

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 393/2008**

Vivek S/o Dinkar Joshi,  
a/a 49 years, Occ. Service,  
r/o "Renuka Sadan", Prasad Colony,  
Jatharpeth, Akola,  
Tq. & Distt. Akola.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
through the Secretary,  
Rural Development and Water Conservation Department,  
Mantralaya, Mumbai-32.
- 2) Commissioner,  
Amravati Division, Amravati.
- 3) Zilla Parishad, Akola,  
through its Chief Executive Officer,  
C/o Z.P. Office, Akola,  
Tq. & Distt. Akola.
- 4) Prakash S/o Ramrao Wagh,  
a/a 46 years, Occ. Service  
as Block Development Officer,  
Panchayat Samiti, Malkapur,  
Tq. Malkapur, Distt.Buldhana.

**Respondents**

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**S/Shri A.C. Dharmadhikari, R.V.Shiralkar, C.A. Joshi, Mrs. R.C. Joshi, M.S. Samabare, M.G. Sarda, R. Pande, S.M. Bhargde, Advs. for the applicant.**

**Shri H.K. Pande, P.O. for the respondent nos. 1 and 2.**

**S/Shri Prashant Gode, N.P. Deshmukh, R.R.Sutkar, Advocates for Respondent no.4.**

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**Coram :- Hon'ble Shri Rajiv Agrawal, Vice Chairman  
and  
Hon'ble Shri J.D. Kulkarni, Member (J).**

**Dated :- 05/01/2017.**

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**ORDER -**

**PER : MEMBER (J).**

The applicant is claiming following reliefs :

- (i) Direct respondent nos. 1 & 2 to correct seniority lists annexure nos. 7 & 14, respectively, dated 7-10-2006 and 11-12-2006 prepared by respondent no. 2 the Commissioner, Amravati Division, Amravati and place petitioner in those lists at serial no.7.
  - (ii) Quash/ set aside the order annexure no.15, dated 10-08-2007 issued by the respondent no.1, in so far as it concerns the respondent no.4 Shri P.R. Wagh and respondent no.1 be directed to give promotion to petitioner in the place of respondent no.4 Shri Wagh and all the benefits be directed to be given to petitioner from the date of order annexure no.15, i.e., 10-08-2007, accordingly order annexure no.15, dated 10-08-2007 be quashed.
2. The applicant was appointed as a Senior Assistant (Statistics) in Maharashtra Development Services, Class-III (Statistics) Grade-III, by Zilla Parishad, Akola w.e.f. 16-10-1979. One Shri Siddique Mohd. Kaiser had filed Writ Petition no.2502/1996 as he was not given Class-III, Grade-II status. The said Writ Petition was allowed.

Accordingly, the applicant as well as other employees were also given Class-III, Grade-II status on 10-10-1988.

3. On 06-03-2006 the respondent no.1 issued a letter to the Divisional Commissioner, Amravati Division, Amravati directing him to take steps as per the decision in W.P.No. 2502/1996 w.e.f. 05-02-1980. On 07-04-2006 the Divisional Commissioner, Amravati issued a letter to Chief Executive Officers of all the Zilla Parishads in Amravati Division for giving status to all Extension Officers (Statistics) Class-III, Grade-II w.e.f. 05-02-1980. Vide order dated 07-07-2006 the applicant was placed in the category of Extension Officer, Class-III, Grade-II w.e.f. 05-02-1980. On 07-10-2006 the Divisional Commissioner, Amravati published provisional seniority list of Extension Officers (Statistics) serving in all Zilla Parishads in Amravati Division, Amravati. The applicant was given effect in that grade from 10-10-1988. The applicant therefore filed the representation on 26-10-2006 and requested that the date of seniority be corrected as 05-02-1980 instead of 10-10-1988 and the applicant be placed at sr.no.7 in the seniority list.

4. On 29-11-2006 the Chief Executive Officer, Z.P., Akola issued a letter to the Divisional Commissioner, Amravati about a request of the applicant to correct the seniority list.

