

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
AURANGABAD BENCH, AURANGABAD**

ORIGINAL APPLICATION NO. 255 OF 2013

DISTRICT : LATUR

1. Kalyan Narayanrao Kulkarni)
R/o. Lahata, Tq. Ausa, Dist. Latur.)
2. Shri Dhanraj Dhamodhar Bhosale,)
R/o. At Matola, Tq. Ausa, Dist. Latur.)
3. Vijaykumar Tukatam Lokhande,)
R/o. At Ashiv, Tq. Ausa, Dist. Latur.)

.....APPLICANTS

VERSUS

1. The State of Maharashtra,)
Through its Secretary,)
Revenue Department, Mantralaya,)
Mumbai 32.)
2. The District Selection Committee,)
For the Promotion of Talathi to)
Mandal Adhikari,)
Through Collector Latur.)

.....RESPONDENTS

(Copy to be served upon the Presenting Officer of State Government at M.A.T. Bench at Aurangabad)
Shri S.S Dambe, learned Advocate for the Applicants.

Shri V.R Bhumkar, learned Presenting Officer for the Respondents

CORAM : **Shri Rajiv Agarwal, (Vice-Chairman)**
Shri J.D Kulkarni (Member) (J)

DATE : **18.10. 2016**

PER : **Shri Rajiv Agarwal, (Vice-Chairman)**

O R D E R

1. Heard Shri. S.S Dambe, learned Advocate for the Applicants and Shri V.R Bhumkar, learned Presenting Officer (P.O) for the Respondents.
2. This Original Application has been filed seeking a direction to the Respondent no. 2 to consider the claim of the Applicants for promotion to the post of 'Circle Officer' from the post of Talathi, as their juniors have been so promoted.
3. Learned Counsel for the Applicants argued that the Applicants have been working as Talathis in Ansa Tahsil of Latur District. They had crossed the age of 45 years, in the year 2012, when the Departmental Promotion Committee (D.P.C) met to consider the Talathis for promotion to the post of Circle Officer. Learned Counsel for the Applicants contended that all the Applicants belong to open category. In the final seniority list of Talathis published on 28.1.2013 for the period 1.1.2010 to 31.12.2011, the Applicants were at Sr.

nos 49, 97 and 119 respectively. The details of the Applicants are as below:-

Sr No.	Name	Date of birth	Date of Joining	S.S.D	Exemption from Revenue Qualifying Examination
49	Shri K.N Kulkarni	12.05.1963	24.5.1985	1998	2008
97	Shri D.D Bhosale	01.02.1962	12.10.1992	2001	2007
119	Shri V.T Lokhande	23.06.1963	14.12.1993	1999	2008

Learned Counsel for the Applicants argued that the D.P.C met on 30.7.2012 to consider promotion to a total of 18 posts of Talathis, out of which 13 were from Open category. D.P.C was required to follow the seniority as per the final seniority list published by the Respondent no. 2 on 28.1.2013. However, the Respondent no. 2, did not follow the final seniority list and prepared another select list of 122 persons and invited objections. Learned Counsel for the Applicants argued that such a procedure is not contemplated under any rule or G.R. The final seniority list dated 28.01.2013 was published after inviting objections to the provisional seniority list and it was finalized after considering all the objections. Learned Counsel for the Applicants argued that in the select list of 122 persons, also, the following persons were selected.

Sr No	Name	Caste	Sr. No in the Select List	Sr. No in seniority list 28.1.2013
1.	R.V Kajle	S.C	7	85

2.	L.P Kamble	S.C	13	88
3.	K.S Ghodke	S.C	14	124
4.	V.S Suryawad	S.T	18	62
5.	G.R Khurde	NT-C	38	129
6.	B.H Kalase	NT-B open	4	68
7.	M.A Mujawar	Open	6	83
8.	M.G Vangate	OBC- open	8	90
9.	B.V Berule	Open	9	92
10.	T.J Yadav	Open	10	94
11.	R.D Dhumal	Open	11	95
12.	P.S Mugave	Open	12	127
13.	A.R Netake	S.C (Open)	15	130
14.	D.S Majge	Open	16	153
15.	B.K Bhalerao	S.C (Open)	19	76
16.	G.V Patil	Open	20	113
17.	N.A Shaikh	Open (P.H)	48	141
18.	N.R Patrike	Open (P.H)	89	106

Learned Counsel for the Applicants argued that no principles have been followed while preparing the so called 'select list' and also the Applicants are senior to the persons who have been selected for the post of Circle Officers.

4. Learned Presenting Officer (P.O) argued on behalf of the Respondents that as per the Maharashtra Revenue Qualifying Examination for promotion to the post of Circle Officer (from the cadre of Talathis) Rules, 1998 (notified on 4.6.1998), the select list of 122 candidates was published on 24.7.2012. Objections were invited on this selection list till

27.7.2012 for fair and natural selection of candidates to be promoted. Maharashtra Rajya Talathi Sangh filed objections to selection list of 2012 and 13 other objections were received. D.P.C, heard all the objections as per rules of 4.6.1998. Learned Presenting Officer argued that the promotion was based strictly on the basis of selection list. Learned Presenting Officer (P.O.) argued that seniority list of Talathis for the purpose of confirmation is prepared under S.S.D Rules, while select list is prepared for promotion under Revenue Qualifying Examination Rules.

