

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.899/2022**

**DISTRICT:- LATUR**

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Hansraj s/o. Rajusing Jadhav,  
Age : 49 years, Occ. Service as Talathi,  
R/o. C/o: Tahsil Office, Ahmedpur,  
Tq. Ahmedpur, Dist. Latur.

**...APPLICANT**

**V E R S U S**

1. The State of Maharashtra,  
Through Secretary,  
Revenue & Forest Department,  
Mantralaya, Mumbai-32.
2. The Divisional Commissioner,  
Aurangabad Division, Aurangabad.
3. The Collector,  
Collector Office, Latur,  
Tq. & Dist. Latur.

**...RESPONDENTS**

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APPEARANCE : Shri R.K.Ashtekar, Counsel for the  
Applicant.  
: Shri V.R.Bhumkar, Presenting  
Officer for the respondents.

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

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**Reserved on : 13-02-2024  
Pronounced on : 05-03-2024**

**O R D E R**

**[Per : Shri Vinay Kargaonkar]**

1. Heard Shri R.K.Ashtekar, learned Counsel for  
the Applicant and Shri V.R.Bhumkar, learned Presenting  
Officer for the respondent nos.1 to 3.

2. Brief facts of the case :-

Applicant was appointed as Talathi on 25-08-2011 from VJ(A) category. Applicant has passed Sub Services Departmental Examination ("SSDE" for short) and Revenue Qualifying Examination ("RQE" for short) and is eligible for promotion as Mandal Adhikari (Circle Officer). Respondent no.3 had published provisional seniority list dated 01-01-2021 and objections were called within 15 days from the said date of publication. The applicant filed detailed objection before the respondent no.3 contending that he has passed SSDE within 4 years and 4 chances and Revenue Qualifying Examination (RQE) within 9 years and 3 chances. Therefore, the seniority should be reckoned from the date of appointment. Respondent no.3 rejected the objection of the applicant stating that the applicant has not passed the SSDE within the stipulated time and attempts. Respondent no.3 finalized the seniority list and applicant was shown junior because he has not passed the SSDE within the stipulated period.

3. Submissions of the applicant :-

Applicant belongs to VJ(A) category and as per the G.Rs. dated 24-08-1976 and 16-11-2006, employees

from the reserved category should be given one more chance and one more year for passing the SSDE. As per said G.Rs., reserved category candidates passing SSDE within 5 years and 4 attempts will be treated as qualified SSDE within stipulated time and attempts. Applicant has passed the SSDE in the year 2015 i.e. he has passed the examination within 4 years and in 4<sup>th</sup> chance. Since the applicant has passed the SSDE within the stipulated time and number of attempts, therefore, his seniority should be counted from the date of appointment. Respondent no.3 has not considered the objections of the applicant, and therefore, seniority list prepared by the respondent authority should be set aside. Applicant has, therefore, prayed for allowing the O.A.

4. Submissions of respondent nos.2 and 3 :-

The number of attempts available to the applicant for passing the SSDE is given in the tabular format as under:

Sr. No.	Year of Examination	Attempts	Remarks
1	2012	1st	Exemption in two subjects
2	2013	2nd	Did not pass
3	2014	3rd	Exemption in third subject
4	2015	4th	Passed SSDE

Respondents submitted that the applicant has passed the SSDE in the year 2015 in his 4<sup>th</sup> attempt. Respondents further submitted that G.Rs. dated 24-08-1976 and 16-11-2006 are not applicable for SSDE. The Government of Maharashtra has issued letter dated 30-07-2018 in which it is mentioned that G.Rs. dated 24-08-1976 and 16-11-2006 are not applicable for the SSDE. Therefore, seniority list prepared by respondent no.3 is legal and proper. Respondents submitted that applicant is not entitled for one more chance and one more year for passing SSDE.

5. Analysis of facts and conclusions:-

(a) Main issue in this matter is whether or not G. R. dated 24-08-1976 is applicable for SSDE. Relevant extract of G. R. dated 24-08-1976 is as follows:

*“The Government has now decided that in the Departmental examination rules for promotion to the higher posts and Non-Gazetted, in all the Government offices, a provision should be made therein to the effect, that the candidates from (i) Scheduled Castes, (ii) Scheduled Tribes, and (iii) Denotified Tribes and Nomadic Tribes, should be given one more chance and one more year to pass the Departmental examinations, than is permissible under the rules to other candidates.”*

(b) Principal Seat of this Tribunal at Mumbai had decided similar issue of seniority in O.A.No.480 & 481 of 2021. Relevant extract of the said judgement is as follows:

*“The G.R. dated 24.8.1976 is very clear and thus the applicants who have passed the Departmental examinations in the year 2012 within four years and four chances should not be pushed down in the seniority list published on 29.6.2021. The concerned authority should have understood the spirit of the G.R. dated 24.8.1976 properly and should have treated that the fourth chance is equivalent to the third chance.”*

(c) As held by the Principal Seat of this Tribunal in OA No 480 & 481, G. R. dated 24-08-1976 is applicable to SSDE and candidates belonging to backward class should be given one more chance and one more year to pass the Departmental examination.

(d) Since the applicant has passed the SSDE in the 4<sup>th</sup> chance, he is construed to have passed the examination within prescribed chances, and therefore, he need not be pushed down in seniority list published on 12-08-2022. Since the applicant has passed the departmental examination within the prescribed period and chances, therefore, he is entitled for seniority as per date of appointment and the merit list in the appointment order.

6. In view of the above, the Original Application is allowed in the following terms:

[i] The seniority of the applicant is restored back to the date of appointment i.e. 25-08-2011 and as per the merit list in the appointment order.

[ii] Necessary corrections be carried out in the seniority list.

[iii] Thereafter, applicant be considered for promotion as Mandal Adhikari (Circle Officer) as per his seniority and other applicable criteria as per rules.

[iv] O.A. stands allowed, however, without any order as to costs.

**(VINAY KARGAONKAR)**  
**MEMBER (A)**

**(P.R.BORA)**  
**VICE CHAIRMAN**

**Place : Aurangabad**  
**Date : 05-03-2024.**