

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI**

**ORIGINAL APPLICATION NO.1235 of 2019 (Mumbai) with  
MISCELLANEOUS APPLICATION NO.388/2022 O.A.No.111 of 2020  
(Mumbai) with O.A.No.224 of 2020 (Mumbai) with O.A.No.443 of 2020  
(Aurangabad) with O.A.No.42 of 2021 (Aurangabad) with O.A.No.15 of  
2022 with O.A.No.532 of 2022**

**(Corrected copy of the Order)**

**O.A.No.1235 of 2019 with M.A.No.388 of 2022**

1. Milind K. Shivsharan )  
Age : 36, Occ. Deputy Accountant, )  
Add : Maharashtra Maritime Board, )  
Mumbai, B-1, 303, Mangesh )  
Apartment, Plot No.16, Sector-16, )  
New Panvel 410 206 )
2. Chandrashekhar V. Raut, )  
Age: 31, Working as Accounts Clerk )  
Treasury Office, Yavatmal, Gajnan )  
Layout, Aadersh Nagar, )  
Yavatmal 445 001 )
3. Pavan D. Kondawar )  
Age : 28, Occ. Jr. Clerk )  
Add : Talukar Agriculture Office, )  
Arni Dist Yavatmal, Vitthal Nagar, )  
Digras, Dist. Yavatmal. )
4. Abhijeet A. Hajare, )  
Age : Office of Suptd. Of Police, )  
Yavatmal, Mahadeo Nagar, )  
Yavatmal 445 001 )
5. Dinesh D. Kathane, )  
Age : 30, Occ. Jr. Clerk, )  
Add : Sub Div Agriculture Office, )  
Pandherkawada, Dist. Yavatmal )  
At. Dahegaon, Tq. Ghatanji )  
Dist. Yavatmala )
6. Amol P. Paturde, )  
Age : 38 years, Occ. Jr. Clerk, )  
Add : Taluka Agriculture Office, )  
Barshi Takali Dist Akola, )  
Mahasul Colony, Khadaki, Akola )

7. Vishrant M. Jaminkar, )  
Age : 37 years, Occ. Jr. Clerk, )  
Add : Project Office (ITDP), )  
Pandherkawada, Dist. Yavatmal )  
Mangalmurti Layout, )  
Pandherkawada, Dist. Yavatmal )
8. Ishwar D. Pawar, )  
Age : 35 years, Occ. Jr. Clerk, )  
Add : Project Office (ITDP) , )  
Pandherkawada, Dist. Yavatmal )
9. Sachin R. Shelar )  
Age : 36 years, Occ. Sr. Clerk )  
Plot No.2615, Flat No.3, )  
Godavari Colony, Paithan, )  
Dist. Aurangabad. )
10. Sadhana D. Ghogare, )  
Age : 38 years, Occ. Sr. Clerk, )  
Add : Jt. Director of Agri. Amravati, )  
Vrindavan Colony, Behind )  
Commissioner Office, Amravati )
11. Shailendra P. Puri )  
Age : 38 years, Occ. Jr. Auditor, )  
Add : Local Fund Office, Nagpur, )  
At Post Ghorad, Tq. Kalmeshwar )  
Dist. Nagpur. )
12. Ashish A. Gajbe, )  
Age : 39 years, Occ. Jr. Clerk, )  
Add : Irrigation Department Nagpur )  
Dighori, Nagpur. )
13. Yamuna K. Lad, )  
Age : 37, Occ : Accounts Clerk, )  
Add : Treasury Office, Amravati, )  
Kanta Nagar Amravati. )
14. Vishal V. Deshmukh, )  
Age : 34, Occ Accounts Clerk, )  
Add : Treasury Office, Amravati )  
Vrindavan Colony, Behind, )  
Commissioner Office, Amravati )
15. Priti H. Sarode, )  
Age : 30, Occ. Jr. Clerk, )

- Add : Taluka Agriculture, )  
Raver Dist. Jalgaon, C/o. Anil M. )  
Nahate, At Post Khanapur, )  
Tq. Raver Dist. Jalgaon, )
16. Yamini S. Kharad, )  
Age : 33, Occ : Accounts Clerk )  
Add:Office of Jt. Director of Accounts) & Treasury Amravati, C/O S.D. )  
Gawande, Meghe Layout, Vidyut )  
Nagar, Amravati. )
17. Pratibha P. Ingle, )  
Age : 32 years, Occ. Accounts Clerk )  
Add : Office of Jt. Director of )  
Accounts & Treasury Amravati, )  
Bungalow No.6, Vrundavan Park, )  
Behind Pragati School. )
18. Arati C. Janbandhu, )  
Accounts Clerk, )  
Office of Jt. Director of Accounts, )  
& Treasury, Amravati, )  
Bungalow No. 6, Vrundavan Park, )  
Behind Pragati School, )
19. Swati H. Adsod, )  
Jr. Accountant, )  
Office of Jt. Director of Accounts, )  
& Treasury, Amravati, )  
C/o: Ashok M. Wakode, )  
Plot No. 7B, Abhinav Colony, )  
Rathi Nagar, Amravati 444 603. )
20. Rajshree C. Bhokare, )  
Accounts Clerk, Add: Sub Treasury )  
Office, Teosa, Dist-Amravati. )
21. Manish B. Jijotkar, )  
Accountant, Social Forestry Office, )  
Amravati, Flat No. 202, )  
Jagdambha Lakhami Apartment, )  
Kumbharwadi, Amravati 444 601. )
22. Bharat J. Patole, )  
Occ : Accounts Clerk, )  
New Palace, Patole Mala, Kolhapur. )

23. Soniya S. Misal, )  
Jr. Accountant, Add: Treasury Office,)  
Kolhapur, New Palace, Patole Mala, )  
Kolhapur. )
24. Swati D. Yadao, )  
Jr. Accountant, Add: Treasury Office) )  
790/35, Yogeshwari Colony, )  
Pachgaon Road, Kolhapur 416 007. )
25. Suraj M. Kambale, )  
Accounts Clerk, Add: Treasury Office) )  
Sangli, At Post Mauje-Wadgaon )  
Tal-Hatknaglae, Dist-Kolhapur. )
26. Munner A. Hawaldar, )  
Agriculture Assistant, )  
Add: Taluka Agriculture Office, )  
Panhala, Dist-Kolhapur. )
27. Afjal S. Shaikh, )  
Jr. Clerk, Add: District Prison, )  
Sangli, Tal-Atpadai, )  
Sangli 415 301. )
28. Sandip S. Bhosale, )  
Jr Clerk, )  
Add: Office of the Superintendent of )  
Police, Sangli, At Post-Islampur, )  
Tal-Walava, Dist-Sangli. )
29. Sarika T. Kadam, )  
Jr Clerk, )  
Add : Office of the ADG [Prison], )  
Pune, Shaniwar Peth, Pune. )
30. Madhavi R. Dhembare )  
Jr Clerk, )  
Add: Office of the SE (Vigilance), )  
Market Yard, Pune. )
31. Rahul B. Lohakare, )  
Sr. Clerk, Add: Office of the SE [Mech])  
Circle, Pune Somwar Peth, )  
Pune 411 011. )
32. Rajashree P. Khengare, )  
Clerk, Add: Office of ADG of Police, )

- [Prison], Pune, M.K Niwas, )  
 Ganesh Nagar, Khind Road, )  
 Mohammadwadj, Pune 411 060. )
33. Arati B. Kapkar, )  
 Jr. Clerk, Add: Office of the )  
 Commissioner of Agriculture, Pune )  
 201, Saishilp Apartment, )  
 Pawar Nagar-2, Old Sangvi, )  
 Pune-2. )
34. Bhagyashree R. Dhekane, )  
 Occ : Sub-Auditor, )  
 Add: Office of the Special Auditor, )  
 C1-1, Co-op (Mkt) Pune, )  
 171/172, Green County, Phase-1 )  
 Building, C-1, Flat No. 303, )  
 Hadapsar-Saswad Road, )
35. Nilesh R. Gaykee, )  
 Occ : Jr Clerk, )  
 Add. Office of the Tech Officer, )  
 [Bio Control], Buldhana, )  
 Government Quarter 1/23, )  
 Near Collector Bungalow, )  
 Buldhana. )
36. Kishan B. Padme )  
 Occ : Sr. Clerk, )  
 Add : Commissioner of Agriculture )  
 Pune-5, Dethe Niwan, Ganesh )  
 Nagar, Pimpli Nilay, Pune-27. )
37. Vitthal A. Satpute, )  
 Occ : Sr. Clerk )  
 Add: Commissioner of Agriculture, )  
 Pune-5, At Post Thane, Tal-Shevgaon,) )  
 Dist-Ahmednagar. )
38. Ashish R. Mudgun, )  
 Occ : Accounts Clerk, )  
 Add : Treasury Office, Pune, )  
 Chinchwad, Pune. )
39. Ashwini M. Jadhav, )  
 Occ : Accounts Clerk, )  
 Add: Office of the Jt. Director, )  
 Accounts & Treasury, Mundhawa, )  
 Pune. )

40. Manisha J. Umbarkar, )  
Occ : Accounts Clerk, )  
Add : Office of the Jt. Director, )  
Accounts & Treasury, Pimpri, )  
Pune. )
41. Vivek H. Mapare, )  
Occ : Jr. Accountant, )  
Add : Office of the Director, )  
Accounts & Treasury, Pune, )  
Hanuman Society, Rupee Nagar, )  
Talwade, Pune. )
42. Pravin S. Chavan, )  
Occ : Head Clerk, )  
Add : Directorate of Govt. Printing )  
& Stationery, Charni Road, )  
Mumbai-4. Flat No. 006, A-wing, )  
Shreeji Dham, Belapur [E], )  
Tal-Ambernath, Dist-Thane 421 503)
43. Pravinkumar R. Pawar, )  
Occ : Asst. Superintendent, )  
Add : Taluka Agriculture Office, )  
Vita, Dist-Sangli, At Post Mundhe, )  
Tal-Karad, Dist-Satara. )
44. Vishal K. Bhosale, )  
Occ : Jr. Clerk, )  
Add : Office of the Dist. Spl Auditor, )  
Class-I, Co-op Society, Satara. )  
At Post Limb, Tal & Dist-Satara )
45. Jaydeep P. Kumbhare, )  
Occ: Accounts Clerk, )  
Add: Treasury Office, Sangli, )  
Rajwada Chowk, Sangli, )  
Plot No. 5, Sant Gora Kumbhar )  
Vasahat Bapat Camp, E-Ward, )  
Kolhapur 416 005. )
46. Indira N. Deshmukh, )  
Occ : Senior Clerk, )  
Add: Koyana Design Division No. 4, )  
Kothrud Pune, Flat No. 29, )  
Mahalakshmi Housing Society, )  
Sr No. 58/1/2A, )  
Behind Hotel Chandani Garden, )

