

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO.1026 OF 2017

Mrs. Charushila Waman Gaikwad)
Charushila Rajendra Kamble)
R/at. Yewat, Tal. Daund,)
Dist.Pune 412 214) ...Applicants

VERSUS

1. The State of Maharashtra,)
Through the Secretary,)
Water Resources Department,)
Mantralaya, Mumbai 32)
2. The Superintending Engineer,)
Sinchan Bhavan,)
Pune Irrigation Circle, Pune,)
Mangalwar Peth, Pune 11)
3. The Executive Engineer,)
Khadakwasla Irrigation)
Sub Division, Sinchan Bhavan)
Pune Irrigation, Circle, Pune,)
Mangalwar Peth, Pune 11.)
4. The Sub Divisional Engineer,)
Yewat Sub Division Irrigation,)
Yewat, Tal. Daund, Dist. Pune.) ...Respondents

Shri K.R Jagdale, learned advocate for the Applicant.

Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents.

CORAM : **Justice Mridula Bhatkar (Chairperson)**
Mrs Medha Gadgil (Member) (A)

DATE : **02.01.2024**

PER : **Justice Mridula Bhatkar (Chairperson)**

J U D G M E N T

1. The applicant, Class-D employee prays that this Tribunal be pleased to direct the Respondents to absorb the Applicant in Group-C (Class-III) cadre with arrears and difference in pay scale.

2. The averments are mainly based on the fact the Applicant is Graduate and has completed Marathi and English typing with speed of 30 w.p.m but appointed in Group-D, Class-IV. She has performed certain duties of Clerk in Accounts Section where she has proved that she can ably handle the work of Clerk-cum-typist and therefore she is to be absorbed in the said cadre.

3. Learned Counsel has submitted that the Applicant has worked as Clerk-cum-typist in the Respondent-Establishment during the period from 1996-2006. Learned Counsel has submitted that the Applicant has prayed for absorption in Group-C after working for 10 years in the office. The office at Yavatmal has sent proposal recommending her to the office of Executive Engineer, Kadachali, Irrigation, Pune. Learned Counsel has relied on the proposal dated 24.05.2006. As per this proposal it seems that the Applicant has been working during the period from 1996 to 2001.

4. Learned C.P.O has pointed out the order of this Tribunal in O.A.No.393/2015 dated 10.08.2016. The said O.A. was preferred by the present applicant along with another employee working in the same Respondent-establishment for absorption. The present applicant in the said O.A. has prayed that she is to be regularized as Clerk-cum-typist and in the said case she has relied on the judgment and order **dated 03.12.2014 in Mahadev Tambe Versus State of Maharashtra & Ors, O.A.No.128, 129/2012.**

5. Learned C.P.O. has further pointed out that the order dated 10.08.2016 in O.A. 639/2015, where the applicant has prayed for her regularization from Group D to Group-C cadre. The proposal sent in her matter was decided by the State of Maharashtra as directed by the Tribunal. Learned C.P.O. has submitted that the applicant was regularized in the cadre of Labourer, Group-D only by order dated 17.11.2016. She was not absorbed in Group-C cadre. Learned C.P.O submits that the Respondents have taken stand in the affidavit in reply that the applicant has not challenged the impugned order of regularization dated 17.11.2016. In the said order dated 17.11.2016, the reference is of the order of this Tribunal dated 10.8.2016 in O.A 639/2015, wherein the Tribunal have not even whispered about upgradation of the applicant to the post in Cadre - 'C'.

6. Learned counsel submits that no amendment is required and no challenge is required to be given to the order of regularization because that order is based on the order passed by the Tribunal dated 10.8.2016 in O.A 639/2015.

7. In view of the submissions made by learned Counsel and learned C.P.O. and after going the letter dated 17.11.2016 it is to be noted that in the said letter the applicants service was regularized in Group-D only. The Applicant did not challenge the said order dated 17.11.2016. In the present Original Application, she has prayed for the same relief that she should be absorbed in Group-C cadre which was also her prayer in O.A. No. 639/2015 which was decided on 10.08.2016.

8. We have gone through the judgment in the case of **Mahadev V. Tambe (supra)**. The said judgment is about regularization of labourer in the same cadre, i.e.- 'D' where he was appointed. In

O.A 639/2015, the Tribunal has referred and relied on the judgment in the case of **Mahadev Tambe (supra)** for the purpose of parity and thus there is no question of upgradation of the applicant from cadre 'D' to cadre 'C'.

9. In view of the prayers in both the O.As we are of the view that in the present O.A the applicant has sought the same relief like in O.A 639/2015, which was granted only upto regularization in Group-D cadre and not upgraded regularization in Group-C cadre. We find no merit in the Original Application and the same is accordingly dismissed.

Sd/-
(Medha Gadgil)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 02.01.2024
Dictation taken by : A.K. Nair.