

**ORIGINAL APPLICATION ST. NO. 899 OF 2022**  
**(Shri Ankush Kachru Hiwale & Ors. Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)**  
**(VACATION COURT)**

**DATE : 19.05.2022**

**ORAL ORDER :**

Heard Shri J.M. Murkute, learned counsel for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. The present Original Application is filed challenging the reversion order dated 13.5.2022 (Annexure 'A-10' page 59-D) issued by respondent No. 3 to the extent of applicants and also challenging the impugned order dated 13.5.2022 (Annexure 'A-7') issued by respondent No. 3 to the extent of promoting respondent Nos. 4 & 5 and posting them on the post of Awwal Karkoon presently held by the applicants respectively.

3. Applicant Nos. 1 & 2 were initially appointed as a Clerk as per appointment order dated 17.8.2009 and the applicant no. 3 was appointed as a Clerk vide appointment order dated 3.5.2008.

4. The applicants have passed the departmental examination in 6 chances within 5 years. On 7.7.1999 Maharashtra Revenue Qualifying Examination Rules for promotion to the post of Awwal Karkoons from the cadre of Clerk-Typist Rules, 1999 were framed and thereby these rules superseded the rules framed on 8.1.1988. Applicants

passed the Maharashtra Revenue Qualifying Examination 2014 in the month of August, 2014.

5. After fulfilling all the eligible criteria the applicants were held eligible for the promotion in view of seniority list published by the respondent authorities. The applicants got promotion as Awwal Karkoon on 4.11.2015. At that point of time there was no grievance against the applicants from any quarter. Accordingly the applicants are rendering their services on the post of Awwal Karkoon without any disturbance on their present posting in Nanded district as reflected in the impugned order of reversion dated 13.5.2022 (Annexure 'A-10' page 59-D).

6. It is the contention of the applicants that subsequently respondent No. 3 published provisional seniority list on 14.2.2020 and final seniority list of the cadre of clerks on 26.5.2020. The said final seniority list dated 26.5.2020 was challenged before this Tribunal by filing O.A. No. 390/2020 by one Ashatai P. Metkar. The said O.A. came to be allowed by the judgment and order dated 30.3.2022 (Annexure 'A-5'), thereby the said final seniority list is quashed and set aside.

7. It is further contention of the applicants that the respondent No. 3 by referring Divisional Promotion Committee meeting dated 21.3.2022 and also referring to

order dated 2.2.2017 passed in O.A. No. 354/2015, letter dated 8.3.2019 issued by the Divisional Commissioner, Aurangabad, provisional seniority list dated 14.2.2020 and final seniority list dated 26.5.2020 and Government Resolutions dated 8.1.1988 and 7.7.1999 has issued both the impugned orders dated 13.5.2022 without issuing any prior notice and without seeking objections from the applicants. In view of the same, both the impugned orders are illegal and are required to be stayed during the pendency of the present Original Application.

8. Learned Chief Presenting Officer resisted the adverse contentions raised on behalf of the applicants and submitted that the impugned orders are issued to implement the decision of the District Promotional Committee held on 21.3.2022, which is prior to decision dated 30.3.2022 delivered by this Tribunal in OA. No. 390/2020 quashing and setting aside seniority list dated 26.5.2020. He also invited my attention to the observations of the learned Division Bench of this Tribunal in paragraph No. 4 of the said judgment and order dated 30.3.2022, which is as follows: -

*“4. The Tribunal passed following order in terms of para 4 of the order date 17.12.2020 in view of prayer for interim relief made by the applicant: -*

*“4. In this background, the respondents are directed to decide the objection of the applicant and to decide the same on the*

*basis of law laid down in the O.A. 354/2015 decided by the Principal Seat of this Tribunal at Mumbai on 03.02.2017 and Rules framed by the Government of Maharashtra applicable to the applicants and without hearing the applicants they shall not pass any order.”*

9. By the said impugned order dated 17.12.2020 rendered therein the respondent No. 3 was directed to decide the objections of the applicants. In view of the same, according to the learned Chief Presenting Officer, the impugned decisions are taken in the District Promotional Committee meeting held on 21.3.2022 and, therefore, *prima facie* there is no contravention of the order of this Tribunal dated 30.3.2022 passed in O.A. No. 390/2020. Learned Chief Presenting Officer also submitted that the impugned orders are already executed. He, therefore, objected for grant of interim relief.

