

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 956/2017 (D.B.)

- 1) Ashok Champatrao Katyarmal,
aged about 54 years, Occ. Service
Borule Layout, Bhosa Road, Yavatmal.
- 2) Shailedra Purushottam Bute,
Aged about 51 years, Occ. Service,
Girinagar, Waghapur Road, Behind Jeevan Medical,
Yavatmal.
- 3) Devendra Ramnath Chapriya,
Aged about 51 years, Occ. Service
Tarpura, Weekly Market Kelapur,
Yavatmal.
- 4) Mahadev Keshavrao Golhar,
Aged about 46 years, Occ. Service,
Vitthalwadi, Yavatmal.
- 5) Raju Shankarrao Mottewar,
Aged about 45 years, Occ. Service,
Sharma Layout, Pandharkawda,
Taluka Kelapur, District Yavatmal.
- 6) Pramod Y. Bakde,
Aged about 53 years, Occ. Service,
Patwari Colony, Yavatmal.

Applicants.

Versus

- 1) State of Maharashtra,
through its Secretary,
Revenue Department, Mantralaya, Mumbai-32.
- 2) The Divisional Commissioner,
Amravati Division, Amravati.
- 3) The Collector, Amravati.
- 4) The Collector, Yavatmal.

- 5) Sanjay Dadarao Muratkar,
Occ. Service, Naib Tahsildar,
Tahsil Office, Bhatkuli, near Circuit House,
Amravati, Dist. Amravati.
- 6) Laxmishankar Sitaramji Tiwari,
Occ. Service, Naib Tahsildar, Tahsil Office,
Warud, Dist. Amravati.
- 7) Avinash R. Hadole,
Occ. Service, Naib Tahsildar, Tahsil Office,
Nandgaon (Khandeshwar), Dist. Amravati.
- 8) Sanjay Manoharrao Aware,
Occ. Service, Inspecting Officer (Town),
Food Distribution Officer, Collector Office,
Amravati, Dist. Amravati.
- 9) Prashant Ganesh Deshmukh,
Occ. Service, Inspecting Officer, Tahsil Office,
Chandur Railway, Dist. Amravati.
- 10) Sandeep Pralhad Tank,
Occ. Service, Naib Tahsildar (Rev.), Tahsil Office,
Achalpur, Dist. Amravati.
- 11) Madhukar Tukaram Dhule,
Occ. Service, Godown Manager (Grade) A,
District Supply Officer, Office Collectorate, Amravati.
- 12) Shyam Devilal Deshmukh,
Occ. Service, Naib Tahsildar Office, Chilkhadara,
Dist. Amravati.

Respondents.

Shri R.A. Haque, Advocate for the applicants.

Shri M.I. Khan, P.O. for respondent nos. 1 to 4.

Shri A.P. Sadavarte, Advocate for respondent nos. 5 to 12.

WITH

ORIGINAL APPLICATION No. 789/2018 (D.B.)

Shri Prashant S/o Ganesh Deshmukh,
Aged about 44 years, Occ. Service,
R/o 18, Chakrapani Colony, near VMV College,
Amravati, Tahsil and District Amravati.

Applicant.**Versus**

- 1) The State of Maharashtra,
through its Secretary, Revenue and Forest
Department, Mantralaya (Main Building),
1st floor, Madam Kama Marg, Hutatma Rajguru Square,
Mumbai-400 032.
- 2) The Divisional Commissioner, Amravati
Bypass Road Camp, Amravati, Tahsil and
District Amravati.
- 3) The Collector, Amravati
Collector Office, District Amravati.
- 4) Shailendra S/o Purushottam Bhute,
Aged about 51 years, Occ. Service,
R/o Girinagar, Waghapur Road,
Behind Jeevan Medical, Yavatmal.

Respondents.

Shri A.P. Sadavarte, Advocate for the applicant.
Shri A.M. Khadatkar, P.O. for respondent nos. 1 to 3.
Shri R.A. Haque, Advocate for respondent no.4 (Intervener).

WITH**ORIGINAL APPLICATION No. 790/2018 (D.B.)**

Shri Shyamsunder Devidas Deshmukh,
Aged about 42 years, Occ. Service,
R/o Kewal Colony, Shevgaon Rahatgaon Road,
Amravati, Tq. & Dist. Amravati.

