

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

**ORIGINAL APPLICATION NO.498 OF 2015
WITH
ORIGINAL APPLICATION NO.505 OF 2015
WITH
ORIGINAL APPLICATION NO.423 OF 2019
WITH
MISC. APPLICATION NO.256 OF 2020**

DISTRICT: PALGHAR

ORIGINAL APPLICATION NO.498 OF 2015

Mrs. Vibhavari Vijaykumar Dharmadhikari,)
Psychologist,)
District Rehabilitation Center, Devalai Pada,)
Virar (West) Taluka Vasai, Dist. Palghar 401303.)... **Applicant**

Versus

- 1) Government of Maharashtra,)
Through Secretary,)
Social Justice & Special Assistance)
Department, Mantralaya,)
Mumbai 400 032.)
- 2) Government of Maharashtra,)
Through Secretary,)
General Administrative Department,)
Mantralaya, Mumbai 400 032.)
- 3) Government of Maharashtra,)
Through Secretary,)
Finance Department,)
Mantralaya, Mumbai 400 032.)
- 4) Government of Maharashtra,)
Through Secretary,)
Finance Department,)
Mantralaya, Mumbai 400 032.)

- 5) Commissioner,)
Persons with Disabilities)
Maharashtra State, having his Office at 3)
Church Road, Pune – 1.)
- 6) District Handicapped Rehabilitation)
Officer, District Handicapped)
Rehabilitation Centre, Virar,)
District Palghar, Pin code 401 303.)...**Respondents**

ORIGINAL APPLICATION NO.505 OF 2015

Shri Vilas Raghunathrao Salodkar,)
Prosthetic & Orthotic Engineer (Senior),)
District Rehabilitation Centre, Virar,)
Virar Garden Road, Taluka Vasai, Dist. Palghar,)
and residing at 12 – White House, Vir Savarkar Nagar,)
Vasai Road, Vasai (West), District Palghar 401303.)... **Applicant**

Versus

- 1) Government of Maharashtra,)
Through Secretary,)
Social Justice & Special Assistance)
Department, Mantralaya,)
Mumbai 400 032.)
- 2) Government of Maharashtra,)
Through Secretary,)
General Administrative Department,)
Mantralaya, Mumbai 400 032.)
- 3) Government of Maharashtra,)
Through Secretary,)
Finance Department,)
Mantralaya, Mumbai 400 032.)
- 4) Government of Maharashtra,)
Through Secretary,)
Finance Department,)

- Mantralaya, Mumbai 400 032.)
- 5) Commissioner,)
Persons with Disabilities)
Maharashtra State, having his Office at 3)
Church Road, Pune – 1.)
- 6) District Handicapped Rehabilitation)
Officer, District Handicapped)
Rehabilitation Centre, Virar,)
District Palghar, Pin code 401 303.)...**Respondents**

**ORIGINAL APPLICATION NO.423 OF 2019
WITH
MISCELLANEOUS APPLICATION NO.256 OF 2020**

- 1) Shri Vijay Baliram Patil)
Age : 58 years, Occ. Govt. service,)
Rehabilitation Officer, DRC Virar,)
R/at. At P. Hamarapur, Tal. Wada)
Dist. Palghar : 401 404)
- 2) Shri Tulshidas Sambhaji Durge,)
Age : 58 years, Occ. Govt. service,)
Shoe maker cum lather worker,)
R/o. 303, Someshwar Co.Op. Hsg.)
Soc., Krushna -3, Khamdev Nagar,)
Dharavi, Mumbai 400 017)
- 3) Shri Uttam Rajaram Vhtkar,)
Age : 52 years, Occ. Govt. service,)
Multipurpose Rehabilitation)
Assistant, R/o. 103, A-wing, First)
Floor, Swati Co. Op. Hsg. Soc.)
Vrindavan Park, Opp. Philiya)
Hospital, At P. Tal. Dist. Palghar)
- 4) Shri Anil Dattatray Naik)
Age : 55 years, Occ. Govt. service,)
Multipurpose Rehabilitation)