- Vadgaon (BK), Pune 411 041. )
47. Meena D.Wagare, )  
Occ: Junior Clerk, )  
Add: Taluka Agriculture Office, )  
Gadhinglaj, Dist-Kolhapur. )  
FT-333, Sai Residency, )  
Near MSEB Mangal Karyalaya, )  
Kadgaon, Road, Gadhinglaj. )
48. Archana S. Puranik, )  
Occ: Accounts Clerk, )  
Add: Office of Senior Treasury Office )  
Aurangabad S.T colony, )  
Near Jaiswal Hall, Jalgaon Road, )  
Aurangabad. )
49. Veena V. Pachlag, )  
Occ: Account Clerk, )  
Add : Office of Joint Director, )  
Accounts & amp, Treasuries, Pune. )  
S.No. 25/6/3, Flat No. 19, )  
Bhagyoday Building, HIngane Khurd )  
Sinhgad Road, Pune 411 051. )
50. Vidya Y. Ghodekar, )  
Occ : Accounts Clerk, )  
Add: Office of the Joint Director & )  
Ampt, T-Pune, 204, Coronet, )  
Kashid Park, Pimple Gaurav, )  
Pune 411 061. )
51. Nigarsultana H. Attar, )  
Occ: Junior Accountant, )  
Add: Office of the Joint Director of )  
A & amp, T Pune, Janaki Apartment,)  
Flat No. 9, Kothrud, Pune-38. )
52. Deepali N. Sagari, )  
Occ: Account Clerk, )  
Add: Treasury Office, Pune, )  
Survey No. 58/1/1/1, Flat No. 1, )  
Shubham Residency Gokul, )  
Nagar Katraj Kondhawa Road,. )
53. Sarika S. Kulkarni, )  
Occ : Accounts Clerk, )  
Treasury Office, Pune, )

- B1, 301, Kumar Pebble Park, )  
Handewadi Road, Hadapsar, )  
Pune. )
54. Swati A. Sawant, )  
Occ : Accounts Clerk, )  
Add: Treasury Office, Pune 411 001.)  
Rajmudra Housing Society, B-Type, )  
23/1, Dhankawadi, Pune 411 043. )
55. Swati D. Tondge, )  
Occ :Accounts Clerk, )  
Add : Senior Treasury Office, )  
Aurangabad, S.T Colony, )  
Near Jaiswal Hall, Jalgaon Road, )  
Aurangabad. )
56. Madhuri P. Lokhande, )  
Occ : Jr Accountant, )  
Add : Treasury Office, Pune 411001.)  
Shri Villa Row House No. 6, )  
Kalanagar, Near Sahada Bldg, )  
Mhasrul, Nasik 422 004. )
57. Shilpa L. Jadhav, )  
Occ : Jr. Accountant, )  
Treasury Office, Pune, )  
541/1/2, 29, Haripriya Apartment, )  
Near SSC Board, Kolhapur. )
58. Raj D. Bhande )  
Occ : Jr Accountant, )  
Add: District Treasury Office, Pune, )  
Flat NO. 104, Praun Loreto, )  
Sr. No. 41/1B, Chaudhary Wasti, )  
Khardi bypass, Pune. )
59. Sarika B. Sunkewar, )  
Occ : Account Clerk, )  
Add: District Treasury Office, )  
Nanded, Vinkar Colony, )  
Near Sant Dnyaneshwar Temple. )  
Chaufala, Nanded 431 602. )
60. Harshla N. Kharkar, )  
Occ : Jr. Auditor, )  
Add : Asst. Director, Local Fund )  
Office, Pune, F-201, Akashganga )



- Society, Pimple Saudagar, )  
Pune 411 017 )
61. Ravikant B. Ganorkar, )  
Age : 37, Occ. Jr. Auditor, )  
Local Fund Office Chandrapur, )  
Ward no.2, Near Co-operative Bank )  
Kalmeshwar Dist. Nagpur )
62. Ajaysing B. Mohare )  
Age : 39, Occ. Account Clerk, )  
Add : Joint Director Account & amp )  
Treasuries Nagpur, Normal School )  
Shasakiya Vasahat, Near Hotel )  
Hardev, Qtr. No.B-5, Sitabuldi, )  
Nagpur 440 012 )
63. Kumal G. Dabre, )  
Age : 31, Occ : Jr. Clerk, )  
Add : Tahsil Office, Civil Lines, )  
Wardha, C/o. Amol Dahare, )  
Near Savera GARMENTS, )  
Ingole Square, Wardha 442 001 )
64. Prashant D. Walke, )  
Age: 32, Occ. Jr. Clerk, )  
Add : District Supply Office, )  
Chandrapur, Gokul Nagar Ward )  
No.22, Gadchiroli, TQ. & Dist. )  
Gadchiroli 442 605 )
65. Vinod T. Kosankar, )  
Age : 36, Occ. Agri Assistant, )  
Add : Taluka Agriculture Office, )  
Chandrapur 442 401 )
66. Pradip N. Bhave )  
Age : 37 years, Occ. Jr. Clerk, )  
Add : Dy Commissioner, (Supply) )  
Civil Lines, Nagpur 180, Trisamyak )  
Hostel, Near Karuna Samyak Lawn, )  
Beside Trisamyak Buddha Vihar, )  
Sahkar Nagar, Nagpur 440 025 )
67. Madhuri N. Bandal, )  
Age : 34, Occ. Account Officer, )  
Add : Account Officer, Pay )  
Verification Squad, Secondary )  
Education, Raigad. )

68. Ashok M. Bhajne, )  
Age: 35 years, Occ. Acct. Clerk, )  
Add : Joint Director, )  
Accounts and Treasuries, Nagpur )  
180, Trisamyak Hostel, )  
Near Karuna Samyak Lawn, )  
Beside Trisamyak Buddha Vihar, )  
Sahkar Nagar, Nagpur 440 025 )
69. Shobha S. Patil, )  
Age : 35 years, Occ. Jr. Accountant, )  
Add : Treasury Office, Sangil, )  
At Post – Arjunwad, Tal. Shirol )  
Dist.Kolhapur 416 120 )
70. Vinod M. Pawar, )  
Age : 40 years, Occ. Sr. Clerk, )  
Government Polytechnic Malwan, )  
At Post. Kumbharmat, Tq. Malwan )  
Dist. Sindhudurg. )
71. Babasaheb G. Shinde, )  
Age :32, Occ. Jr. Clerk, )  
Add : Gove Poly Malvan, )  
At Post : Kumbharmat, Tq. Malvan, )  
Dist. Sindhudurg. )
72. Saniya A. Shaikh )  
Age : 40 years, Occ. Senior Clerk, )  
Add : Education Inspector, )  
West Zone, Mumbai Office, )  
Ismail Yusuf College Compound, )  
Jogeshwari East, Mumbai 400 060 )
73. Jeetendra P. Rozatkar, )  
Age : 33 years, Occ. Jr. Clerk, )  
Add : Jalgaon Irrigation Project )  
Circle, Jalgaon, Girna Colony, )  
Aakashwarni Chowk, )  
Jalgaon 425 001 )
74. Jayashree S. Shinde, )  
Age : 38 years, Occ. Clerk cum )  
Typist, Add : Project Office, )  
Integrated Tribal Development )  
Office Project, Mumbai. )  
Shivkrupa, 4<sup>th</sup> Floor Room No.131 )

- N.M. Joshi Marg 138, Curry Road )  
Mumbai 400 013 )
75. Trupti S. Patil, )  
Age : 30 years, Occ. Sr. Clerk, )  
Add : Joint Director of Agriculture )  
Thane, 101/A Gajkesari Apartment )  
Near GSS High School, Majiwada )  
Thane W 400 601 )
76. Vishal P. Mande, )  
Age : 36 years, Occ. Jr. Gr. Clerk, )  
Add : S.P. Palghar, 24, Annapura )  
Apt. Court Road, Vasai-W, )  
Dist. Palghar 401 201 )
77. Pravin S. Mandavkar, )  
Age : 36, Occ. Jr. Auditor, )  
Add : Joint Director, )  
Add : Local Fund Audit Kokan )  
Bhavan, Navi Mumbai, B-404, )  
Shree Krushna Co Op Soc. Ltd. )  
Sector-31, Plot No.6, Kamothe )  
Navi Mumbai. )
78. Rajesh R. Khamgawkar, )  
Age : 36 years, Occ. Jr. Accountant )  
Add : Directorate of Account & amp )  
Treasuries, Mumbai. )  
At Vani, Post Velshet, Taluka Roha, )  
Dist. Raigad. )
79. Avinash G. Kadam )  
Age : 33 years, Occ : Jr. Gr. Clerk, )  
Add : S.P. Palghar, 203/A, 2<sup>nd</sup> floor )  
Shailkunj Apt. Kanchan Universal )  
Township, Mahim Road, Vagulsar, )  
Palghar 401 404. )
80. Amar H. Shende, )  
Junior Accountant, )  
Add: Director of Accounts & amp )  
Treasuries, Mumbai. )  
112, June Bangdaganj, )  
Gangabai Ghat Square, )  
Behind Renuka Bhavan, )  
Bhandara Road, Nagpur 440 008. )

81. Shrikant M. Deodikar, )  
Occ: Addl. Treasury Officer, )  
Add: District Treasury Office, )  
Ahmednagar-03, Rawal Galli, )  
Karmala, Tal-Karmala, )  
Solapur 413 203. )
82. Rahul R. Urane, )  
Occ: Jr Accountant, )  
Add: District Treasury Office, )  
Ahmednagar, Bavanarushi Society, )  
Nagar-Kalyan Road, Ahmednagar. )
83. Sweta R. Hande, )  
Occ: Junior Auditor, )  
Add: Joint Director, )  
Local Fund Account Audit, )  
Konkan Division, Navi Mumbai. )  
Shantinagar, Badlapur- 421503. )
84. Amit M. Patil, )  
Occ: Steno-typist. )  
Add: WRD Executive Engineer, )  
Girna River Valley Project Division )  
Nasik, Mico Circle, Nasik-02. )  
Raje Sambhaji Nagar, Mahabal Rd, )  
Jalgaon 425 002. )
85. Dr Roshini R. Rasal, )  
Occ: Account Officer, )  
Add: Water and Sanitation Support )  
Organization, CIDCO Bhavan, )  
Belapur, Navi Mumbai 400 614. )  
Vivasana CHS, Sector-13, )  
Khanda Colony, New Panvel 410206)
86. Ambrish A. Kulkarni, )  
Occ: Jr Auditor, )  
Add : Assistant Director, )  
Local Fund Audit, Jalgaon, )  
Khanda Colony, New Panvel [W], )  
Raigad 410 206. )
87. Jiya J. Haryan, )  
Occ: Junior Auditor, )  
Ad: Joint Director, Local Fund )  
Account Audit, Konkan Division, )  
Navi Mumbai, N.M Joshi Marg, )