Applicant.**Versus**

- 1) The State of Maharashtra,
through its Secretary, Revenue and Forest
Department, Mantralaya (Main Building),
1st floor, Madam Kama Marg, Hutatma Rajguru Square,
Mumbai-400 032.

- 2) The Divisional Commissioner, Amravati
Bypass Road Camp, Amravati, Tahsil and
District Amravati.
- 3) The Collector, Amravati
Collector Office, District Amravati.
- 4) Shailendra S/o Purushottam Bhute,
Aged about 51 years, Occ. Service,
R/o Girinagar, Waghapur Road,
Behind Jeevan Medical, Yavatmal.
- 5) Pramod S/o Narayanrao Kale,
Aged about 47 years, occ. Service,
R/o Kathipura, Anjangaon Surji, District Amravati.

Respondents.

Shri A.P. Sadavarte, Advocate for the applicant.
Shri A.M. Khadatkar, P.O. for respondent nos. 1 to 3.
Shri R.A. Haque, Advocate for respondent no.4 (Intervener).
Shri N.R. & Mrs. K.N. Saboo, Advocates for respondent no.5 (Intervener)

WITH
ORIGINAL APPLICATION No. 802/2018 (D.B.)

Avinash Rupraoji Hadole,
Aged 44 years, Occ. Service (Naib Tahsildar),
R/o Plot No.17-A, Rekha Colony, Vidyut Nagar,
V.M. V. Road, Amravati.

Applicant.

Versus

- 1) State of Maharashtra through its Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-32.
- 2) The Divisional Commissioner,
Amravati Division, Amravati.
- 3) The Collector,
Collectorate, Amravati.
- 4) Shailendra Purushottam Bhute,
Aged about 51 years, Occ. Service,
Girinagar, Waghapur Road,
Behind Jeevan Medical, Yavatmal.

Respondents.

S/Shri H.D. Futane, N.B. Bargat, A. Gajbhiye, Advs. for the applicant.

Shri M.I. Khan, P.O. for respondent nos. 1 to 3.

Shri R.A. Haque, Advocate for respondent no.4 (Intervener).

WITH

ORIGINAL APPLICATION No. 803/2018 (D.B.)

Shri Sandeep S/o Pralhadrao Tank,
Aged about 45 years, Occ. Service,
R/o Ramnagar, Amravati Tq. & Dist. Amravati.

Applicant.

Versus

- 1) State of Maharashtra through its Secretary,
Revenue and Forest Department,
Mantralaya (Main Building)
1st floor, Madam Kama Marg, Hutatma Rajguru Square, Mumbai-32.
- 2) The Divisional Commissioner,
Amravati Bypass Road Camp, Amravati, Tq. & Dist. Amravati.
- 3) The Collector, Amravati
Collector Office, District Amravati.
- 4) Shailendra Purushottam Bhute,
Aged about 51 years, Occ. Service,
Girinagar, Waghapur Road,
Behind Jeevan Medical, Yavatmal.

Respondents.

Shri A.P. Sadavarte, Advocate for the applicant.

Shri A.M. Khadatkhar, P.O. for respondent nos. 1 to 3.

Shri R.A. Haque, Advocate for respondent no.4 (Intervener).

WITH

ORIGINAL APPLICATION No. 804/2018 (D.B.)

Shri Sanjay S/o Monoharrao Aware,
Aged about 45 years, Occ. Service,
R/o Bhausahab Deshmukh Colony, VMV Road,
Amravati, Tq. & Dist. Amravati.

Applicant.

Versus

- 1) State of Maharashtra through its Secretary,
Revenue and Forest Department,
Mantralaya (Main Building)
1st floor, Madam Kama Marg, Hutatma Rajguru Square, Mumbai-32.
- 2) The Divisional Commissioner,
Amravati Bypass Road Camp, Amravati,
Tq. & Dist. Amravati.
- 3) The Collector, Amravati
Collector Office, District Amravati.
- 4) Shailendra Purushottam Bhute,
Aged about 51 years, Occ. Service,
Girinagar, Waghapur Road,
Behind Jeevan Medical, Yavatmal.

Respondents.

Shri A.P. Sadavarte, Advocate for the applicant.
Shri A.M. Khadatkhar, P.O. for respondent nos. 1 to 3.
Shri R.A. Haque, Advocate for respondent no.4 (Intervener).