5. The applicant thereafter made the representations on 08-06-2006,13-09-2006,05-04-2007 and 30-03-2007. However a final seniority list was published on 11-12-2006 w.e.f. 01-01-2005 but the applicant's request was not considered. The applicant has been shown at sr.no.11 in the seniority list and should have been shown at sr.no.7.

6. On 10-08-2007 the respondent no.1 issued promotion order in respect of Shri P.R. Wagh who is junior to the applicant. The said order is absolutely illegal. The applicant is being at sr.no.7 should have been promoted earlier to Shri Wagh. The applicant filed Writ Petition no. 4556/2007 against the order of promotion of Shri Wagh, but the Hon'ble High Court directed the applicant to approach the Tribunal and hence this O.A.

7. The respondent nos. 1&2 resisted the claim by filing separate affidavits-in-reply. It is submitted that there are no directions from the Hon'ble High Court, Aurangabad Bench in W.P.no. 2502/1996 as claimed by the applicant and therefore there was no question of giving applicant the status of Extension Officer, Class-III, Grade-II w.e.f. 05-02-1980 in the final seniority list of 2006. It is submitted that the applicant has been given all financial benefits with retrospective effect i.e. from 05-02-1980 as per the letter dated

06-03-2006 issued by respondent no.1. It is further stated that the applicant's claim that he shall be kept at sr.no.7 in place of respondent no.4 in the final seniority list published as on 01-01-2005 is without any substance.

8. According to the respondents, the respondent no.1 has rightly issued the order dated 10-08-2007 and has rightly promoted the respondent no.4 on the basis of seniority.

9. The respondent no.4 also resisted the claim and submitted that he has been rightly promoted.

10. We have heard Shri R.V.Shiralkar, Id. counsel for the applicant and Shri H.K. Pande, Id. P.O. for R-1&2. None for R-3&4. We have also perused the various documents placed on record, affidavit, affidavit-in-reply, counter affidavits and rejoinders.

11. (i) The material point to be considered is whether in the seniority list (Annex-7 & Annex-14 respectively) published by R-1&2, the applicant shall be at sr.no.7. (ii) Whether respondent no.1 shall be directed to grant promotion to the applicant from the date on which respondent no.4 have been promoted ?

12. We have perused the letter dated 06-03-2006 issued by Government of Maharashtra. The copy of the said letter is at paper

book page nos.38 & 38A of the paper book. There is a reference regarding order passed in W.P.No.2502/1996 by the Hon'ble High Court, Bench at Aurangabad is in the said letter. Perusal of the said letter shows that the Extension Officers (Statistics) who were appointed on or before 05-02-1980 were treated as Officer of Class-III, Grade-II from the date of their appointment. The relevant letter reads as under :-

\*\*mi jkDr I nHkz; i=kud kj vki .kkl dGfo.; kr ; rrsdh] dS j fl /nhdh o brj ; kauh nk[ky dsyY; k jhV ; kfpdk dz2502@1996 e/; sek- mPp U; k; ky; ] [kMi hB vksjckkn ; kauh fnyY; k fnukad 19@03@2004 P; k vkns kP; k vuqkxkus foLrkj vf/kdkjh ¼l ká[; dh½ oxZ3 Jskh 2 ; k I oxkr fnukad 5 Qscpkjh 1980 urj T; kph ue.kud dsyYh vkgsR; kauh i Fke ue.kudP; k fnukadki kl u ¼ofj"B I gk; d oxZ3 Jskh 3 ; kauh½ I ad/kr I oxkr ¼foLrkj vf/kdkjh I ká[; dh oxZ 3 Jskh 2½ ue.kud ns; kckcrph dk; bkgh djkoh- rI p fnukad 5 Qscpkjh 1980 i whZ T; k menokj k; k ue.kudk ofj"B I gk; d ¼l ká[; dh½ I oxkr >kyY; k vkgs R; kauh fnukad 5 Qscpkjh 1980 i kl u foLrkj vf/kdkjh ¼l ká[; dh½ oxZ3 Jskh 2 ; k I oxkr ue.kud ns; kckcrph dk; bkgh djkoh- i Lrpph dk; bkgh i py{kh i Hkkokus o I /; k vfLrRokr vl yY; k I ad/kr inkæ/kpp #i krjhr djko; kph vkgs I cc vki Y; k foHkkxkrhy I ol ftYgk i fj"knkr foLrkj vf/kdkjh ¼l ká[; dh½ ofj"B I gk; d ¼l ká[; dh½ ; k inkoj dk; jr vl yY; k I ol deþk&; k; k ckrhr mi jkDr U; k; fu.kz kP; k vuqkxkusmfpr dk; bkgh djkoh\*\*-