- Lower Parel [E], 400 011. )
88. Sachin M. Sawant, )  
Occ: Accounts Clerk, )  
Add: District Treasury Office, )  
Pune, Chintamani Hsg. Society, )  
Katraj, Pune – 16. )
89. Vishal M. Chandgude, )  
Occ : Sr. Clerk, )  
Add: District Treasury Office, )  
Pune, Marvilla Society, Gadital, )  
Hadapsar, Pune 411 028. )
90. Sudhir D. Koli, )  
Occ: Junior Clerk, )  
Govt. Industrial Training Institute, )  
Satpur, Nasik-07, Flat No. 106, )  
B-wing, Near Kadam Milk Dairy, )  
Jay Bhavani Road, Nasik 422 101. )
91. Pradnya M. Mate, )  
Occ: Junior Auditor, )  
Joint Director, Local Fund Account )  
Audit, Mukta Bldg, Khadkwasala, )  
R.S, Pune 411 024. )
92. Gajanan S. Deshmukh, )  
Occ: Asst. Superintendent, )  
Director of Health Services, Fort, )  
Mumbai Mahur Sakuntal Nagar, )  
Mantha Road, Jalna 431 203. )
93. Girish R. Khade, )  
Occ : Jr Accountant, )  
District Treasury Office, Thane, )  
Bhoi Ali, Badlapurgaon, )  
Tal-Ambenath, Dist-Thane. )
94. Vilas A. Dhere, )  
Occ: Sr. Clerk, )  
Office of the Commissioner of )  
Police, Brihanmumbai, Plot 37, )  
Sector-20, Kamothe, Navi Mumbai. )
95. Sachin A. Nade, )  
Occ : Senior Clerk, )  
Office of the Commissioner of Police, )

- Brihanmumbai, Naigaon, Dadar, )  
Mumbai 400 014. )
96. Subhash G. Shinde, )  
Occ : Jr Clerk, )  
Office of the Commissioner of Police,)  
Brihanmumbai, Saibaba Apartment,)  
Church Road, Chinchpadagaon, )  
Kalyan [E], Dist-Thane 421 306. )
97. Priya S. Navthale, )  
Occ : Junior Clerk, )  
Office of the Commissioner of Police )  
Brihanmumbai, J-3, Mint Colony, )  
Mahim [W], Mumbai 400 016. )
98. Baban B. Dombale, )  
Occ : Junior Clerk, )  
Office of the Commissioner of Police,)  
Brihanmumbai, Near Pranji Garden )  
Badlapur [E], Thane 421 503 )
99. Sandip Y. Arote, )  
Occ : Senior Clerk, )  
Office of the Commissioner of Police,)  
Brihanmumbai, Pipline, Paperwadi, )  
Mumbai 400 072. )
100. Sandip D. Burle, )  
Occ : Senior Clerk, )  
Office of the Commissioner of Police,)  
Brihanmumbai, Parshvdhara )  
Complex, Katrup, Badlapur [E], )
101. Saching P. Ingale, )  
Occ : Junior Clerk, )  
Office of the Commissioner of Police,)  
Brihanmumbai, B.I.T Chawl No. 06/72)  
3<sup>rd</sup> floor, Bellasis Road, )  
Mumbai Central, Mumbai 400 008. )
102. Deepak R. Jadhav, )  
Occ : Junior Clerk, )  
Office of the Commissioner of Police,)  
Brhianmumbai, Banjara Hills, )  
Flat No 701, Sector-19B, )  
Bamandongri Ulwe, New Mumbai. )

103. Deepali C. Kuthe, )  
 Occ : Junior Auditor, )  
 Office of Joint Director [MC Audit], )  
 Local Fund, Audit 7<sup>th</sup> floor, )  
 Raigad Bhavan, CBD Belapur, )  
 Navi Mumbai, A-201, Matruprerna )  
 Hsg. Soc. Plot-14, Sector-24, )  
 Kamothe, Navi Mumbai 410209. )
104. Jayshree M. Gingule, )  
 Occ : Accountant Clerk, )  
 Office of the Asst. Director of Local )  
 Fund, Yavatmal, Janak Nagari, )  
 Jamb Road, Yavatmal 445 001. )
105. Yashwant D. Bavaskar, )  
 Occ : Upper Divisional Clerk, )  
 8<sup>th</sup> floor, G.T Hospital Complex, )  
 New Mantralaya, L.T Road, )  
 Mumbai 400 001. )  
 208, Swapnsunder Residency, )  
 Ganesh Chowk, Malang Road, )  
 Adivali, Kalyan [E] 421 306. )
106. Atul D. Patil, )  
 Occ : Upper Division Clerk, )  
 Office of the Financial Advisor, )  
 & Deputy Secretary, Food & Civil )  
 Supply Department, Mumbai. )  
 8<sup>th</sup> floor, G.T Hospital Complex, )  
 L.T Road, Mumbai 400 001. )
107. Sanjay G. Badhe, )  
 Occ : Junior Clerk, )  
 Office of the Commissioner of Police,)  
 Brihanmumbai, Room No. 203, )  
 Sailila Apartment, Chanchpada, )  
 Kalyan [E], Dist-Thane. )
108. Dhananjay U. Gore, )  
 Occ : Junior Clerk, )  
 Office of the Commissioner of Police,)  
 Brihanmumbai, Room no. 22, )  
 Sitaram Master Bldg, Sector-5, )  
 Sanpada, Navi Mumbai 400 705. )
109. Kaivalya V. Kale, )

- Occ : Junior Clerk, )  
Office of the Commissioner of Police, )  
Brihanmumbai, RE4, Riddhi Siddhi )  
Apartment, Room no.17, )  
Near Dombilvi Gymkhana, )  
Dombivli [E]. )
110. Supriya B. Kasekar, )  
Occ : Junior Clerk, )  
Office of the Commissioner of Police, )  
Brihanmumbai, A-603, Platinum )  
Liviano, Sector-35, Kamothe, )  
Navi Mumbai. )
111. Ravidas C. Gavali, )  
Occ : Junior Accountant, )  
Office of Virtual Treasury, Mumbai. )  
Madam Cama Road, Mumbai 400032 )  
Rlat NO. 606, 6<sup>th</sup> floor, )  
Durgadevi Bldg, Near Rajendra Nagar )  
Police Chowki, Rajendra Nagar, )  
Borivli, [E], Mumbai. )
112. Siddarth T. Bhaysare, )  
Occ : Junior Clerk, )  
Office of Joint Director of Agriculture )  
Nagpur Division, Nagpur. )  
Plot No. 54, Wardha Road, )  
Front of Balasaheb Bhawan. )
113. Anuradha K. Andharkar, )  
Occ : Account Clerk, )  
Office of Joint Director of Accounts )  
and Treasuries, Aurangabad. )  
64-A, New Shantiniketan Colony, )  
Jawahar Colony Road, )  
Trimurti Chowk, Aurangabad. )
114. Ajay B. Kumbhar, )  
Occ : Senior Clerk, )  
Office of Executive Engineer, )  
Mechanical Division, Kolhapur. )  
Room No. 8, Tulashi Bldg No. 1, )  
Warana Colony, Nagala Park, )  
Kolhapur. )
115. Mayureswhar M. Watharkar, )  
Occ : Senior Clerk, )



- Office of Superintendent of Central )  
Prison, Kolhapur, Kalamba, )  
Kolhapur. Opp KBP College, )  
A-1, Zerox Center, Mahadev Nagar, )  
Islampur, Tal-Walwa, Dist-Sangli. )
116. Kavita P. Athawale, )  
Occ : Accounts Clerk, )  
Office of District Treasury Office, )  
Ahmednagar 414 003 )  
Flat No. 3, Suman Apartment, )  
Phase-6, Dharmadhikari Mala, )  
Savedi, Ahmednagar 414 003. )
117. Kalpana N. Parit, )  
Occ : Junior Clerk, )  
Office of the Commissioner of Police,)  
Brihanmumbai, Room No. 30, )  
A-wing, 1<sup>st</sup> floor, Wadibunder, )  
Police Vasahat, P.D Mello Road, )  
Chinch Bunder, Mumbai 400 009. )
118. Priya R. Suryaji, )  
Occ : Junior Accountant, )  
Office of the Directorate of Accounts )
119. Shwetambari M Patil, )  
Occ : Junior Clerk, )  
S.P Office, Nasik Rural, Dist-Nasik. )
120. Dipak D. Chavan, )  
Add : Padhi Vada, )  
Near Mahadev Mandir, )  
Tal-Ohorgaon, Dist-Jalgaon. )...**Applicants**

### Versus

1. The Secretary, )  
Maharashtra Public Service )  
Commission, Cooperage Telephone )  
Exchange Bldg, M.K Road, )  
Cooperage, Mumbai 400 021. )
2. The Director, )  
Accounts & Treasuries, )  
Mumbai Port Trust, 3<sup>rd</sup> floor, )  
Thakersey House, )

- Shoorji Vallabhdas Marg, )  
Ballard Estate, Fort, )  
Mumbai 400 001. )
3. The State of Maharashtra, )  
[Accounts & Treasuries], )  
Finance Department, 5<sup>th</sup> floor, )  
Main Bldg, Mantralaya, )  
Mumbai 400 032. ) **...Respondents**

**WITH****O.A.No.111 of 2020**

- Maithili Abhay Deshpande )  
Age : 33 years, Occ : Service, )  
R/at. 101, Swami C.H.S. Line, Ali )  
Shivaji Road, Panvel, )  
Dist. Raigad 410 206 ) **....Applicant.**

**VERSUS**

1. The State of Maharashtra, )  
Through its Secretary, )  
Department of Finance, )  
Mantralaya, Mumbai 32. )
2. Director, Account & Treasury )  
Mumbai Port Trust, Port House )  
Thakarasi House, 3<sup>rd</sup> floor, )  
J.N. Heredia Road, Balard Estate )  
Mumbai 400 021 )
3. Maharashtra Public Service )  
Commission, , 5 & ½, 7 & 8<sup>th</sup> )  
Floor, Cooperage Telephone )  
Nigam Building, Maharshi )  
Karve Marg, Cooperage, )  
Mumbai 21. )  
Through its Secretary. ) **....Respondents.**