WITH

ORIGINAL APPLICATION No. 805/2018 (D.B.)

Shri Sanjay S/o Dadarao Muratkar,
Aged about 44 years, Occ. Service,
Tahsil Office, Amravati District Amravati,
R/o Amravati, Tq. & Dist. Amravati.

Applicant.

Versus

- 1) The State of Maharashtra through its Secretary,
Revenue and Forest Department,
Mantralaya (Main Building)
1st floor, Madam Kama Marg, Hutatma Rajguru Square, Mumbai-32.
- 2) The Divisional Commissioner,
Amravati Bypass Road Camp, Amravati, Tq. & Dist. Amravati.
- 3) The Collector, Amravati
Collector Office, District Amravati.
- 4) Shailendra Purushottam Bhute,
Aged about 51 years, Occ. Service,
Girinagar, Waghapur Road,
Behind Jeevan Medical, Yavatmal.

5) Shri Arun S/o Balkrushna Rajgure,
Aged about 54 years, Occ. Service,
R/o Narayan Nagar, Daryapur, Dist. Amravati.

Respondents.

Shri A.P. Sadavarte, Advocate for the applicant.
Shri A.M. Khadatkhar, P.O. for respondent nos. 1 to 3.
Shri R.A. Haque, Advocate for respondent no.4 (Intervener).
Shri N.R. & Smt. K.N. Saboo, Advocates for resp.no.5 (Intervener).

WITH

ORIGINAL APPLICATION No. 809/2018 (D.B.)

Laxmishankar Sitaramji Tiwari,
Aged about 49 years, Occ. Service (Naib Tahsildar),
R/o Plot No.19-B, Dhayneshwari Nagar,
Opp. Deshmukh Lawn, Shegaon, Rahatgaon Road, Amravati.

Applicant.

Versus

- 1) State of Maharashtra through its Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-32.
- 2) The Divisional Commissioner,
Amravati Division, Amravati.
- 3) The Collector,
Collectorate, Amravati.

Respondents.

S/Shri H.D. Futane, N.B. Bargat, A. Gajbhiye, Advs. for the applicant.
Shri M.I. Khan, P.O. for respondents.

WITH

ORIGINAL APPLICATION No. 810/2018 (D.B.)

Vijay Bhaurao Manjre,
Aged about 54 years, Occ. Service,
R/o Amravati, District Amravati,
Presently working as Inspecting Officer,
Tahsil Office, Dharni, Tq. Dharni, Dist. Amravati.

Applicant.

Versus

- 1) State of Maharashtra through its Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-32.
- 2) The Commissioner,
Amravati Division, Amravati.
- 3) The Collector, Amravati
District, Amravati.
- 4) Shailendra Purushottam Bhute,
Aged about 51 years, Occ. Service,
Girinagar, Waghapur Road,
Behind Jeevan Medical, Yavatmal.

Respondents.

Shri R.V. Shiralkar, Advocate for the applicant.

Shri M.I. Khan, P.O. for respondent nos.1 to 3.

Shri R.A. Haque, Advocate for respondent no.4 (Intervener).

WITH

ORIGINAL APPLICATION No. 811/2018 (D.B.)

Shrikant Namdeo Moyaje,
Aged about 51 years, Occ. Service,
R/o Amravati, Dist. Amravati
Presently working as A.K. Collector Office, Amravati
District Amravati.

Applicant.

Versus

- 1) State of Maharashtra through its Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-32.
- 2) The Commissioner,
Amravati Division, Amravati.
- 3) The Collector, Amravati
District, Amravati.
- 4) Shailendra Purushottam Bhute,
Aged about 51 years, Occ. Service,
Girinagar, Waghapur Road,
Behind Jeevan Medical, Yavatmal.

Respondents.

**Shri R.V. Shiralkar, Advocate for the applicant.
Shri M.I. Khan, P.O. for respondent nos.1 to 3.
Shri R.A. Haque, Advocate for respondent**

WITH

ORIGINAL APPLICATION No. 857/2018 (D.B.)

Shri Chandrakant S/o Nilkanth Meshram,
Aged about 45 years, Occ. Service,
R/o Lane No.5, Uttam Nagar, Mahadeokhori Road,
Amravati, Tq. & Dist. Amravati.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary, Revenue and Forest
Department, Mantralaya (Main Building),
1st floor, Madam Kama Marg, Hutatma Rajguru Square,
Mumbai-400 032.
- 2) The Divisional Commissioner, Amravati
Bypass Road Camp, Amravati, Tahsil and
District Amravati.
- 3) The Collector, Amravati
Collector Office, District Amravati.