- Assistant, R/o. 15-B, 206, Hugali)
Co.Op. Hsg. Soc. Near Saint Zeviar)
High School, Virar (West), Tal.Vasai)
Dist. Palghar.)
- 5) Shri Nelson Sti. Dicruze,)
Age : 55 years, Occ. Govt. service,)
Messenger/ Sweeper/ Chowkidar,)
R/o. House No.555, Zakira Smurti)
Dhigha cross, Ramedi Church,)
Vasai (W), Dist. Palghar – 401 201.)
- 6) Shri Bhagwan M. Patil,)
Age : 55 years, Occ. Govt. Service,)
Multipurpose Rehabilitation)
Therapist, R/o. A-33/14, Krushna)
Murari Co-Op. Hsg. Soc., Boisar)
(East), Tal. Dist. Palghar 401 501.)
- 7) Smt. Usha Bhalchandra Mhatre,)
Age : 55 years, Occ. Govt. Service)
Multipurpose Rehabilitation)
Assistant, R/o. At Kofrad, P.Aagashi)
Tal. Vasai, Dist. Palghar 401 302)
- 8) Shri Arun Hari Shinde,)
Age : 56 years, Occ. Govt. service)
Prosthetic & Orthotic Engineer)
Junior), R/o. B-03, Vedant Co.Op.)
Hsg. Soc. Sarnel Pada, Sopara (W))
Tal. Vasai, Dist. Palghar 401 203)
- 9) Shri Vijay Dattatray Hindurao)
Age : 55 years, Occ. Govt. service)
Multipurpose Rehabilitation)
Techician, R/o. Ramchandra Sadan)
Near Vidyamandir School, Savarkar)
Nagar, Manda, Titwala (East),)
Tal. Kalyan, Dist. Thane 421 605)
- 10) Shri Elais Benjamin Dibritto,)
Age : 54 years, Occ. Govt. service)
Stenographer (Lower Grade))

- R/o. Aishwarya, Chincodi Nanbhat)
Post. Sopara, Tal. Vasai,)
Dist. Palghar)
- 11) Smt. Kalpana Dattatray Chavan)
Age : 54 years, Occ. Govt. service,)
Clerk-Typist, Storekeeper,)
R/o. At. P. Chinchani, Wangaon)
Naka, Tal. Dahanu,)
Dist. Palghar 405 103)
- 12) Smt. Kanchan Kiran Purohit,)
Age : 54 years, Occ. Govt. service)
Assistant, R/o. Block No.1, A-wing,)
Nilraj Apartment, Near Philiya)
Hospital, At P. Tal. Dist. Palghar)
- 13) Shri Pravin Balchandra Vartak)
Age : 55 years, Occ. Govt. service)
Ear mould Technician, R/o. A-103,)
Yashwant Shilip, Viva College Road,)
Near Bank of India, Virar (West),)
Dist. Palghar : 401 303)
- 14) Shri Santosh Sahdev Mohite,)
Age : 43 years, Occ. Govt. Service,)
Driver cum attendant, R/o. B-204,)
Amit Exclave, Virar (East).)
- 15) Shri Kashinath M. Gharat,)
Age:60 years, Occ. Ret.Govt. servant)
Multipurpose Rehabilitation)
Assistant, R/o. At P. Kahniwade,)
Tal. Vasai, Dist. Palghar)
- 16) Smt. Pushpa A. Joshi,)
Age : 68 years, Occ. Ret.Govt. servant)
Multipurpose Rehabilitation)
Assistant, R/o. Room No.5, Classic)
Building, Near Shripral Complex,)
Virar (West), Tal. Vasai,)
Dist. Palghar.)

- 17) Smt. Pushpa K. Naik,)
Age : 68 years, Occ.Ret.Govt. servant)
Multipurpose Rehabilitation)
Assistant, R/o. At Navale, P. Nirmal)
Tal. Vasai, Dist Palghar)
- 18) Smt. Jayshri Narhari Agnihotri,)
Age : 64 years, Occ.Ret.Govt. servant)
Multipurpose Rehabilitation)
Assistant, R/o. Chandradeep)
Apartment, Behind IDBI Bank,)
Tal. Dist. Palghar)
)...Applicants

Versus

- 1) The State of Maharashtra,)
Through the Secretary,)
Social Justice & Special Assistant)
Department, Mantralaya,)
Mumbai 400 032.)
- 2) The Secretary, Finance Department,)
Mantralaya, Mumbai 400 032.)
- 3) The Secretary,)
General Administration Department,)
Mantralaya, Mumbai 400 032.)
- 4) The Commissioner,)
For Physically Handicapped)
(disabilities), Maharashtra State,)
Pune, 3, Church Road,)
Pune 411 001.)
- 5) District Handicapped Rehabilitation)
Officer, District Handicapped)
Rehabilitation Centre, Virar (West))
Dist. Palghar, Pin code 401 303.)
- 6) The Accountant General (A& E)-I,)
Maharashtra State, 101, Maharshi)
Karve Road, Mumbai 400 020.)
)...Respondents

Shri Makarand D. Lonkar, learned Advocate for the Applicant in O.A. No.498/2015 and O.A. No.505/2015.