10. In rejoinder arguments, learned counsel for the applicants invited my attention to clause ‘D’ in decision dated 30.3.2022, which is as follows: -

*“(D) The order dated 26.5.2020, passed by the respondent No. 3, the District Collector, Nanded, rejecting / not accepting the objection filed by the applicant to the above mentioned seniority list dated 26.5.2020 is, hereby, quashed and set aside.”*

11. After having considered the contents of the O.A. and supporting documents and rival submissions, *prima facie* I

find that the respondent No. 3 i.e. the Collector, Nanded said to have acted on the decision taken by the District Promotional Committee in its meeting held on 21.3.2022. In view of that decision of District Promotional Committee, which is dated 21.3.2022 is prior to decision of this Tribunal dated 30.3.2022 delivered in O.A. No. 390/2020. No doubt it is true that when the respondent No. 3 issued the impugned orders the final seniority list dated 26.5.2020 in question was quashed and set aside. What will be its legal effect can be considered at the time of final hearing of the O.A. after granting opportunity to the respondents to file affidavit in reply. In the circumstances, *prima facie*, it cannot be said that the impugned orders are issued directly in contravention of any provisions of law or orders. The impugned orders said to have been also implemented and executed. In the facts and circumstances, it is ordered that the impugned orders will be subject to the outcome of the O.A.

12. Issue notices to the respondents, returnable on 17.6.2022.

13. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.

14. Applicants are authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book

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of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.

15. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

16. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicants are directed to file affidavit of compliance and notice.

17. S.O. to 17.6.2022.

18. Steno copy and Hamdast is allowed to both parties.

**MEMBER (J)**

ARJ ORAL ORDERS 19.5.2022-HDD

**M.A. NO. 218/2022 IN O.A. ST. NO. 899 OF 2022**  
**(Shri Ankush Kachru Hiwale & Ors. Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)**  
**(VACATION COURT)**

**DATE : 19.05.2022**

**ORAL ORDER :**

Heard Shri J.M. Murkute, learned counsel for the applicants and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. This is an application preferred by the applicants seeking leave to sue jointly.

3. For the reasons stated in the application, and since the cause and the prayers are identical and since the applicants have prayed for same relief, and to avoid the multiplicity, leave to sue jointly granted, subject to payment of court fee stamps, if not paid.

4. Accompanying O.A. be registered and numbered, after removal of office objections, if any. The present M.A. stands disposed of accordingly without any order as to costs.

**MEMBER (J)**

ARJ ORAL ORDERS 19.5.2022-HDD

**ORIGINAL APPLICATION NO. 458/2022**

**(Dr. Suresh R. Pawar Vs. State of Maharashtra & Ors.)**

**CORAM : Hon'ble Shri V.D. Dongre, Member (J)  
(VACATION COURT)**

**DATE : 19.05.2022**

**ORAL ORDER :**

Heard Shri J.S. Deshmukh, learned counsel for the applicant and Shri M.S. Mahajan, learned Chief Presenting Officer for the respondents.

2. Issue notice to respondents, returnable on 20.6.2022.
3. Tribunal may take the case for final disposal at once and separate notice for final disposal shall not be issued.
4. Applicant is authorized and directed to serve on respondent/s intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of the case. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.
5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.
6. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.
7. If notice is not collected within 7 days or proof of service is not produced before 3 days of the next date, case shall automatically stand dismissed without further reference to the Tribunal.
8. S.O. to 20.6.2022.
9. Steno copy and Hamdast is allowed to both parties.

**MEMBER (J)**