

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 576 OF 2018

DIST. : JALGAON

1. Smt. Smita Uttam Dandi,
Age: 33 years, Occu. Service (Clerk Typist)
C/o. General Branch, District
Collectorate Office, Jalgaon,
Dist. Jalgaon.
2. Shri Sandip Govind Gawai,
Age: 32 years, Occu. Service (Clerk Typist)
C/o. Grampanchayat Branch,
District Collectorate Office, Jalgaon,
Dist. Jalgaon.
3. Smt. Sheetal Vasant Gangurde,
Age: 37 years, Occu. Service (Clerk Typist)
C/o. Establishment Branch Tahsil Office,
Parola, Tq. Parola, Dist. Jalgaon.
4. Smt. Alka Gangaram Sable,
Age : 31 years, Occu. Service (Clerk Typist)
C/o. Tahsil Office, Pachora,
Tq. Pachora, Dist. Jalgaon.
At present : On deputation in office of
Sub Divisional Officer, Pachora,
Dist. Jalgaon.
5. Smt. Anita Kailas Patil,
Age: 41 years, Occu. Service (Clerk Typist)
C/o. Grampanchayat Branch,
District Collectorate Office, Jalgaon,
Dist. Jalgaon.
6. Shri Vilas Govind Dongre,
Age: 33 years, Occu. Service (Clerk Typist)
C/o. General Administrative Branch,
District Collectorate Office, Jalgaon.
At present : On deputation NIC Branch,
District Collectorate Office, Jalgaon,
Dist. Jalgaon.

7. Shri Gajanan Ramsing Shirale,
Age : 29 years, Occu. Service (Clerk Typist)
C/o. Tahsil Office, Bodwad,
Tq. Bodwad, Dist. Jalgaon. --

APPLICANTS**VERSUS**

1. The State of Maharashtra,
Through : Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai – 32.
2. The Divisional Commissioner,
Nashik Region, Nashik.
3. The District Collector,
Jalgaon, Dist. Jalgaon. --

RESPONDENTS

APPEARANCE :- Shri Rahul O. Awarsarmol, learned
Advocate for the applicants.
: Shri V.R. Bhumkar, learned Presenting
Officer for the respondents.

**CORAM : JUSTICE M.T. JOSHI, VICE CHAIRMAN
AND
ATUL RAJ CHADHA, MEMBER (A)**

DATE : 9th January, 2019

ORAL - ORDER*(Per : Justice M.T. Joshi, Vice Chairman)*

1. Heard Shri Rahul O. Awarsarmol, learned Advocate for the applicants and Shri V.R. Bhumkar, learned Presenting Officer for the respondents.
2. By filing the present Original Application the applicants are claiming following reliefs :-

- “B) The seniority list dated 15.03.2018 prepared by respondent No. 3 may kindly be quashed and set aside.*
- C) Respondent No. 3 may kindly be directed to consider the dates of joining of the applicants i.e. 8.6.2010, 6.9.2010, 7.8.2010, 31.12.2010, 8.2.2012, 19.12.2011, 16.1.2013 respectively for seniority list instead of the dates of passing the S.S.D. examination.*
- D) Respondent No. 3 The Collector, Dist. Jalgaon may kindly be directed to correct the seniority list dated 15.3.2018 by incorporating the names of the applicants at suitable place in view of the G.R. dated 24.8.1976.”*

3. The seniority list / gradation list is placed on record at page 37, which would show that the present applicants are placed in the seniority list from the date of passing of Sub Service Departmental Examination (for short S.S.D. examination).

4. Learned P.O. submits that in view of full bench decision of the principal seat of this Tribunal at Mumbai in O.A. no. 354/2015 dated 2.2.2017, the concerned respondent has adopted the procedure for determining the seniority of the employee from the date of passing of departmental examination. Copy of the full bench decision of the Tribunal in O.A. no. 354/2015 is placed on record at Exh. R.1 page 66 collectively.

5. Reading of judgment of full bench decision in O.A. no. 354/2015 (supra) would show that as per the rules an employee has to be placed in the seniority list from the date of appointment itself and only in case he fails to pass the S.S.D. examination in 4 years and 3 chances as per rules, he would miss the bus and he is required to be placed in the seniority list from the date of passing the said examination.

6. In the present case the concerned respondents failed to consider that the present applicants are from S.C. category and, therefore, in view of Resolutions of the State Government dtd. 24.8.1976 (Annex. A.3 collectively, page 51) and dtd. 16.11.2006 (page 57) so far as the S.C., S.T., N.T. etc. categories candidates' are concerned, one more chance and one more year is required to be given as concession for passing the prescribed departmental examination.

7. In the present case the applicants claim to have passed the S.S.D. examination within the extended concessional period and chances and, therefore, they cannot be termed as defaulting clerks. In the present case, this additional factor appears to have not been considered by the concerned respondents while determining the seniority of the present applicants. In the circumstances, we pass the following order :-

ORDER

(i) The present Original Application is allowed and disposed of without any order as to costs.

(ii) The res. no. 3 – the Dist. Collector, Jalgaon – is hereby directed to consider above fact and to examine as to whether the present applicants have passed the S.S.D. examination within the extended period and chances.

(iii) Upon examination of the cases of the present applicants if it is found that they or some of them have passed the S.S.D. examination within the extended period and chance, then the respondent no. 3 shall fix the seniority of the concerned applicant/s from the date of joining of service. Accordingly the seniority list shall be revised and this exercise shall be carried within the period of 3 months from the date of this order.

(ATUL RAJ CHADHA)
MEMBER (A)

(M.T. JOSHI)
VICE CHAIRMAN

Place : Aurangabad
Date : 9.1.2019