Respondents.

**Shri A.P. Sadavarte, Advocate for the applicant.
Shri A.M. Khadatkar, P.O. for respondents.**

**Coram :- Shri Shree Bhagwan,
Vice-Chairman and
Shri Anand Karanjkar, Member (J).**

Date of Reserving for Judgment : 6th February, 2020.

Date of Pronouncement of Judgment : 24th February, 2020.

COMMON JUDGMENT

Per : Member (J).

(Delivered on this 24th day of February, 2020)

Heard Shri R.A. Haque, learned counsel for the applicants, Shri A.M. Khadatkar, learned P.O. for respondent nos.1 to 4 and Shri A.P. Sadavarte, learned counsel for respondent nos.5 to 12 (in O.A.956/2017), Shri A.P. Sadavarte, learned counsel for the applicant, Shri A.M. Khadatkar, learned P.O. for respondent nos.1 to 3 and Shri R.A. Haque, learned counsel for respondent no.4 (in O.A.789/2018), Shri A.P. Sadavarte, learned counsel for the applicant, Shri A.M. Khadatkar, learned P.O. for respondent nos.1 to 3, Shri R.A. Haque, learned counsel for respondent no.4 and Smt. K.N. Saboo, learned counsel for respondent no.5 (in O.A.790/2018), Shri H.D. Futane, learned counsel for the applicant, Shri M.I. Khan, learned P.O. for respondent nos.1 to 3 and Shri R.A. Haque, learned counsel for respondent no.4 (in O.A.802/2018), Shri A.P. Sadavarte, learned counsel for the applicant, Shri A.M. Khadatkar, learned P.O. for respondent nos.1 to 3, Shri R.A. Haque, learned counsel for respondent no.4 (in O.A.803/2018), Shri A.P. Sadavarte, learned counsel for the applicant, Shri A.M. Khadatkar, learned P.O. for respondent nos.1 to 3, Shri R.A. Haque, learned counsel for respondent no.4 (in O.A.804/2018), Shri A.P. Sadavarte, learned counsel for the applicant, Shri A.M. Khadatkar, learned P.O. for respondent nos.1 to 3, Shri R.A. Haque, learned counsel for respondent no.4 and Smt. K.N. Saboo, learned counsel for respondent no.5 (in O.A.805/2018), Shri H.D. Futane, learned counsel for the applicant and Shri M.I. Khan, learned P.O. for the respondents (in O.A.809/2018), Shri R.V. Shiralkar, learned counsel for the applicant, Shri M.I.

Khan, learned P.O. for respondent nos.1 to 3 and Shri R.A. Haque, learned counsel for respondent no.4 (in O.A.810/2018), Shri R.V. Shiralkar, learned counsel for the applicant, Shri M.I. Khan, learned P.O. for respondent nos.1 to 3 and Shri R.A. Haque, learned counsel for respondent no.4 (in O.A.811/2018) and Shri A.P. Sadavarte, learned counsel for the applicant and Shri A.M. Khadatkar, learned P.O. for the respondents.

2. The issues involved in all O.As. are relating to the fixation of seniority at the district level & divisional level, therefore, all applications were heard together and decided by this common order.

3. The respondent no.2 published seniority list of Amravati Revenue Division disclosing position as on 1/1/2015. In this seniority list, the applicants in OA 956/2017 were placed at Sr. Nos. 111,115,116,118,123 & 127. In this seniority list which is at Annex-A-2 the respondents nos.5 to 12 were shown at Sr.Nos. 281,158,159,179,183,184,160 & 286 respectively. It is contention of the applicants in OA 956/2017 that the respondent nos. 5 to 12 were juniors to them as per seniority list Annex-A-2 in Amravati Revenue Division.

4. The seniority list at Annex-A-3 was published by the respondent no.3, the Collector, Amravati on 10/2/2016 disclosing position as on 1/1/2016. In this seniority list, the respondent nos.5 to 12 were placed at Sr.Nos. 35,36,37,55,59,60,72 & 75. In the meantime, the representation was made by the respondents nos. 5 to 12 to the Collector, Amravati claiming that they were entitled to seniority above Shri R.N. Kale and accordingly the respondents

no.3, the Collector, Amravati allowed the representation and placed the respondents nos.5 to 12 in the seniority at Sr.Nos.1-A to 7 and published the seniority list Annex-A-4.