**WITH****O.A.No.224 of 2020**

1. Mr. Laxmikant Mallukarjun )

- Wankhede )  
Age : 32 years, Occ. Junior Auditor )  
Off : Local Fund Audit, Nanded, )  
R/o. C/o. Rajesh Shinde, )  
Rajbhavan, Vijay Nagar, )  
Nanded 431 602 )
2. Mr. Babu Madhavrao Gaikwad )  
Age : 32 years, Occ. Junior )  
Clerk, (Account), Office Civil )  
Court Senior Division, )  
Kandhar, R/o. Mansingwadi )  
Tal. Kandhar, Nanded 431 714 )
3. Mr. Pathan Vikhar Khan )  
Yousuf Khan, Age : 32 years, )  
Occ. Junior Clerk, )  
R/o. Kalabawar, Tipu Sultan )  
Corner, Dist. Parbhani 431401 )
4. Mr. Pravin Raghunath )  
Padalwar, Age : 32 years, )  
Occ. Account Clerk, )  
Office : Treasury Officer, )  
Tal. Ardhapur, R/o. Bajaj )  
Nagar Dist. Nanded 431 602 )
- ....Applicants.**

**VERSUS**

1. The Secretary, )  
Maharashtra Public Service )  
Commission, Cooperage )  
Telephone Exchange, M.K. )  
Road, Cooperage, )  
Mumbai 40 0021 )
2. The Director, Accounts & )  
Treasuries, Mumbai Port )  
Trust, 3<sup>rd</sup> floor, Thackersey )  
House, Shoorji Vallabhdas )  
Marg, Ballard Estate, Fort, )  
Mumbai 400 001 )
3. The Principal Secretary, )  
Department of Finance, GoM )  
5<sup>th</sup> floor, Main Building, )  
Mantralaya, Mumbai 400 032 )
- .....Respondents.**

**WITH****O.A.No.443 of 2020**

1. Kapil Pundlik Bharad, )  
Aged : about 33 years, )  
Occ. Accounts Clerk, )  
Sub-Treasury Office, )  
Bhokardan, Dist. Jalna. )
2. Vanita Samadhan Bhosale, )  
Aged : 39 years, Occ.Accounts )  
Clerk, District Treasury Office,) )  
Jalna, District Jalna. )
3. Archna Raghunath Tonde )  
Aged : 40 years, Occ. Accounts) )  
Clerk, District Treasury Office,) )  
Jalna, District Jalna. )....**Applicants**

**VERSUS**

1. The State of Maharashtra, )  
Through its Principal )  
Secretary, Finance Department) )  
Mantralaya, Mumbai 32 )
2. The Secretary, )  
Maharashtra Public Service )  
Commission, 7 & 8 floor )  
Cooperage Telephone )  
Exchange, M.K. Road, )  
Mumbai 40 0021 )
3. The Director of Accounts and )  
Treasuries, Thakarsi House )  
Mumbai Port Trust, 3<sup>rd</sup> floor, )  
J.N. Herediya Marg, Bellard )  
Estate, Mumbai 400 001 ) .....**Respondents.**

**WITH****O.A.No.42 of 2021**

- Amit Shriram Tandale, )  
Age : 33 years, Occ. Service as )  
Account Clerk, R/o. House No.3202 )  
/3, In front of Bankat Swami Math )

Pandharpur, Tq. Pandharpur, )  
Dist. Solapur. )

**....Applicants**

**VERSUS**

1. State of Maharashtra, )  
Through its Principal )  
Secretary, Finance )  
Department, Mantralaya, )  
Mumbai 400 032 )
2. The Director of Accounts and )  
Treasuries, Thakarsi House )  
Mumbai Port Trust, 3<sup>rd</sup> floor, )  
J.N. Herediya Marg, Bellard )  
Estate, Mumbai 400 001 )
3. Maharashtra Public Service )  
Commission, through its )  
Secretary, 7 & 8 floor )  
Cooperage Telephone )  
Exchange, M.K. Road, )  
Mumbai 40 0021 )

**.....Respondents.**

**WITH**

**O.A.No.15 of 2022**

1. Ajitkumar Ramchandra Pawar )  
Age : 35 years, Occ. Service )  
R/o. 9, Ashtavinayak Chalel, )  
Vidyalay Road, Lokmanya )  
Nagar, Pada No.4, )  
Thane (W) 400 606 )
2. Nitin Petras Salve, )  
Age : 35 years, Occ. Service, )  
R/at. Saraswati Chawl, )  
Dr. Ambedkar Nagar No.2, )  
Opp. Durgamala Mandir, )  
Munkhurd, Mumbai 400 043 )
3. Avinash Ashok Ladkar, )  
Age : 30 years, Occ. Service, )  
R/at. A-20, Ganesh Prasad )  
Society, L.M. Road, )  
Opp. Shagun Hotel Navagaon )  
Dahisar (W), Mumbai 400 068 )
4. Nilesh Chandrakant Gangurde)

- Age : 40 years, Occ. Service, )  
R/at. 23-4/7, Ramabai )  
Ambedkar Nagar, Near Jai )  
Santoshi Mata Flour Mill, )  
Ghatkopar (E), )  
Mumbai 400 075 )
5. Harishchandra Madhusudan )  
Kalal, Age : 39 years, )  
Occ. Service, R/at. Plot No.3B )  
Shankeshwar Park, )  
Near Mohiniraj Nargar, )  
Akkalkuwa Diversion Road, )  
Nadurbar : 425 412 )
6. Rakesh Santosh Mali, )  
Age : 34 years, Occ. Service, )  
R/at. 42-B, Sahara Town )  
Near Golden City, )  
Nandurbar 425 412 )
7. Ravindra Kautik Chavhan )  
Age : 37 years, Occ. Service, )  
R/at. Sr. No.141/1, )  
Plot No.35, Maa Narmada )  
Vihar, Near Green Park )  
Nalwa Road, Nadurbar )
8. Hemant Ramchandra Hirve, )  
Age : 36 years, Occ. Service, )  
R/at. S/3, 802 Imperial )  
Heights, Opp. Dadoji )  
Konddev Stadium, Thane (W) )
9. Sandeep Asaram Amale, )  
Age : 30 years, Occ. Service, )  
R/at. Plot No.188, Gut No.15, )  
Near Sai Nagar, Padegaon, )  
Aurangabad 413 506 )
10. Bharat Haribhau Tagad, )  
Age : 35 years, Occ. Service )  
R/at. C/o. Ravindra Jadhav )  
Room No.1, H-Wing, )  
Guruchaya Co-Op. HSG, Soc. )  
Opp. Katrap Vidyalaya Katrap )  
Badlapur (E), Thane 421 503 )
11. Vikram Bajirao Kanap, )

Age :36 years, Occ. Service, )  
R/at. A-101 Anmol Aurya CH, )  
Plot No.12, Sector-18, )  
Kamothe, Navi )  
Mumbai 410 209 )

**.... Applicants.**

**Versus**

1. The State of Maharashtra )  
Ministry of Finance, )  
Mantralaya, Mumbai 400 012 )  
Through its Principal Secretary)
2. The Directorate of Accounts )  
and Treasury, Mumbai Port )  
Trust, Port House, Thackersey )  
House, 3<sup>rd</sup> Floor, J.N. Heredia )  
Marg, Ballard Estate, )  
Mumbai 21 )  
Through its Director of )  
Accounts & Treasury. )
3. Maharashtra Public Service )  
Commission, 5 & ½, 7 & 8<sup>th</sup> )  
Floor, Cooperage Telephone )  
Nigam Building, Maharshi )  
Karve Marg, Cooperage, )  
Mumbai 21. )  
Through its Secretary. )

**....Respondents.**

**O.A 532 OF 2022**

1. Virendra Vishwas Navgire )  
Occ-Service, )  
C/o: Dist Treasury Office, )  
Bhandara. )
2. Mohammad Sadiq F. Sheikh )  
Occ-Service, )  
C/o: Dist Treasury Office, )  
Chandrapur. )
3. Sandip Tatyaji Ganfade, )  
Occ-Service, )  
R/o; Dist Treasury Office, )  
Chandrapur. )
4. Shafik Farukh Ansari, )

- Occ-Service, )  
C/o: Subtreasury Office, )  
Rajguru. )
5. Vaishali Dadaji Yelmule, )  
Occ-Service, )  
C/o: Dist Treasury Office, )  
Chandrapur )
6. Bhagyashri Lahuji Bhadekar )  
Occ-Service, )  
C/o: Dist Treasury Office, )  
Chandrapur. )
7. Pratibha Rajesh Raut, )  
Occ-Service, )  
C/o: Police Commissioner )  
Office, Nagpur. )
8. Nitu Narayan Soni, )  
Occ-Service, )  
C/o: DIG Gadchiroli Camp )  
Office, Nagpur. )
9. Vaishali Ganesh Shelar )  
Occ-Service, )  
C/o: Dist Treasury Office, )  
Pune. )
10. Kunda Manoj Bhosale )  
Occ-Service, )  
C/o: Dist Treasury Office, )  
Pune. )
11. Vaishali A. Lokhande )  
Occ-Service, )  
C/o: Dist Treasury Office, )  
Pune. )...**Applicants**

**Vs**

1. The State of Maharashtra )  
Ministry of Finance, )  
Mantralaya, Mumbai 400 012 )  
Through its Principal Secretary)
2. The Directorate of Accounts )  
and Treasury, Mumbai Port )



- Trust, Port House, Thackersey)  
House, 3<sup>rd</sup> Floor, J.N. Heredia )  
Marg, Ballard Estate, )  
Mumbai 21 )  
Through its Director of )  
Accounts & Treasury. )
3. Maharashtra Public Service )  
Commission, 5 & ½, 7 & 8<sup>th</sup> )  
Floor, Cooperage Telephone )  
Nigam Building, Maharshi )  
Karve Marg, Cooperage, )  
Mumbai 21. )  
Through its Secretary. )
- ....Respondents.**

Dr. Gunratan Sadavarte, learned Advocate for the Applicants in  
O.A.No.1235/2019.

Mr. A.A. Deshmukh, learned Advocate for the Applicant in  
O.A.No.111/2020

Mr. Shantanu Raktate, learned Advocate for the Applicant in  
O.A.No.224/2020

Mr. J.S. Deshmukh, learned Advocate for the Applicant in O.A.215/2020  
with O.A.No.443/2020

Mr. S.D. Munde, learned Advocate for the Applicant in O.A.No.42/2021

Shri Yashodeep Deshmukh a/w Ameya Tawde & Vaidehi Pradeep, learned  
Advocate for the Applicants in O.A.No.15/2022 and O.A 532/2022.

Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

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

**DATE** : **22.11.2022**

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

### J U D G M E N T

1. Applicants in all these seven Original Applications challenge the  
results declared by Maharashtra Public Service Commission (M.P.S.C.) for

re-evaluation of answer sheet in Paper-2 in the Departmental Examination. All the Applicants are working on the post of Clerks in various departments in Government offices in the State have completed five years of Government service. All the Applicants aspiring for the appointment by selection for the post of Assistant Accounts Officer, Group-B appeared for the Departmental Examination conducted by M.P.S.C. Service, Class-III, Department Examination was conducted by M.P.S.C. from 24.04.2018 to 27.04.2018 at Mumbai. However, the applicants could not clear the examination on account of multiple errors in the question paper and also the answer sheets provided by M.P.S.C. Hence, they pray for re-evaluation of these sheets and for the grace marks.

2. Applicant in O.A.No.111 of 2020 prays for re-evaluation of Paper-2 of Part-I. Accordingly, she has sent letter on 10.10.2019 to Respondents and she prays that model answer sheets are to be provided and she be declared that she has passed the examination. All the Applicants are working as Accounts Clerk in the office of Respondent No.2, Director Accounts and Treasury. Each part is having four subjects with 100 marks each. 45% is the Bench mark for passing.

3. The examination was to be conducted in two parts by the Respondent No.3, M.P.S.C. twice in a year as per Maharashtra Finance and Accounts Service (MFAS) Rules of 1965. All the Applicants were eligible to appear for the examination for the post of MFAS, Class-III. Appendix-C of the said Rules includes four subjects in part-I and four subjects in part-II and the examination was to be conducted with & without books. It is to be noted that the Government has changed the Rules in 2018 for recruitment for the

post of Assistant Accounts Officer. Thus, this examination was the last opportunity as per the old 1965 Rules. Thereafter, the Rules of 2018 are applicable for the recruitment of Assistant Accounts Officers. The syllabus, subjects and the books were prescribed as per Appendix-C. It is the case of the Applicants that Respondents issued a note before the examination stating that the candidates can carry books which are prescribed by the Department. As per Clause 18 and instruction of the note it is stated that there is a provision of verification of the answer sheet in the traditional nature of Departmental Examination and there is no rechecking. That is what we understand is only recounting of the total marks and not reevaluation. All the Applicants have cleared all the papers in Part-I and Part-II except, Paper 1 & 2 in Part-I namely, Service Rules with books (practical). Respondent No.3, M.P.S.C. declared the results on 09.10.2019. The names of the Applicants appeared in the list of non-qualified candidates. There was a period of one month from the date of declaration of the result for them to apply for re-totalling of the marks of the answer sheets to the Department. The Applicant in O.A.No.111/2020 made representation on 10.10.2019. She received the copy of answer sheet, Paper 2, Part I. Respondent, M.P.S.C. has informed by letter dated 02.11.2019 that as per the regular practice of the Departmental Examination no model answer sheet is prepared by the experts. The model answer sheet of Paper 2 from Part I of the Bombay Civil Services Rules, 1959, Part one and Part 2 and Bombay General Provident Rules (practical with book) is not available, so the applicant by her letter dated 13.12.2019 informed that the answers given to Question No.3A and Question No.5C from Paper 2 of Part I is rightly answered. However, she got '0' marks for the said answer. The Applicant is aggrieved by the results as the other

candidates were promoted and she is held not eligible for the promotion. Question No.3a in Paper 2, Part I is about Bombay Civil Services and Bombay General Provident Fund Rules etc. with books about the pay fixation from 01.07.2007 after regular increment. Question No.5A is about General Provident Fund Account of one Government servant as on 31.03.2016. The Applicant has secured 36 marks in Paper 2, Part I. Applicant has annexed photo copy of her answer sheet.

4. Learned Advocates for the Applicants in O.A.No.1235/2019, 42/2021, 15/2022 & 532/2022 have submitted that as per G.R. dated 01.02.1965 the candidates who have completed five years' service in the cadre of Clerk can appear for the Departmental Examination of Maharashtra Accounting and Auditor Class-II Government service which is conducted by the Director of Accounts and Treasuries of the Department of Finance. The seniority list is prepared on the basis of merit of the candidates who passed Part -I and Part-II of this examination and thereafter they are promoted and given appointment to the vacant posts of Assistant Accounts Officer, Group-B. As per G.R. the said examination is to be conducted twice in a year. However, the grievance is made by all the Applicants that after 2011 the examination was conducted in the year 2015 and 2018. Thus, sufficient opportunity was not provided by the State to the Applicants. As per Recruitment Rules dated 17.01.1996 the ratio of appointment of Assistant Accounts Officer, Group-B by promotion from the post of Deputy Accountant and by selection was 20:80. However by Notification dated 28.09.2018 the mode of appointment is changed to nomination and promotion with ratio of 50 : 50 and not by selection. Learned Advocate for the Applicants Mr. Sadavarte & Mr Yashodeep Deshmukh have argued that the present examination is

conducted in Part-I and Part-II and the candidates who have appeared in Part-II have miserably failed because of the wrong answer key and wrong questions put in the said paper. They submitted that this examination was conducted on 24.04.2018 to 27.04.2018 at Mumbai. The result was declared on 09.10.2019. Out of total 1286, very less candidates, i.e., 4% have cleared this examination. Thus, question paper and answer sheet of Paper-2 of Part-I is questioned in all these Original Applications, wherein from four subjects in Part-I and Part-II, for each subject 45 marks is for passing and the Question Paper and Answer Key in Subject 2 of Part I is challenged. Out of 1286 candidates, 181 did not appear, 3 were previously exempted, total 53 candidates cleared and 1049 candidates have failed.

5. Learned counsel have submitted that it was open book examination for Paper-II. They further pointed out to the short-Affidavit-in-reply dated 04.01.2022 in O.A.No. 1235/2019 filed on behalf of Respondent No.1 by Mr. Bhalchandra Pandurang Mali, Under Secretary working in the office of M.P.S.C. wherein, in paragraph 11, of the said affidavit it is stated that the representations from the candidates were received in May 2018 complaining that the questions were out of syllabus pertaining to questions No.4, (5)(a) and 5(b) in Paper 2. Therefore, they were sent to the experts for opinion and as per expert's opinion the questions were related to the Rules of the Bombay Civil Services and with day-to-day important working of the Government and i.e. in consonance with the syllabus. Learned Advocates relied on the Notification dated 19.03.2018 issued by one Mr. S.S. Kesarkar, Under Secretary, M.P.S.C. regarding the examination which was to be conducted from 24.04.2018 to 27.04.2018. In the said Notification the M.P.S.C. declared the Departmental Examination wherein on 24.03.2018

Paper-2 was scheduled between 2.30 p.m to 5.30 p.m. It showed the time table of all the papers and the subjects were mentioned in the column. In the column of subjects, it was mentioned that Paper-2 – Maharashtra Civil Services Rules Part I and Part II etc. Question paper (Practical) (with Books). Learned counsel have submitted that as the reference books are not listed in the syllabus hence the applicants were not aware how to prepare for the same. Similarly, it is very difficult to get the books for study as BCSR books are not available and are out of print.

6. Learned counsel Shri Yashodeep Deshmukh, has submitted that when the letter was written by the Principal Secretary, Finance Department to the Secretary on 17.10.2019, that the request of re-evaluation is to be considered by M.P.S.C. However, the request was turned down by M.P.S.C on the ground that re-evaluation is not possible. He further pointed out that the question nos 5(a) & 5(b) are out of syllabus and therefore, the re-evaluation was necessary. Learned counsel pointed out that on the Website of Accounts Treasury, syllabus for Part-I, Paper-I & Paper-II under B.C.S.R though is relied instead M.C.S.R are referred. Learned counsel Yashodeep Deshmukh has pointed out that the rules of the Finance Department for the recruitment process of Class-I, Class-II & Class-III are of 1.2.1965. As per Rule 9 of the said Rules and syllabus of Maharashtra Finance and Accounts Services, Class-III Examination, the departmental examination prescribed for officers appointed to the post of Finance & Accounts Services, Class-II. Learned counsel pointed out to the relevant Annexure 'A', page 31. Learned Advocate Mr. Yashodeep Deshmukh pointed out letter dated 17.10.2019

written by Mr. Nitin Gadre, Principal Secretary to Secretary, M.P.S.C. (page 97). Reply (page 150) dated 26.11.2019 to the said letter. The Part I, Paper II, Question paper is annexed at page 73 & 74 of the paper book. He prays for re-evaluation of Questions No.4, 5a and 5b on the ground that these questions are out of syllabus.

7. Mr Sadavarte, learned counsel for the applicants has prayed for re-evaluation of question nos 3(a), 3(b) and 3(c) on the ground that these questions are out of syllabus. He also relied on the judgment in the case of **Pranav Verma (supra)**, wherein the Hon'ble Supreme Court has considered the report of Hon'ble Justice A.K Sikri, wherein he has recommended grace marks to the candidates appearing for JMFC Examination. Learned Advocate Mr. Sadavarte has submitted that question was asked about pay fixation. In Question No.3(a) which was for 10 marks was about fixation of salary in accordance with the Assured Progression Scheme. If the last conclusion is wrong the evaluator has given zero marks though the applicants have made the conclusion by following correct steps. If the Rules and steps are mentioned in the example it is a practice to give appropriate marks. Question No.3(b) is ambiguous because last month the salary is mentioned in the question as Rs.17,200/- which was itself wrongly inferred. Whether it was with or without Grade Pay was not mentioned. After 6<sup>th</sup> Pay Commission the term 'Pay Band' and 'Grade Pay' were introduced. However, it was necessary to take into account the Salary + Grade Pay equivalent to the Basic Salary. The definition of Salary was not

taken into account by the examiners. The Applicant were given zero marks however the candidates who solved this Question without adding Grade Pay to last month Salary were given full marks. So also in respect of Question No.5 (c) the evaluator has considered only final steps and the conclusion, but not all the steps. The counsel argued that if final answer is correct full 10 marks is given but however, if the final steps in not correct zero marks is given and there is no fair evaluation. Question No.4 (for 20 marks) Questions are not from the syllabus.

