. 11.7.2008 is the date of transfer of the applicant from one Sub-Division to another Sub-Division in District Latur. 15.04.2006 is the date of transfer of the applicant from District

of Nanded to Latur District in Nilanga Sub-Division. Both the aforesaid dates are date of transfer and not the dates of appointment. Date of appointment of the applicant is 01.01.2000 and that would remain unchanged even in the event of transfer of the applicant from one District to another District. As per the S.S.D. Examination Rules or R.Q. Examination Rules the period for passing these examinations has to be counted from the date of appointment and not from the date of transfer.

16. It is thus evident that from the date of appointment the applicant passed the S.S.D. Examination after about 11 years and passed the R.Q. Examination after 14 years. Since the applicant failed to pass the aforesaid examinations within the stipulated period, the applicant was bound to lose the seniority. His seniority was liable to be considered from the date of his passing the R.Q. Examination for determining his seniority in the cadre of Talathis. The respondents have, therefore, rightly determined the said date for reckoning his seniority.

17. A public servant may be reverted from a higher post to a lower post, if it is subsequently noticed that he was promoted to a higher post illegally. In order to successfully challenge the order of reversion the applicant must have

established that he had substantive right to hold the promotional post from which he has been reverted. The reversion can be held illegal and void, if it is made :

- (i) by way of punishment;
- (ii) contrary to the statutory provisions or rules;
- (iii) mala-fide or for collateral purposes;
- (iv) arbitrary or by way of discrimination; or
- (v) by way of glaring injustice.

18. In the instant matter, the applicant passed the SSD Examination on 01.05.2011 and the RQ Examination on 19.01.2014. The applicant entered into the Government services on the post of Talathi w.e.f. 01.01.2000. It is thus evident that the applicant failed in passing the S.S.D. Examination as well as R.Q. Examination within the stipulated period. In the circumstances, he lost the seniority in the cadre of Talathis and was placed below all those who have passed the examination before him and also below all those who are senior to him, but passed the examination within stipulated period and chances. However, the mistake had occurred at the relevant time on the part of the respondents in holding the date of appointment of the applicant as 11.07.2008 instead of 01.01.2000. Subsequently, the said mistake was realized and the same was rectified. The date 11.07.2008 was the date on which the applicant on his own request was transferred in Latur

Sub-Division in Latur District, however, his date of appointment was 01.01.2000. In the year 2016 assuming that the date of appointment of the applicant is 11.07.2008 the applicant was held to have passed SSD Examination as well as RQ Examination within the stipulated period, however, the period for passing the said examinations was required to be counted from the date of his appointment i.e. 01.01.2000.

19. After having considered the documents on record and after having considered the SSD as well as RQ Examination Rules, there has remained no doubt that the applicant was illegally promoted to the post of Circle Officer in the year 2016 and thus, he had no substantive right to hold the said post. The order of reversion has been passed in consonance with the statutory provisions and the Rules. Reversion has not been ordered by way of punishment. There appears no mala-fide intention of the respondents in ordering the reversion of the applicant. Applicant also has not made any allegation. Though a case was sought to be made out of discrimination, as discussed by us herein before the said possibility has also been ruled out. The order of reversion passed against the applicant is natural consequence of the application of the relevant rules and is not penal as noted by us above. It is thus a reversion

simplicitor and it is to be considered as an incident of public service.

20. For all aforesaid reasons, we see no merit in the O.A. filed by the applicant. Hence, the following order: -

**ORDER**

The Original Application is dismissed however, without any order as to costs.

**MEMBER (A)**

**VICE CHAIRMAN**

O.A.NO.1149-2022(DB)-2024-HDD-seniority list