5. On the basis of seniority list Annex-A-4 modified by the Collector, Amravati, the respondent no.2 modified the Divisional Seniority list on 12/5/20017 and in this seniority list, the respondents nos.5 to 12 were placed at Sr.Nos. 3,4,5,9,10,11,13 & 43 and the applicants were placed at Sr.Nos. 88,93,94,96,101 & 105. It is contention of the applicants that they raised objections to this decision of the respondent no.2 individually and collectively on 15/5/2017 and 30/5/2017. The respondent no.2 did not pay any heed to the objections, consequently, the representation was made by the applicants to the Minister of Revenue and Forest Department (M.S.). The applicants also preferred appeal under the Maharashtra Civil Services (Discipline & Appeal) Rules. The Divisional Commissioner, the respondent no.2 dismissed the appeal. Thereafter direction was given by the Government to review the seniority and also re-examine the question of giving deemed date to the respondents nos. 5 to 12 as several complaints were received in this matter.

6. The respondent no.2 wrote letter to the Principle Secretary, Revenue and Forest Department and informed that the case of the respondents was already reviewed and therefore excluding those matters, permission be given to review. The respondent no.2 again wrote letter to the Principal Secretary, Revenue and Forest Department and requested to grant permission for reviewing the cases of the respondents nos.5 to 12 and

accordingly vide order dated 26/2/2018 direction was given to review all matters including the cases of the respondents nos.5 to 12.

7. Being aggrieved by this decision of the Government, the respondent nos.5 to 12 have preferred the O.A. Nos.789/18, 790/18, 803/18, 804/18, 805/18, 857/18, 802/18 & 809/18 and Shri V.B. Manjre and Shri S.N. Moyaje have independently filed O.As. to challenge the action of the Government to review the issue of the seniority and grant of deemed date.

8. It is contention of the respondents nos.5 to 12 that earlier their seniority was rightly considered as they were seniors to Shri R.N. Kale as these respondent nos.5 to 12 passed the SSD examination and RQE examination before Shri R.N. Kale. It is submitted that considering these aspects seniority of respondents nos.5 to 12 and other applicants Shri C.N. Meshram, V.B. Manjre and Shri S.N. Moyaje was fixed. It is further contended that considering the aspect of seniority as these persons were seniors to Shri R.N. Kale and others, consequently, deemed dates were given by the respondent no.3.

9. It is submission of the respondents that after considering the provisions in Rule-5 of the Maharashtra Civil Services (Seniority Regulations) and after considering the Government Circulars dated 9/10/2000, 6/6/2002 decisions were taken by the respondent no.2, were legal and there was no propriety to issue direction to review. The respondents nos.5 to 12 have contended that the order dated 1/10/2018 passed by the Collector, Amravati cancelling the deemed date order dated 3/8/2005 was illegal and it be

quashed and direction be given to the respondent nos.2&3 to fix the seniority as per the law laid down in O.A.No.554/2015.

10. It seems that considering the various complaints and objections in relation to the fixation of the seniority and grant of deemed date, direction was issued by the Government to review and re-examine the matter. Thereafter there was correspondence between the respondents nos.2&3 and the respondent no.3 was directed to give the opinion regarding the grant of deemed dates and fixation of seniority of respondents nos.5 to 12. In O.A.No.589/2018 Annex-A-7 is filed. It is dated 23/4/2018. This letter was written by the respondent no.2 to the respondent no.3. In this letter, it was informed to the respondent no.3 that while examining the proceeding for granting deemed dates, the respondent no.3 examined the points as per the Government Circular dated 6/6/2002, but material questions were not considered and vague report was submitted, consequently, the opinion of the respondent no.3 was again called in this matter. It is pertinent to note that the letter dated 21/8/2018 Anx. A 8 was written by the respondent no.3 to the respondent no.2. In this letter in last but-one-paragraph, it is mentioned that there were several other employees who were seniors to Shri Deshmukh and they were also entitled to claim deemed dates and in view of this, it was necessary to examine this case before giving deemed date to Shri P.G. Deshmukh. Thereafter, the respondent no.2 passed the order dated 1/10/2018 and he set aside the order dated 20/1/2017 granting deemed date to Shri P.G. Deshmukh.

