

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

**ORIGINAL APPLICATION NO.911 OF 2021
WITH
ORIGINAL APPLICATION NO.969 OF 2021**

DISTRICT : SATARA/ KOLHAPUR

O.A.No.911 of 2021

1. Rahul Kisan Patil,)
Age : 26 years, Occ. Service, R/at. Post)
Helgaon, Tal. Karad, Dist. Satara 415 106)
2. Shrikant Ganpat Gadhave.)
Age : 35 years, Occ. Service, R/at Post)
Khandala, Dist. Satara 412 802) **)...Applicants**

Versus

1. The Commissioner of Agriculture,)
Maharashtra State, Pune, Ground Floor,)
Sakhar Sankul Bldg., Shivaji Nagar,)
Pune 411 005)
2. The Dy. Director, Agricultural)
Commissionerate of Agricultural, Ground)
Floor, Sakhar Sankul Bldg., Shivaji Nagar)
Pune 411 005)
3. The Divisional Agricultural, Dy. Director)
Kolhapur Division, Kolhapur, Chalis)
Thana, Bhagwa Chowk, Kasba Bawda,)
Kolhapur 416 003) **)...Respondents**

WITH

O.A.No.969 of 2021

1. Mr. Pradip Prakash Bhosale,)
Age : 26 years, Occ. Nil,)
At Post Chikurde, Bhosale Galli, Akravar)
Tal Walwa, Dist. Sangli 415 412)
2. Birudev Laxman Pujari,)
Age : 29 years, Occ. Nil, At Pujarwadi,)
Post : Dighanchi, Tal. Atpadi,)
Dist. Sangli 415 315)

3. Bhausahab Aba Sargar,)
Age : 28 years, Occu. Nil,)
At Post Giravi, Pisewasti Road, Sagarwasti)
Tal. Malshiras, Dist. Solapur 41 3111)
4. Anand Balasaheb Kamble,)
Age : 34 years, Occ. Nil,)
At Post Navha, Taluka – Palam,)
Dist. Parbhai 431 536)
5. Ganesh Dnyandev Sawant,)
Age : 30 years, Occ. Nil,)
At Post. Nagewadi, Near Ganesh Mandir,)
Madhali Gali, Tal. & Dist. Satara 415 015)...**Applicants**

Versus

1. State of Maharashtra,)
Through the Secretary, Agriculture)
Department, Mantralaya, Mumbai 32)
2. Divisional Joint Director of Agriculture)
Kolhapur Division, Chalis Thanam)
Bhagwa Chowk, Kasba Bawda,)
Kolhapur 416 003)
3. Commissioner of Agriculture,)
Ground Floor, Sakhar Sankul Building,)
Shivaji Nagar, Pune 05, Maharashtra State)
Pune 05)
4. Department of Sainik Welfare,)
State of Maharashtra, “Raigad Building”)
Opposite National War Memorial, Ghorpadi)
Pune 411 001)...**Respondents**

Shri S.S Dere, learned advocate for the Applicants in O.A 911/2021.

Shri S.B Thorat, learned advocate for the applicants in O.A 969/2021.

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

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

DATE : 10.10.2022

PER : Justice Mridula Bhatkar (Chairperson)

J U D G M E N T

1. The applicants though are from different Districts have applied at the respective Divisions and as the issue involved is one and the same, they are decided by a common order.

2. The applicants seek direction to the Respondent to appoint them to the post of Krishi Sevak in pursuance to the advertisement dated 2.1.2019, through waiting list against the de-reserved post of Ex-Servicemen.

3. Admittedly, the applicants are not Ex-Servicemen, but they have applied for appointment to the post of Krishi Sahayak/Krishi Sevak. After the results were declared the waiting list was prepared on 1.1.2020. The said waiting list was valid up to 31.1.2021. Learned counsel for the applicants relied on the Government Circular dated 16.4.1981 about the concession given to Ex-Servicemen for recruitment to Class-III & IV posts. Learned counsel for the applicants relied on Clause-II-Release unfilled reserved vacancies, which reads as under:-

“II. Release unfilled reserved vacancies:-

(i) The vacancies reserved for ex-servicemen in respect of Class-III posts and Class IV posts should not be released to any general candidates until and unless the appointing authority has (a) obtained a certificate regarding “Non availability of ex-servicemen” from the Employment Exchange, Zilla Sainik Board, Regional Selection Board or the Maharashtra Public Service Commission, depending upon the nature of the job and (b) recorded a certificate that such a “Non-availability” certificate has been denied.

(ii) Individual cases of release of vacancies reserved for ex-servicemen should be referred by the various appointing authorities lower than the Government to the concerned Administrative Departments of the Mantralaya and such posts should be filled by general candidates only with the approval of the concerned Administrative Departments.”

4. Both the Original Applications pertains to candidates from Kolhapur District, where the wait list was not operated for lack of clarity as to whether the post for Ex-Servicemen can be de-reserved. Learned counsel for the applicants relied on the Circular dated 16.4.1981, issued by G.A.D, and stated that G.A.D is the authority to issue the Circular and guidelines for providing 15% reservation for Ex-Servicemen in Class-IV posts. Learned counsel for the applicants further submitted that Circular dated 14.5.1986 is issued by the Rural Development Department. However, it is not applicable to the facts of the present case. Learned counsel for the applicants pointed out to the letter dated 16.9.2020, Exh. G, of the Deputy Director, (Rehabilitation), addressed to the Divisional Agriculture Joint Director, Kolhapur by which he has informed that Ex-Servicemen are not available for appointment to the post of Krishi Sahayak/Krishi Sevak and therefore he granted ‘NOC’ for de-reservation of 10 posts. Learned counsel for the applicants has further submitted that the said ‘NOC’ was granted when the waiting list was valid and hence the applicants pray that they be appointed to these de-reserved posts as they are qualified and meritorious.

5. Learned C.P.O on instructions from the Respondent-State has submitted that it is a fact that 10 posts are de-reserved from the unfilled posts from the category of Ex-Servicemen as they did not have the requisite educational qualification of having Degree/Diploma in Agriculture. Learned C.P.O further submitted that the de-reservation is done as per provisions of Circular dated

16.4.1981. However, due to confusion in interpreting the Circular dated 16.4.1981 issued by G.A.D and the Circular dated 14.5.1986 issued by Rural Development Department, the Divisional Joint Director of Agriculture could not fill up the posts within a period of one year.

6. In view of the above submissions and the policy of de-reservation, if 10 posts are de-reserved, then the applicants who are in the waiting list should be appointed as per merit.

7. Hence, we pass the following order:-

- (a) The Original Applications are allowed.
- (b) The applicants who are in the waiting list should be appointed to the post of Krishi Sevak as per merit in the de-reserved posts of Ex-Servicemen.

Sd/-
(Medha Gadgil)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 10.10.2022
Dictation taken by : A.K. Nair.