8. Learned Advocate Dr. Gunratan Sadavarte prays for re-evaluation of Questions No.3a, 3b, 4, 5c on the ground that these questions are out of syllabus. He submits that all 100% candidates have written examination as per MCSR. Those candidates who have appeared for examination and failed in this paper except 53 who have also who have succeeded have written examination as per MCSR. He relied on the judgment of the Hon'ble Supreme Court (3 judges) in **Pranav Verma Versus The Registrar General Of The High Court of Punjab and Haryana at Chandigarh**, dated 13.12.2019, Writ Petition (Civil) NO.565/2019. Enclosed in paper book at page 708 of O.A.No.1235/2019. He relies on paragraph 7, 12, 28 of the said judgment.

9. Mr. Shantanu Raktate relies on G.R. dated 30.10.2009. He prays for re-evaluation of Question No.3(b) on the ground that these questions are out of syllabus



10. Learned C.P.O. submits that G.R. dated 30.10.2009 is only applicable to BCSR. She submits that though it is mentioned that BCSR Rules in Part I, paper II but the corresponding provisions are provided in MCSR. She relied on the judgment of the Hon'ble Supreme Court (2 judges) in the case of **Ran Vijay Singh vs State of U.P. decided 11.12.2017, Civil Appeal No.367/2017**. Learned C.P.O while opposing all these Original Applications relied on the affidavit in reply dated 4.1.2022 and February, 2022 filed by Shri B.P Mali, Under Secretary, and submitted that the applicants are praying for reevaluation of the marks and the said provision is not available in the Procedure Rules of the M.P.S.C. Learned C.P.O has stated that this is not a regular departmental examination for accelerated promotion, but it is a separate competitive examination for which the Clerks in all the Government Departments can appear for the post of Assistant Accounts Officer, Group-B. As per the earlier rules, the ratio was 80:20. 20% were appointed by promotion from the same department of Finance and Accounts and 80% were appointed through this examination by way of selection. Due to the amendment of Rules in the year 2018, the ratio of the appointment by selection through such examination is done away and another mode of recruitment by nomination is introduced and mode of promotion is kept intact. However, the ratio between two avenues is now fixed as 50:50. Thus, learned C.P.O pointed out that after 2018 this mode of recruitment is not available to the post of Assistant Accounts Officer, Grade-B. This was the last examination and the result of this examination was already declared on 9.10.2019. In Part-I, 53 candidates cleared all the

examination by passing in Paper-II also. Examination of the year 2012 was conducted in the year 2015 and examination of the year 2013 was conducted in the year 2018. However, nearly for 5 years the examination was not conducted for the reasons continuously the Finance Department and M.P.S.C held number of meetings trying to apply new syllabus by applying old Rules of 1965. However, it did not workout and finally Finance Department by letter dated 1.9.2017 informed to conduct the next examination according to the 1965 Rules and thus it was conducted as per the old Rules of 1965. We rely on the affidavit in reply dated 4.1.2022 of Mr Mali, wherein it was mentioned in para 5(i) that the Respondent-State has specifically mentioned that the examination was conducted on the basis of 1965 Rules and in the said rules, the syllabus was mentioned as per the B.C.S.R. These Rules were never amended though the Bombay Civil Service Rules of 1959 and 1960 were replaced by M.C.S. Rules, of 1979, 1980 & 1981. Thus, in the 1965 Rules the words used are B.C.S.R and the said rules were applicable for the recruitment process. Thus, the question papers and the answer keys are to be set on the basis of B.C.S.R. The Government had lot of opportunity to change the rules by substituting M.C.S.R in place of B.C.S.R as the syllabus in the examination. We take into account the fact that the Finance Department and M.P.S.C was considering and discussing on the issue of introducing the new syllabus. Therefore, the examination was not conducted for nearly 3 to 5 years. Undoubtedly, the Government employees working as Clerk were aspiring to become Assistant Accounts Officer, through this avenue of examination.

Therefore, this recruitment rule was not made available by the Government for nearly 5 years for the selection. The Respondent-State and M.P.S.C after long deliberation of 5 years could not arrive at a conclusion of change of syllabus replacing B.C.S.R by adopting the existing M.C.S.R. Thus, we take it that it was a conscious decision of the Government and M.P.S.C to maintain the B.C.S.R as syllabus.

11. Learned C.P.O has further submitted that the applicants have not approached the Tribunal well in time even though they first approached the Hon'ble High Court by filing Writ Petitions only after the result was declared and hence there is a delay. All the questions and answer keys are prepared by the Experts and the Experts have only examined the papers. On point of reevaluation, learned C.P.O relied on the judgment of the Hon'ble Supreme Court in Pranav Kumar Vs. Chairman, Bihar Public Service Commission, C.A 5046/2004, wherein it is held that when there is no provision of reevaluation of answer books, no candidate in an examination has right whatever to claim or ask for reevaluation of marks. Learned C.P.O submitted that the Experts in their wisdom, has examined the answer sheet and awarded marks to the candidates.

12. Affidavit-in-reply dated 11.02.2022 in O.A.No.111/2020 on behalf of Respondent, M.P.S.C. through Mr. Balachandra Pandurang Mali, Under Secretary, M.P.S.C. is filed stating that similar issues are raised in O.A.No.1235/2019 by learned Advocate Mr. Sadavarte and in the said O.A. detailed reply is filed and that was adopted. Further it is stated by the

Respondent M.P.S.C. that there is no provision of preparing model answer key and to award the marks to the steps with respect to the answer attempted by the candidates and the experts have awarded marks as per the conclusive answer given by the candidates. There is also no provision of rechecking of the answer sheets, but only the total of the marks can be re-counted/ re-evaluated. It is further contended that the experts in that field have impartially examined all the answers and if such objections are raised the selection process will be unending programme and it will be difficult for the M.P.S.C. to conduct the examination. The short affidavit-in-reply dated 04.01.2022 filed on behalf of Respondent No1, through Mr. Balachandra P. Mali, Under Secretary, M.P.S.C. wherein it is mentioned that the syllabus for the examination was changed by the concerned Department vide Notification dated 20.07.2016 and communicated to Commission by the Directorate of Accounts and Treasury. The reliance is placed in support of the stand taken by the Respondents on the ratio laid down by the Hon'ble Supreme Court in **Pramod Kumar Srivastava vs Chairman, Bihar Public Service, Appeal (Civil) No.5046 of 2004 decided on 06.08.2004**, wherein it was held that no right of re-evaluation exists in the absence of such specific provision.

Time table for the examination is reproduced below:-

महाराष्ट्र लोकसेवा आयोग  
विभागीय परीक्षेचा कार्यक्रम  
(एप्रिल, २०१३)  
क्रमांक पी - १(१)/ एक

महाराष्ट्र वित्त व लेखा सेवा वर्ग-३ / महाराष्ट्र जिल्हा परिषद वित्त व लेखा सेवा वर्ग-३		
वार आणि दिनांक	वेळ	विषय भाग-१
मंगळवार दिनांक २४ एप्रिल, २०१८	सकाळी १०.०० ते १.००	(१) पेपर क्र.१ - महाराष्ट्र सिव्हिल रुल्स, खंड १ व २ वगैरेंवरील प्रश्नपत्रिका (सैधांतिक) (पुस्तकांसह)
	दुपारी २.३० ते ५.३०	(२) पेपर क्र.२ - महाराष्ट्र सिव्हिल रुल्स, खंड १ व २ वगैरेंवरील प्रश्नपत्रिका (व्यवहारिक) (पुस्तकांसह)
बुधवार दिनांक २५ एप्रिल, २०१८	सकाळी १०.०० ते १.००	(१) पेपर क्र.३ - बॉम्बे फायनान्शियल रुल्स, महाराष्ट्र ट्रेझरी रुल्स वगैरे (पुस्तकांसह)
	दुपारी २.३० ते ५.३०	(२) पेपर क्र.४ - अकाऊन्ट कोड, खंड १, २ व ४ वगैरे

वर आणि दिनांक	वेळ	(पुस्तकांसह) विषय भाग-२
गुरुवार दिनांक २६ एप्रिल, २०१८	सकाळी १०.०० ते १.००	(१) पेपर क्र.५ - प्रेसी आणि ड्राफ्ट वरील प्रश्न (पुस्तकांशिवाय)
	दुपारी २.३० ते ५.३०	(२) पेपर क्र.६ - बुक किंपिंग वरील प्रश्न (पुस्तकांशिवाय)
शुक्रवार दिनांक २७ एप्रिल, २०१८	सकाळी १०.०० ते १.००	(१) पेपर क्र.७ - महाराष्ट्र जिल्हा परिषदा आणि पंचायत समित्या अॅक्ट, वगैरे वरील प्रश्न (पुस्तकांसह)
	दुपारी २.३० ते ५.३०	(२) पेपर क्र.८ - इन्ट्रोडक्शन टू इंडियन गव्हर्नमेंट अकाऊन्टस् आणि ऑडिट वगैरे वरील प्रश्न (पुस्तकांशिवाय)

This annexure states the syllabus for the Departmental Examination for officers of the M.F and A.S, Class-I which reads as under:-

Syllabus for the Departmental Examination for the offices of the M.F and A.S, Class-I.

#### PART-I

No of Paper	Subject	Books prescribed	Hours, Marks
I.	Precise and drafting- (i) Correspondence or other material to be summarized 70 marks. (ii) Drafting of a letter or a Memo. 30 marks.		3 100
II.	Service Rules (with Books)	(i) Bombay Civil Services Rules, Vol.I (ii) Bombay Civil Services Rules, Vol. II. (iii) Bombay Civil Services, Conduct, Discipline & Appeal Rules.	3 100
III.	Government Accounts and Audit (without books)	(i) An introduction to Indian Government Accounts and Audit (Third Edition).	3 100

		(iii) Manual of Pay and Accounts Office, Chapters I to XVI of Volume I.	
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Further, learned counsel for the applicant has relied on Appendix 'A'.

Syllabus for Maharashtra Finance and Accounts Service Class-III Examination.