11. All the applicants are on establishment of the Collector, Yavatmal, whereas, the respondent nos. 5 to 12 and the applicants in other OA', are on the establishment of the Collector, Amravati. It is submitted on behalf of the respondents nos.5 to 12 that their seniority list was altogether different, therefore, there is no question of causing any prejudice to the applicants. In this regard we would like to point out that all the applicants were engaged in service before all the respective respondents and the applicants in other OA's except Shri V.B. Manjre (O.A.810/2018). It is submitted that the applicant no.1 joined the service on 1/12/1984 and the applicant no.6 joined service on 12/12/1983. Both were exempted from passing Sub Service Departmental Examination in view of the Maharashtra Sub Service Departmental Examination Rules,1988 as amended on 20/7/1993. As per the Rule-6 (vi) all the Clerks in the Revenue Divisions of Nagpur and Amravati who had completed three years of continuous service before coming into force of the Maharashtra Sub Service Departmental Examination Rules,1988 were granted exemption from passing SSD examination. The learned counsel for the applicants filed a Chart disclosing the dates of appointments, passing or exemption from passing SSDE, the number of attempts, passing of revenue qualifying examination, number of attempts and date of their postings as Awal Karkun. The Chart is as under –

Name	Date of birth	Date of joining	SSDE passing	SSDE Attempts	Revnuce qualifying exam.	RQE Attempts	Date of posting as Awal Karkun	45 years
A.C.Katyarmal	21/3/63	1/12/84	exempted	1	28/4/05	1	18/10/08	20/03/08
S.P. Bute	15/6/65	18/12/90	2005	1	28/4/05	1	18/10/08	14/06/2000
D.R. Chapriya	11/7/65	24/12/90	2005	1	28/4/05	1	18/10/08	10/07/2000
M.K. Golhar	21/12/70	7/12/92	2005	1	28/4/05	1	18/10/08	20/12/15
R.S.Mottewar	27/10/70	5/11/90	2005	1	20/10/05	1	18/10/08	26/10/15
P.Y. Bakde	1/7/63	12/12/83	exempted	1	27/5/04	1	18/10/08	30/06/08
S.D.Muratkar (O.A.805/18)	18/3/74	2/12/96	July,06	3	Oct.,06	1	22/10/10	17/03/09
L.S.Tiwari (O.A.809/18)	26/2/69	25/10/93	---	--	25/4/03	2	14/01/09	25/02/14
A.R.Hadole (O.A.802/18)	2/1/74	18/3/95	Jan.05	1	25/4/03	2	14/01/09	01/01/19
S.M.Aware (O.A.804/18)	25/1/73	11/6/98	Jan.05	1	29/4/05	3	23/06/09	24/01/18
P.G.Deshmukh (O.A.789/18)	14/2/76	3/4/2000	15/5/01	1	29/4/05	4	23/06/09	13/02/21
S.P.Tank (O.A.803/18)	2/2/74	30/6/98	Jan.05	1	29/4/05	3	23/06/09	01/02/19
M.T. Ghule	10/9/68	14/1/88	--	--	--	--	--	09/09/13
S.D.Deshmukh (O.A.790/18)	9/1/77	16/7/02	Jan.07	2	27/10/07	2	22/10/10	08/01/22
V.B. Manjre (O.A.810/18)	29/1/64	18/3/92	Jan.05	1	29/4/05	1	23/06/09	28/01/09
S. Moyaje (O.A.811/18)	--	6/2/90	--	--	--	--	21/12/16	11/01/12

12. It is contended on behalf of the applicants that all the applicants i.e. no.2 to 5 have passed the SSD and RQE examination in first attempt within permitted chances. There is no dispute about the fact that in Yavatmal district, no examinations were conducted before 2005, therefore, the seniority of the applicants who have cleared the examinations in 2005 in permitted

attempts and permitted time was required to be computed from the dates of their initial appointments in the service. It is submitted that all these applicants were promoted as *Awal Karkun* on 18/10/2008 and without considering this aspect while preparing the Divisional seniority list, seniority of the applicants was disturbed and they were placed below the respondents nos. 5 to 12 in the divisional seniority list. Even after hearing the submissions, it seems that there are various complaints of the aggrieved persons as to giving deemed dates to the respondents nos.5 to 12. The main objection is that there are so many other senior persons who are superseded by the respondents nos. 5 to 12 and others and keeping in view this position, the directions were issued by the Government to review the matter. We have already discussed that the respondent no.3, the Collector, Amravati also accepted this position that there was possibility that so many other persons who were seniors to Shri P.G. Deshmukh the respondent no.9 were superseded in view of this apparently it is not possible to accept that there is any fallacy in the decision of the Government to issue direction to review the fixation of seniority at the division level and while fixation of the seniority in the Amravati District.