Shri Chandrakant T. Chandratre, learned Advocate for the Applicant in O.A. No.423/2019 with M.A. No.256/2020.

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

**CORAM : Smt. Justice Mridula R. Bhatkar, (Chairperson)
Smt. Medha Gadgil, Member (A)**

DATE : 15.07.2022.

PER : Smt. Medha Gadgil, Member (A)

JUDGMENT

1. The Applicants were working on different posts at District Rehabilitation Centre, Virar under the Central Government Scheme found in 1986 & 1987. The Applicants who have been in service since 1986 were absorbed in the Government service in the year 2007 as per G.R. dated 12.07.2007 w.e.f. from 01.04.2006. There is a history of litigation. Initially first it was decided by Central Administrative Tribunal which held that these employees were Central Government employees. However, this decision was revised by **Hon'ble Supreme Court in Civil Appeal No.7999 of 2002 filed by District Rehabilitation Officer & Ors. v/s. Jay Kishore Maity & Ors. with Civil Appeal No.4313-4319 of 2003 and decided on 10.09.2006**, that they are not Central Government Employees. According to the Hon'ble Supreme Court they are part of State Government service conditions and thus they were absorbed in State Government services in the year 2007 w.e.f. 2006 and treated as State Government employees.

2. The petitioner approached this Tribunal for grant of all service benefits including Pension & Provident Fund etc. and their services as on, considering their initial Appointment in District Rehabilitation Centre when it was run by Central Government.

3. Learned P.O. submits that the Finance Department has already taken decision in the matter and same has been communicated to the Commissioner, Persons with Disabilities dated 12.07.2012 where it is stated,

“जिल्हा अपंग पुनर्वसन केंद्र, विरार येथील कर्मचा-यांना निवृत्ती वेतन योजना लागू करण्याबाबतचा प्रस्ताव मान्य करता येत नसल्याने अभिप्राय वित्त विभागाने दिलेले असून सदर संस्थेतील कर्मचा-याची सीपीएफ खाती उघडण्याबाबत तसेच संस्थेतून जे कर्मचारी सेवानिवृत्त झाले आहेत त्यांच्या सीपीएफ खात्यामध्ये जमा करण्यात आलेल्या रक्कमा परत करण्याबाबत आयुक्त, सीपीएफ यांच्या सल्ल्याने उचित कार्यवाही करावी, अशा सूचना वित्त विभागाने दिलेल्या आहेत.”

However, subsequently the Commissioner Shri Om Prakash, Persons with Disabilities sent the letter to the Principal Secretary, Social Justice dated 26.04.2022 and asked the Principal Secretary to take the policy decision regarding whether the pensionary benefits to be given to the Applicant and pension from the date of initial Appointment in Central Government can be made available to them.

4. After hearing, we understand that the Applicants were not covered in regular pension scheme. We note that the Applicants are not given benefits of Defined Contributory Pension Scheme (DCPS) though they were absorbed in 2007. We came across continuous correspondence between Finance Department, District Rehabilitation Centre and Accountant General about opening the account of these persons for making DCPS applicable to them. However, no final decision in the matter was taken by the concerned Department.

5. We do accept the submission made by learned P.O. that the Applicant's also neither approach the Tribunal nor approach the Government for grievance for not giving benefits of Contributory Pension Scheme, keeping this option open as it is not decided by the Tribunal.

6. We direct the Respondents to take decision in this matter according to Rules within a period of six months from today i.e. on or

before 15.01.2023 and thereafter the decision to be communicated to the Applicants within one week i.e. on or before 24.01.2023. We make it clear that all the contentions are kept open.

7. Accordingly, O.A. stands disposed of.

Sd/-
(Medha Gadgil)
Member (A)

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

Place: Mumbai
Date: 15.07.2022
Dictation taken by: N.M. Naik.