No of Paper	Subject	Books prescribed	Hours	Marks
I.	Service Rules (without Books)	Part-I 1. Bombay Civil Services Rules, Vol. I. 2. Bombay Civil Services Rules, Vol. II. (Appendices I to III, VII-A, IX to XIV-C, XX to XLII-V, XLIV-A, XLV to XLVII, L to LII). 3. Bombay General Provident Fund Rules.	3	100
II.	Service Rules (with Books)	As above.	3	100

#### APPENDIX-C

Syllabus for Maharashtra Finance and Accounts Service Class III

Examination

No of papers	Subject	Books prescribed	Hours	Marks
I	Service Rules (without Books) Theoretical)	1 Bombay Civil Services Rules, Vol I		
		2 Bombay Civil Services Rules, Vol. II (Appendices I to III, VII-A, IX to XIV-C, XX to XLII-C, XLIV-A,	3	100

			XLV to XLVII, L to LII)		
		3	Bombay General Provident Fund Rules		
II	Service Rules (with Books) Practical		As above	3	100
III	Treasury and Financial Rules (without books)	1	Bombay Financial Rules, 1959		
		2	Bombay Treasury Rules, 1950	3	100
		3	Bombay Budget Manual (Second Edition) (excluding Chapters IV, V, Chapter IX; paragraphs 112 to 117, Chapter XIII and Appendices 2,4, 7, 11 and 12)		
		4	Bombay Contingent Expenditure Rules 1959		
IV	Accounts Rules (without Books)	1	Account Code, Vol.I		
		2	Account Code, Vol.II		
		3	Account Code, Vol.IV (Chapter 1, 3, 4 and 19 only)	3	100
		4	An Introduction to Indian Government Accounts and Audit (Third Edition), Parts I and II (excluding the Chapters) relating to Defence, Railways and Posts and Telegraphs).		
		5	The Central Public Works Account Code, (Chapters II III VI to XI, XIII (A, B, C and D), XV and XVI)		

On comparative study of two Appendix, it is found that the Maharashtra Civil Services (Discipline & Appeal) Rules is the syllabus for examination for Class-I Officers and not for Class-III. However, to our utter surprise, the Expert did not say anything about it. Though in the

examination conducted by M.P.S.C the authority of the Experts cannot be challenged by the Courts and we are not challenging the authority of the Experts, but we only after reading the rules and the contents in question no (4) found that it was out of syllabus and that was syllabus only for Class-I Officers. Though it was pointed out to M.P.S.C and the Respondents, the M.P.S.C did not change its stand and maintained that it is from the same syllabus we expect fair and true answer and the stand taken by M.P.S.C which they failed to do so.

13. It is an admitted position that though it appears that in Part-I & Part-II papers, the syllabus and questions are asked based on M.C.S.R and B.C.S.R and all the candidates who are Government servants have appeared for written examination and their answers were on the basis of M.C.S.R.

14. O.A.No.15/2022 is filed by 11 Applicants. Apart from re-evaluation these applicants also pray for declaration of Questions No.4, 5(A) and 5(B) in Paper-2 of Part-I examination of MFAS April 2013 conducted in April 2018 are out of syllabus prescribed for the said examination and consequently prays to direct the Respondent, M.P.S.C. to award grace marks for the said questions which are beyond the syllabus in Paper-2 of Part-I.

15. In Maharashtra Finance Accounts Service, there are several isolated posts in Accounts Sections under the Finance Department. The



Government has decided to constitute the comprehensive and unified Accounts service for the State. The posts and the qualification required for such candidates and the rules for such posts are prescribed in the said G.R. dated 01.02.1965. For filling the said post it was resolved that the examinations are to be conducted and the Recruitment Rules also mentioned for the posts included in MFAC in the Annexures of the said G.R. In Annexure -F, the Rules and Syllabus for the Departmental Examination of the Maharashtra Finance and Accounts Service Class-I and Class-I (Junior) are mentioned. In Annexure-C, the Syllabus for Maharashtra Finance and Accounts Service Class-III Examination is mentioned.

16. In O.A.No.15/2022 at page 19, Exhibit- A, Rules of finance Department. Page 31 & 32 is the chart 'Appendix A' M.P.S.C. Departmental Examination Programme 2013. It is pointed out that on the web-site of Accounts and Treasury syllabus that for Part I, Paper I and Paper II no BCSR Rules are referred, but MCSR Rules are referred.

17. It is noticed by us that no objection was raised by any candidates in respect of any other question before the results except question No.4, 5A & 5B of paper II Bombay Civil Services Rules, Vol. I & II & Bombay General Provided Fund Rules (with Books) Practical. It appears that as per Affidavit of Mr Mali the expert has given opinion that the question was related to day to day working as it is in Para 11. Mr Mali has stated it is in accordance with the syllabus.

18. If at all such objections are taken into account then it will be never ending process. All the candidates have prayed for rechecking or revaluation of the answers independently in Paper No. II. It is also prayed that the applicants be provided sufficient chances to appear for the examination by the old Rules of 1965 syllabus. It is also prayed that as the examination was not conducted between 2013 to 2018, the candidates have become overage during that period and therefore they be given further two chances. The direction is sought in O.A 111/2020, that Respondents be directed to prepare model answer sheets and they are to be furnished to the applicants. However, it is an admitted fact that all these applications were filed after the declaration of the results. In most of these applications, especially O.A 1235/2019, O.A 15 & 532/2022 a specific prayer is made in respect of question pos 4 & 5(a) & 5(b) that they are out of syllabus.

19. In O.A 224/2000 and O.A 1235/2019, it is also averred that question 3(b) is of Mathematics for calculating the pension, gratuity and commutation of pension etc. However, it was based on the G.R dated 30.10.2009 and therefore, it is prayed that as per that G.R, the calculation should have been done and accordingly the marks should have been given. In respect of question no 3(b), we directed M.P.S.C to ask the Expert to give his say. The Expert by his opinion dated 27.5.2022 has informed that as the examination was over in the year 2018, the original answer paper is destroyed by him. However, he has further stated that as per G.R dated 30.10.2009 the directions are given in respect of counting the pay band, grade pay as per 6<sup>th</sup> Pay Commission and question nos 3(b) and 5(c) was in

respect of Mathematic calculation. After going through the Expert's opinion especially in respect of question no 3(b), it is found that the applicants have answered correctly. Learned C.P.O also accepted that as per the answer the Expert has applied G.R dated 30.10.2009 and calculated the same.

20. Therefore, though more objections are raised in respect of other questions, however, only No.4, 5A & 5B of paper No. II can be considered at this stage because objections to those questions were raised prior to the declaration of the result. In O.A. No.224/2020 the Shri Raktate, advocate for the Applicant has not challenged syllabus in respect of 3b but it is prayed that the marks to be given to him by adhering provision in G.R. dated 30.10.2009 as per the opinion of the expert dated 27.05.2022. Expert has calculated question 3b and has given opinion that the answer is to be solved as per the G.R. dated 30.10.2009. We are of the opinion that as per this calculation given by the expert adhering to the G.R. dated 30.10.2009 the answer of the Applicant in O.A. No.224/2020 and given by the expert are same. However, as submitted by learned C.P.O. we are unable to give direction to the MPSC to consider the answer given by the Applicant in O.A. No.224/2020 which will amount to rechecking of the answer and there is no provision in the Procedure Rules of MPSC for rechecking or re-evaluation of the answer sheet. One more point also we need to consider is that there may be more candidates like the Applicant and who might have solved this particular question 3B calculation in the same manner. So, the M.P.S.C. will have to take into account the said

answer papers also. This will amount to re-evaluation at large scale which will lead to the unmanageable chaos in the administration.

21. In respect of question 4, 5A & 5B, we again made query to MPSC. Learned Advocate for the Applicant has pointed out the relevant provision and the Rules in respect of the syllabus of this examination. The expert from MPSC by its letter dated 31.07.2018 has confirmed and informed that Maharashtra Finance and Account Service Class III examination syllabus is fixed for Bombay Civil Services Vol. I & II and Bombay General Provident Fund Rules (Practically) and he has also stated that all the questions are pertaining to Bombay Civil Services Rules and the Applicants should be update with the knowledge in respect of subject as they are in day-to-day use for a Government servant. It is also further mentioned by him that the answer given to question 4, 5A & 5B are as per the general knowledge and accordingly they are solved. Therefore, the candidates would be given the marks for question 4, 5A & 5B in consistent with the Rules accordingly. This opinion of 31.07.2018 is important because it was given prior to the results.

In this paper No.1 of the service book is said as theoretical and i.e., without book, paper No.2 is of the Service Rules (with Book) Practical and for which the same syllabus paper No.1 is prescribed. This paper No.2 is practically one and the book prescribed are (1) Bombay Civil Services Rules Vol. I & (2) Bombay Civil Services Rules Vol. II some provision in Vol. II is referred and (3) General Provident Fund Rules. Thus, on bear reading of

Appendix 'C' one gets clear picture that for this examination the syllabus was confined to Bombay Civil Services Rules Vol. I & II and some portion from General Provident Fund Rules. Candidates were supposed to refer the book and same were available to the candidates. Shri Yashodeep Deshmukh, learned Advocate for the Applicant in O.A 15/2022 has successfully demonstrated that this question No.4, 5A & 5B were not in the syllabus. Appendix 'A' was pointed out for comparison with Appendix 'C' of the Rules. Appendix 'A' is about the syllabus of the Departmental Examination for the Officers of the M.F. and A.S. Class 1 & part 1 paper is as per the syllabus and book prescribed for Class 1. Bombay Civil Service Rules Vol. I & II & Bombay Civil Service, Conduct (Discipline and Appeal) Rules. Thus, it shows that Bombay Civil Service, Conduct, (Discipline and Appeal) Rules wherein the preparation of service of chargesheet in the D.E. and the punishment saddled is covered separately in separate book of Bombay Civil Service, Conduct (Discipline and Appeal) Rules. It is not included in Bombay Civil Service Rules, Vol. I & II. Moreover, this particular subject of Bombay Civil Service, Conduct, (Discipline and Appeal) Rules is specifically for the recruitment of Class-I examination and not for the recruitment of Class III though examinations with the books the question asked were not confined to Bombay Civil Service Rules, Vol. I & II & Bombay Government Provident Fund Rules. On this query made by us apart from the letter dated 31.07.2018 of the expert which is referred by us, the MPSC neither filed any affidavit nor specifically stated. The expert's opinion that the question No.4, 5A & 5B were not from Bombay Civil

Service, Conduct, (Discipline and Appeal) Rules which is book prescribed for Class 1 in Appendix 'A' and they are covered in Bombay Civil Service Rules, Vol. I & II as is given. It is not specific. One very important fact which is mentioned in the beginning is required to be reiterated by us is that though the books prescribed as per the Rules from Bombay Civil Service Rules, Vol. I & II, today the books of Bombay Civil Service Rules are not available in the market or in the Government printing press. For simple reason that this Bombay Civil Service Rules of 1959-60 were substituted by MCS of Rules, 1981 under separate independent Rules. Books of MCSR are very much available as per the Rules of examination and the instructions given by the MPSC, the Applicants were allowed to directly refer to the books which are specifically referred by MPSC on their website. As per the website, the Government, Director of Accounts and Treasury, Respondent – State Maharashtra has printed out and produced in O.A. No.15/2022 which is at Exhibit C (pg 41). It shows paper subject I to IV of the books prescribed as the said is reproduce as it is relevant:-