13. In this regard, we would like to point out that there were divergent Judgments delivered by the two Benches of M.A.T., consequently, the matter was referred to the Full Bench in O.A.354/2015 and vide order dated 2/2/2017 the Full Bench has laid down the following principles to be followed while preparing the seniority list. The said principles are laid down in para-45 of the Full Bench Judgment-

“ 45. The upshot is that, from the above discussion, the following principles emerge and while preparing the seniority list, the observations herein made may be followed and the course of action as hereinbelow be adopted.

“(a) The seniority in the Clerical cadre shall be fixed as per the date of passing the SSD Examination;

(b) In Clerical cadre if the SSD Examination was passed within the time and number of chances, the seniority shall be counted from the date of initial appointment as Clerks and that date in that cadre shall remain forever;

(c) The Clerks who fail to pass SSD Examination within the time and number of chances will lose their seniority as hereinabove discussed. Their seniority shall be counted from the date of passing SSD Examination or from the date, they would get exemption;

(d) But they will not disturb those Clerks who were already confirmed after passing SSD within the time and chances or were senior to them.

a-i) Now, only those Clerk Typists who have passed SSD Examination after completing three years as such Clerks, would be eligible to appear for RQE.

a-ii) A Clerk Typist confirmed in that cadre in order to pass RQE will have to do so within three chances and within nine years of his continuous service as such Clerk Typist to be able to retain his original seniority.

a-iii) In the event, he were to fail to do so, then there will be a loss of seniority in exactly the same way as in case of Clerk Typist discussed above and he will then become entitled for consideration for seniority only after clearing the said Examination and he will be governed in all respects by (a) to (d) above.

It, therefore, follows that we would answer the three issues raised by the referral order as follows :

(a-i) No.

(a-ii) No.

(a-iii) No.”

14. The learned counsel appearing for the applicants in O.A. Nos.789/2018, 790/2018, 802/2018, 803/2018, 804/2018, 805/2018, 809/2018, 810/2018, 811/2018 & 857/2018 submitted that no case is made out for issuing direction to re-fixing the seniority and issue of giving deemed dates to the respondent nos.5 to 12. Our attention is invited to the prayer clause no.13 (iii) in O.A.789/2018. This O.A. is filed by the respondent no.9 and the prayer clause is as under –

“(13) (iii) Direct the respondents to prepare the final seniority list in considering the judgment in O.A.No. 354/2015 dated 02/02/2017 passed by the M.A.T., Mumbai”.

15. It is specific prayer of the respondent no.9 and other respondents in their respective O.As. that the direction be given to the respondents to prepare the final seniority list, considering the Judgment in O.A.354/2015 delivered by the Full Bench of the M.A.T., Mumbai. In view of this, we pass the following order –

ORDER

The respondent no.3 the Collector, Amravati is directed to fix the seniority of the respondents nos. 5 to 12 (in O.A. 956/2017) and of the applicants in O.A. Nos.789/2018, 790/2018, 802/2018, 803/2018, 804/2018, 805/2018, 809/2018, 810/2018, 811/2018 & 857/2018, as per the directions issued by the Full Bench of M.A.T. in O.A.No.354/2015 within a period of three months from the date of this order and thereafter shall decide the issue of deemed date. After compliance of the order by the respondent no.3, the

respondent no.2 shall prepare divisional seniority list as per the directions issued by the Full Bench of M.A.T. The respondent no.2 shall fix the seniority at the division level within a period of three months from the date of preparation of seniority list by the respondent no.3. The O.As. stand disposed of. No order as to costs.

(Anand Karanjkar)
Member(J).

(Shree Bhagwan)
Vice-Chairman.

Dated :- 24/02/2020.

*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 V.C. and Member (J).

Judgment signed on : 24/02/2020.

Uploaded on : 25/02/2020.