

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 368 of 2023 (D.B.)**

Shrikant S/o Vitthalrao Awandkar,  
Aged 53 years, Occ. Service,  
R/o 1, Saraswati Colony, Rathi Nagar, Amravati.

**Applicant.**

**Versus**

The State of Maharashtra,  
Through its Secretary, Public Works Department,  
Mantralaya, Mumbai-32.

**Respondents.**

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**Shri S.P. Palshikar, Advocate for the applicant.  
Shri S.A. Sainis, P.O. for respondents.**

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**Coram :- Hon'ble Shri Justice M.G. Giratkar,  
Vice Chairman.**

**Dated :- 06/03/2024.**

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**J U D G M E N T**

Heard Shri S.P. Palshikar, learned counsel for the applicant and Shri S.A. Sainis, learned P.O. for the respondents.

2. The regular Division Bench is not available. The Hon'ble Chairperson, M.A.T., Principal Bench, Mumbai issued Circular No.MAT/MUM/JUD/469/2023, dated 24/04/2023. As per the direction of Hon'ble Chairperson, if both the parties have consented for final disposal, then regular matter pending before the Division Bench can be disposed off finally.

3. As per the M.A.T., Principal Bench, Mumbai office order / letter No.MAT/MUM/JUD/1350/2023, dated 21/11/2023, the Hon'ble Chairperson, M.A.T., Principal Bench, Mumbai has given direction to this Tribunal to decide the Division Bench matters if the matter is covered by the Judgments of Hon'ble Supreme Court, Hon'ble High Court and the Benches of the M.A.T. etc. Hence, the matter is heard and decided finally with the consent of learned counsel for both the parties.

4. The case of the applicant in short is as under –

The applicant was appointed as Assistant Engineer, Grade-II on 09/10/1995. He was posted at Yavatmal. Next promotional post is that of Sub Divisional Engineer and promotion was by seniority-cum-merit. On 16/06/1997, the State Government has framed rules for regulating the recruitment to the post of Assistant Engineer (Civil), Grade-II. The applicant has to pass the examination held by M.P.S.C. The applicant has passed the examination conducted by the department and also passed the examination held by M.P.S.C. within a stipulated period as per the rules framed by the Government of Maharashtra. The respondents have not promoted the applicant and also not shown at correct place of seniority list. Therefore, he approached to this Tribunal for the following reliefs –

*“(8) That this Hon'ble Tribunal be pleased to call for the entire record regarding seniority list dated 06/09/2014 and after perusal of the same be pleased to:-*

*(i) further be pleased to direct the respondent to correct the seniority list as per rules of 1997, Rules of 2009 and also Rules of 1982;*

*(ii) further be pleased to direct the respondent to show the name of the applicant in the seniority list above Sr. No.655-E, i.e. above Shri M.M. Mathurkar.”*

5. The O.A. is opposed by the respondents. It is submitted that as per the merit, the seniority list was prepared and it was published. Hence, the O.A. is liable to be dismissed.

6. The learned counsel for applicant has pointed out the Judgment of this Tribunal in O.A. No.325/2015 and O.A.No.686/2018.

7. This Tribunal has recorded its findings in the above cited Judgment that the Assistant Engineer who were appointed before 1996 are to be granted seniority from the date of their initial appointment, who have passed the M.P.S.C. examination in 1<sup>st</sup> attempt and has passed the examination as per the Recruitment Rules of 1997. The applicant has passed the examination as per recruitment rules of 1997. He has also passed M.P.S.C. examination in 1<sup>st</sup> attempt. Therefore, the applicant is entitled to get his seniority on the date of his initial appointment. The respondents have not shown the seniority of the applicant on the date of his initial appointment at Sr.No.655-E. Therefore, the applicant prayed to correct the seniority list prepared by the respondents. Hence, the following order –

**ORDER**

(i) The O.A. is allowed.

(ii) The respondents are directed to show the name of applicant in the seniority list above Sr.No.655-E, i.e., above Shri M.M. Mathurkar.

(iii) No order as to costs.

**Dated** :- 06/03/2024.

**(Justice M.G. Giratkar)**  
**Vice Chairman.**

dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 06/03/2024.