<b>Paper No.</b>	<b>Subject</b>	<b>Books Prescribed</b>	
I	Service Rules (with books) Theoretical	1	Maharashtra Civil Services (General Condition) Rules, 1981
		2	M.C.S. (Pay) Rules, 1981
		3	M.C.S. (Joining time, etc.) Rules, 1981
		4	M.C.S. (Leave) Rules, 1981
		5	M.C.S. (Pension) Rules, 1981
		6	M.C.S. (Commutation of Pension) Rules, 1984
		7	Existing T.A. Rules
		8	Bombay General Provident Fund Rules (1981 Edition)
II	Service Rules	1	Maharashtra Civil Services (General Condition) Rules, 1981

(with books) Practical	2	M.C.S. (Pay) Rules, 1981
	3	M.C.S. (Joining time, etc.) Rules, 1981
	4	M.C.S. (Leave) Rules, 1981
	5	M.C.S. (Pension) Rules, 1981
	6	M.C.S. (Commutation of Pension) Rules, 1984
	7	Existing T.A. Rules
	8	Bombay General Provident Fund Rules (1981 Edition)

These Books for paper II are from MCSR and in these books also Rules of Bombay Civil Service, Conduct (Discipline and Appeal) Rules are not mentioned. Thus, even if it is accepted that instead of Bombay Civil Service Rules all the candidates referred to MCSR, one can further expect that the subject which is exclusively covered i.e., punishment in MCS (Discipline and Appeal) Rules, book is not prescribed. We are further informed by the learned Advocate for the Applicant that besides books which were prescribed on the website only those allowed were to be taken in the examination hall and no other books were allowed to carry. Thus, it was not possible to take MCS (Discipline and Appeal) Rules. Thus, on the basis of these facts which are demonstrated by learned Advocate for the Applicant in various O.As we are convinced that this question was based on MCS (Discipline and Appeal) Rules or Bombay Civil Service, Conduct (Discipline and Appeal) Rules and the said book was not at all prescribed for this examination as per Appendix 'C' of the said Rules. We repeat that examination is to be conducted on the basis of existing rules. Neither the Government nor the MPSC has authority or power to breach the Rules for examination. Similarly, we can ignore the fact that Bombay Civil Service Rules are amended long back in the year 1979-80. So, Bombay Civil

Service Rules are not used at all since last 40 years in State of Maharashtra and the entire system is run on the basis of examination on old 1965 Rules. The Government has failed to update at that time and has failed to amend its own Rules of 1965. The Respondents – Government ought to have substituted word MCSR wherever Bombay Civil Service Rules and it was not a big or time-consuming exercise. On query it is submitted that 1965 Rules are not creation of State Legislative under Article 309 of the Constitution of India but it is an executive action of the State Government by virtue of G.R. executed under Article 166 of the Constitution of India.

22. Learned C.P.O. in all fairness pointed out that it is legislative executive action in the name of the His Excellency Governor. In these circumstances it was easier for the State Government to take out another G.R. by substituting and should have substituted MCSR for BCSR. However, it is not done and it has led to great degree of confusion and chaos. It is submitted at Bar by all the Counsel of the Applicants that the questions were asked on the basis of MCSR and all the candidates appeared for the examination have answered as per MCSR and they carried MCSR book as the books of BCSR are not available as it is mentioned on the website. We have come across some questions other than the question 4, 5A & B which are also out of the syllabus. However, as no objections were raised to these questions immediately after the examination and before the result, we cannot consider these questions today in these Applications.



23. Learned CPO has heavily relied on the Judgment of Hon'ble Supreme Court in **(2008) 5 SCC 155, N. Lokanadham v/s. Chairman, Telecom Commission and Ors.** In all these applications the Applicants have prayed only for re-evaluation and none of the Applicants have asked for quashing entire paper II examination. Generally, when the number of questions are found out of syllabus then the order of quashing of the paper and cancellation of examination is to be passed. However, as such relief is not prayed in either of the O.As, we do not wish to quash and set aside paper of this examination. We have to consider two facts and the reality which have direct bearing.

- a) After 2018 the mode of recruitment of C & D examination by way of Selection is not available due to change in the Rules and so also the earlier ratio of 80:20 i.e., by Selection 80% and by Promotion 20% is now entirely changed. Thus, the ratio for Direct recruitment by nomination which is open examination and by Promotion is 50:50.
- b) This examination was conducted after 3 years after 2015. 2013 examination was conducted in 2018. Now, it is difficult for MPSC to conduct fresh examination for paper 2, part 1 only.

Thus, request is made of grace marks, as we have said earlier for question No. 3b & 5C it will amount to rechecking or re-evaluation of the answer books. We do not want to pass such order. However, in respect of granting grace marks it can be worked out. Learned CPO submits that only experts have authority to say whether any question asked is outside syllabus or not. So also grace marks are not to be awarded to the candidates.

24. In ***N. Lokanadham's case (cited supra)*** candidates have appeared for Jr. Accounts Officer Examination in December 2000 and the Applicants challenged paper IX that only two topics i.e. "General Principal" and "Cash" were prescribed and it was discussed in P&T Financial Handbook, Vol. I but the question of 65 marks were asked from other chapter of the Handbook, and therefore minimum qualifying marks for the said paper IX i.e. 33% were awarded to the Appellants. The Appellants were declared successful in the examination by the Tribunal. However, Hon'ble High Court of Andhra Pradesh revised order of Administrative Tribunal. Hence, Civil Appeal was preferred to Hon'ble Supreme Court. When we have gone through the order and the judgment, we found that all the facts are different. The two topics which were pointed out were "General Principle" and "Cash" and they were discussed in P&T Financial Handbook, Vol. I but the questions were asked in the other chapters of the said Handbook. The question No.4, 5A & 5B are from the Bombay Civil Service, Conduct, (Discipline and Appeal) Rules which is out of the syllabus. As per Appendix 'C', examination of Class III is of Bombay Civil Service Rules Vol. I & II and Bombay Government Provident Fund Rules, the syllabus does not mention the fourth book i.e., Bombay Civil Service, Conduct (Discipline and Appeal) Rules which is specifically mentioned in Appendix 'A' which is prescribed for Class 1 Officer. Thus, it is successfully demonstrated to us that not only Topic of 2 books is different. Moreover, in the syllabus which is mentioned in Para 2 of Judgement of ***N. Lokanadham's case (cited supra)*** the syllabus as mentioned as P&T Financial Handbook, Vol. I "General Principle" & "Cash"

this entire book was prescribed in the present case. In Para. 17 of the Judgement of Hon'ble Supreme Court it is itself mentioned. We reproduced it below.

*“17. For performing their functions in a more responsible position, they were required to be thorough with the rules pertaining to all receipts and expenditure of the Department and it is in that sense, the First Volume of Financial Handbook deals with such transactions in general. Indisputably, the cadre of Junior Accounts Officer is the feeder post for promotion to the cadre of Assistant Accounts Officer, Accounts Officer and Senior Accounts Officers. Officers belonging to the said cadre indisputably must have sufficient knowledge as regards the procedure pertaining to the Account Code, Treasury Rules, Financial Rules etc. Furthermore, assuming there was some ambiguity in the prescribed slabs, it would have been for an expert body to clear the same and in the event it is found that any question has been put out of syllabus, only those who could not answer the same might have been entitled to any relief. No relief in a case of this nature could have been granted on assumptions. It was not for the Tribunal to pass an order only on the supposition that the appellant did not prepare themselves well owing to some misunderstanding in regard to the extent of syllabus.”*

We are fully aware of the limitation of the Tribunal as held by the Hon'ble Supreme Court in this Judgment and as mentioned facts in these Applications are different. When we see that it is totally out of the syllabus and very peculiar confusion in which manner questions were asked and to be answered, whether on the basis of BCSR or MCSR. Resultantly huge number of candidates failed in these papers and only 40 candidates have passed. The Secretary from Finance Department by letter dated 26.11.2019 has requested MPSC to consider re-evaluation of the paper II. Thus, we are of the view that only question No.4, 5A & 5B should be considered for grace marks. Question 4 is of 20 marks and 5A & 5B is of 5 marks each and for this MPSC should grant pass marks. Pass marks should be in rounding figure. We also clarify that some 53 candidates who have cleared examination since 2018 should not be removed.

25. We, therefore, asked responsible Officer from M.P.S.C to state what procedure is generally followed by M.P.S.C, if at all the question is out of syllabus. Ms Kharat, Secretary, M.P.S.C, who is present informed that there is no incidence or any provision in the M.P.S.C Rules available when the question is found out of syllabus. It is reiterated that the opinion of the Expert on the point of whether question is within the syllabus or out of syllabus is not answered specifically by M.P.S.C. As we have mentioned above that the Expert has not stated about question nos 4, 5(a) & 5(b) whether it is as per the syllabus or out of syllabus. However, we have arrived at the conclusion for the reasons stated that question nos 4, 5(a) & 5(b) are out of syllabus for which objections were raised after the examination and before the results were declared. Generally, we do not interfere with the working of M.P.S.C as they are conducting examination at mass level and it should not lead to administrative chaos. However, we need to strike the balance between the legality and the workability of the administration and the order also.

26. In view of the above, we pass the following order:-

- (i) Question nos 4, 5(a) & 5(b) are out of syllabus
- (ii) The prayers of the applicants that they be given full marks for these two questions 4, 5(a) & 5(b) is denied.
- (iii) We direct the M.P.S.C to allot the marks to question nos 4, 5(a) & 5(b) by following one of the two methods stated below:-

- (a) Considering the total marks secured by the candidate out of 70 marks, i.e., excluding the 30 marks of question nos 4, 5(a) & 5(b) and then calculate the average of 100 marks on the basis of actual marks obtained by the candidate out of 70 marks, [that is the marks of the question barring question nos 4, 5(a) & 5(b)].
- (b) Passing marks of question nos 4, 5(a) & 5(b) are to be calculated and rounded off and that is to be given to all the candidates.
- (c) We make it clear that if the candidates have attempted either of the question nos 4, 5(a) & 5(b) and secured more marks than the average or passing marks, then the marks which are obtained by a particular candidate are to be retained.
- (iv) We further clarify that these benefits is to be extended to the applicants who have approached this Tribunal within a reasonable time.
- (v) The said order should be complied on or before 25.1.2023.

Sd/-  
**(Medha Gadgil)**  
**Member (A)**

Sd/-  
**(Mridula Bhatkar, J.)**  
**Chairperson**

**Place : Mumbai**  
**Date : 22.11.2022**  
**Dictation taken by : A.K. Nair.**