13. Thus it is clear that the applicant was also to be treated as Officer of Class-III, Grade-II from 05-02-1980.
14. There is no dispute that the applicant has been treated the Officer of Class-III, Grade-II w.e.f. 05-02-1980 and therefore that

should have been the date of seniority of the applicant in that Grade-II. The applicant was however not given such status.

15. Perusal of the order dated 07-07-2006 which is at Annex.6 shows that the applicant was given status as referred above from 05-02-1980. However, in the provisional seniority list the applicant has been shown at sr.no.11 and status in Class-III, Grade-II is given w.e.f. 10-10-1988 that seems to be obviously wrong. As against this, respondent no.4 Shri P.R. Wagh has been given such grade w.e.f. 06-12-1983 and has been shown at sr.no.7 and applicant has been show at sr.no.11 though he got such gradation from 05-02-1980. Had the respondents confirmed the date of gradation of the applicant w.e.f. 05-02-1980, naturally the applicant should have been above the respondent no.4 in the seniority list.

16. The learned counsel for the applicant submits that during pendency of the application, the seniority list has been corrected in 2010 and the applicant has been given promotion in 2010. However, respondent no.4 has been promoted w.e.f.10-08-2007 and therefore the deemed date should have been given w.e.f. 10-08-2007 to the applicant also as he is given Class-III, Grade-II w.e.f. 05-02-1980.

17. The learned P.O. submits that the Hon'ble High Court did not give any direction to give seniority to the applicant or employees

like applicant though the financial benefits were given with retrospective effect i.e. from 05-02-1980. It is material to note that the respondents have admitted the facts that the applicant has been given all financial benefits with retrospective effect i.e. from 05-02-1980 as provided in the letter dated 06-03-2006 issued by respondent no.1. It is however material to note that respondents have not given seniority to the applicant w.e.f. 05-02-1980 for the best reasons known to it. Once the financial benefits were given w.e.f. 05-02-1980 considering the applicant as Senior Assistant (Statistics) Class-III, Grade-II for all purposes including financial benefits, there is no reason as to why the seniority of the applicant has not been considered w.e.f. 05-02-1980. We have therefore satisfied that the action on the part of respondent no.1 in not treating applicant as Senior Assistant (Statistics) in Maharashtra Development Services, Class-III (Statistics) Grade-II from 05-02-1980 is not legal and proper. The applicant therefore should have been treated as Senior Assistant (Statistics), Class-III, Grade-II w.e.f. 05-02-1980 and therefore he should have been placed at sr.no.7 whether the respondent no.4 has been shown as senior to the applicant.

18. The respondent no.4 has already been promoted and is working on promoted post since 10-08-2007 and therefore it will not



be proper to quash that promotion order. However the applicant can be given deemed date of promotion from 10-08-2007.

19. In view of the discussion in forgoing para we therefore pass the following order :

- (i) The respondent nos. 1&2 are directed to correct the seniority list Annexure nos. 7 &14 respectively dated 07-10-2006 and 11-12-2006 prepared by respondent no.2, the Commissioner of Amravati Division, Amravati and place the applicant in the said lists at sr.no.7.
- (ii) The respondents are directed to grant deemed date of promotion to the applicant w.e.f.10-08-2007 since the date on which the respondent no.4 has been shown promoted and shall grant all financial benefits to the applicant w.e.f. 10-08-2007. No order as to costs.

**(J.D.Kulkarni)**  
**Member (J)**

**(Rajiv Agrawal)**  
**Vice-Chairman.**

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