5. We have carefully gone through the affidavit in reply filed by the Respondent no. 2 on 3.7.2013. The copy of the minutes of D.P.C held on 30.7.2012 is appended. Apparently, the Respondent No. 2 prepared a provisional seniority list which was published on 25.6.2012. Objections were invited before this list was finalized and final seniority list was published on 28.1.2013. This was based on the date of passing of Sub-Service (SSD) Examination. The Respondent no. 2 prepared a select list of 122 candidates, who were considered for promotion. This list was published on 24.7.2012 and objections were invited up to 27.7.2012, i.e. within 3 days. The Respondent no. 2 claims that it was in accordance with G.R dated 4.6.1998. In fact, it is not a Government Resolution (G.R) but statutory rules framed under proviso to Article 309 of the Constitution for promotion from the post of Talathi to Circle Officer. It is surprising that a high level functionary like Collector is not aware of

difference between a G.R and Statutory Rules.. In fact these rules deal with the manner in which seniority of Talathis is fixed for promotion to the post of Circle Officer. It is presumed that promotion is based on seniority-cum-fitness. In the select list, the Applicant no. 2 is at Sr. No. 61, the Applicant no. 1 is at Sr. No. 77 and the Applicant no. 3 is at Sr. No 83. In para before the select list, it is stated as below:-

“ तसेच विचार क्षेत्रात असलेल्या कर्मचा-याविरुद्ध विभागीय चौकशी प्रलंबित अथवा प्रस्तावित आहे किंवा कसे यासंबंधीच्या सर्व तपशीलासह माहितीचे विवरणपत्र निवड समितीसमोर ठेवण्यात आले होते. निवड समितीने शासन निर्देशानुसार कर्मचा-यांचे साल सन २००६-२००७ ते २०११-२०१२ या वर्षांचे गोपनीय अहवाल विचारात घेवून गोपनीय अहवालाचे मुल्यमापन सरासरी प्रतवारी “ब” पेक्षा वरील दर्जाची आहे, महसुल अर्हता परीक्षा व संगणक अर्हता परीक्षा उत्तीर्ण आहेत तसेच इतर अटीची पूर्तता करतात अशा तलाठी संवर्गातील कर्मचा-यांना मंडळ अधिकारी संवर्गात तात्पुरत्या स्वरूपात पदेन्वतीस विचार क्षेत्रात असलेल्या कर्मचा-यांचे ज्येष्ठतेनुसार तपशील पुढील प्रमाणे आहे.”

It appears that the eligible candidates were included in the select list as per seniority. There were only 18 posts available, including 13 Open posts. It is seen that from open category, persons at Sr. No. 4, 6, 8, 9, 10, 11, 12, 15, 16, 19 and 20 were promoted. This is without considering 2 candidates from open category from physically handicapped category.

6. As per Rule 6 of the Maharashtra Revenue Qualifying Examination for promotion to the post of Circle Officer (from the cadre of Talathis) Rules, 1998, if a Talathi

does not pass Revenue Qualifying Examination within 3 chances and within 9 years of continuous service, he loses seniority to those who may pass or exempted from passing the R.Q.E before him. There is no challenge to the 'Select List' prepared by the Respondent no. 2 in accordance with those rules. The Applicants are basing their claim on the basis of seniority list prepared on the basis of passing the S.S.D Examination. That list is only for confirmation in the cadre of Talathis. For promotion to the post of Circle Officer, select list has to be prepared in accordance with R.Q.E Rules, 1998. The Respondent no. 2 has prepared select list in accordance with Rule 6 *ibid*. In fact, a senior person on the basis of continuous service can lose seniority to a junior person, if such person has not passed R.Q.E in given chances and time, and the junior person has passed it within prescribed time & chances, so he keeps his seniority from the date of appointment as Talathi. There is no challenge to the selection to the post of Circle Officer from the point of view of application of Rule 6 of 1998 Rules. The Applicants are seeking promotion on the basis of seniority list prepared on the basis of S.S.D Examination rules. Such seniority lists are only for the purpose of confirmation in the post of Talathi and the Respondent no. 2 rightly prepared a select list for the purpose of promotion to the post of Circle Officer, based on R.Q.E Rules of 1998.

7. The Applicants have failed to make out any case which will justify one interference in this matter. This

Original Application is accordingly dismissed with no order as to costs.

**J.D KULKARNI
(MEMBER. J)**

**RAJIV AGARWAL
(VICE-CHAIRMAN)**

Date : 18.10.2016

Place : Aurangabad

Dictation taken by : A.K Nair

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