

**THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.104 OF 2017

**DISTRICT: Mumbai
Subject: Appointment**

- 1] Satyawan Waman Devrukhkar,]
Aged 42 Yrs,]
Working as Office Peon,]
R/O. Jagruti Mitra Mandal,]
Room No. 4, Datta Mandir,]
Vakola Bridge, Santacruz [E],]
Mumbai-55.]
- 2] Mr. Mahendra Suresh Bhatkar,]
Aged 41 Yrs,]
Working as Office Peon,]
R/O. 1/1, Narayan Sheth Chawl]
Kaju Hill, Behind Sai Mandir,]
Opp. Shiv Sena Office,]
Ghatkopar [West],]
Mumbai-400 084.]
- 3] Kishor Pandhari Pelane,]
Aged 37 Yrs,]
Working as Office Peon,]
R/O. C-604, Milap C.H.S.,]
Milan Subway, Santacruz [W],]
Mumbai-54.]

- 4] Ganesh Narayan Birari,]
Aged 32 Yrs,]
Working as Office Peon,]
R/O. Park View Apt,]
1st Floor, 102, Data Chowk,]
Belavali, Badlapur [West],]
Dist. Thane-421 503.]
- 5] Ankush Purushottam Sarang,]
Aged 48 Yrs, Working as Clerk]
Typist R/O. Building No. L/12,]
B/603, Vighnaharta C.H.S.]
Ltd., Near Pratiksha Nagar]
Bus Depot, Partiksha Nagar,]
Sion, Mumbai-400 022.]
- 6] Mr. Prashant Tanaji Rane,]
Aged 39 Yrs,]
Working as Office Peon,]
R/O. B-41, Iind Floor,]
Sunder Van Society,]
Varad Vinayak Lane,]
B.K. Vartak Chowk,]
Virar [East], Tal. Vasai,]
Dist. Palghar.]

- 7] Tanaji Tukaram Kumbhar,]
Aged 39 Yrs,]
Working as Clerk-Cum-Typist,]
R/O. Room No. 6, Samar Singh]
Chawl, Vivekanand Nagar,]
Vakola, Santacruz [E],]
Mumbai-55.]
- 8] Jeevan Narayan Kurale,]
Aged 43 Yrs,]
Working as Office Peon,]
R/O. Shastri Nagar, S.R.A.]
C.H.S., Room No. 18,]
2nd Floor, Abasaheb Shinde]
Road, Bandra [East],]
Akruti Tranzit Camp.]
- 9] Mr. Vinod Gangaram Mohite,]
Aged 34 Yrs,]
Working as Office Peon /]
Clerk-Cum-Typist,]
R/O. Parijat C.H.S., Room]
No. 06, 1st Floor, Kisan]
Nagar No. 03, Wagle Estate,]
Thane-04.]

- 10] Amar Balasaheb Suryawanshi,]
 Aged 39 Yrs,]
 Working as Social Worker,]
 R/O. Room No. 04, Navjivan]
 Chawl, Teen Murti, Devipada,]
 Near Tata Power House,]
 Borivali [E], Mumbai-66.]
- 11] Babasaheb Hindurao Desai,]
 Aged 32 Yrs,]
 Working as Office clerk ,]
 R/O. Kamgar Nagar No. 1,]
 Chawl No. 18, Beside Room No.]
 20, New Prabhadevi Road,]
 Prabhadevi, Mumbai-25.]
- 12] Shivprasad Anant Juwatkar,]
 Aged 32 Yrs,]
 Working as Clerk-Cum-Typist,]
 R/O. Room No. 3, Kadam Niwas,]
 Pereira Wadi, Near Marve]
 Beach, Marve, Malad [West],]
 Mumbai-95.]
- 13] Sameer Shantaram Sawant,]
 Aged 32 Yrs,]
 Working as Clerk-Cum-Typist,]
 R/O. Nandanvan C.H.S., L-7,]
 1st Floor, Room No. 104,]

- Pratiksha Nagar, Sion,]
Mumbai-22.]
- 14] Amit Ram Mane,]
Aged 28 Yrs, Working as Peon,]
R/O. Sheetaladhara C.H.S.,]
F-401, Plot No. 28,]
Sector No. 7, Kamothe,]
Navi Mumbai-410 209.]
- 15] Shrikant Shankar Bansode,]
Aged 39 Yrs, Working as Peon,]
R/O. Amrakunj Chawl,]
Mukund Nagar, Near Chakravati]
Buddha Vihar], P.L. Lokhande]
Marg, Chembur, Mumbai-400 089]
- 16] Manoj Pandurang Gawade,]
Aged 31 Yrs, Working as Peon,]
R/O. Khot Chawl, Room No. 7,]
Kranti Krida Mandal,]
Near Vasant Parab Marg,]
Bhatwadi Hill, Ghatkopar [W],]
Mumbai-400 084.]
- 17] Sanjay Arjun Pawar,]
Aged 33 Yrs, Working as clerk,]
R/O. Nav-Vasant-Bahar C.H.S.,]
3rd Floor, Room No. 302,]
Surya Nagar, Katrap,]
Badlapur [East], Dist. Thane.]

- 18] Sanket Vasant Pendhari,]
Aged 30 Yrs, Working as Peon,]
R/O. L-204, Mohan Nagar,]
Dahanukar Wadi,]
Datta Mandir Road,]
Ravi Mahajan Marg,]
Kandivli [W], Mumbai-67.]
- 19] Sanjay Dinkar Sawant,]
Aged 32 Yrs, Working as]
Clerk-Cum-Typist,]
R/O. 7/22, Khimji Nagji Chawl]
Senapati Bapat Marg,]
Lower Parel [West],]
Mumbai-400 013.]
- 20] Jagdish Pandharinath Tamboli,]
Aged 47 Yrs, Working as]
Clerk-Cum-Typist,]
R/O. Room No. 5,]
Laxmi Narayan Colony,]
Thankar Pada, Kalyan [W],]
Dist. Thane.]

- 21] Sushilkumar Ramakant Raut,]
Aged 34 Yrs, Working as Peon,]
R/O. Bazar Road,]
Satapati Bhandarail,]
Tal. Palghar, Dist. Palghar.]
- 22] Prathamesh Prakash Sawant,]
Aged 26 Yrs, Working as]
Civil Draughtsman,]
R/O. 1/115, Vrindavan Socy.,]
Opp. Jai Hind Cinema,]
Dr. B.A. Road,]
Chinchpokli [East],]
Mumbai - 400 012.]
- 23] Mr. Nikhil Popat Vetel,]
Aged 26 Yrs, Working as Peon,]
R/O. Sanjivani C.H.S.]
Committee, Hanuman Nagar,]
Akurli Road, Kandivali [E],]
Mumbai-400 101.]
- 24] Kiran Y. Jawale,]
Aged 28 Yrs, Working as]
Clerk-Cum-Typist,]
R/O.Room no.332,bldg no.10]
Near nirmal nagar police]
Station,Bandra (e)Mumbai-51]

- 25] Rushal Raghunath Patil,]
Aged 36 Yrs, Working as Peon,]
R/O. At Kolgaon, Post Dapoli,]
Near Saibaba Temple,]
Tal. & Dist. Palghar.]
- 26] Jayendra Devnath Tandel,]
Aged 36 Yrs, Working as Peon,]
R/O. B-144/1, Government]
Colony, Bandra [East],]
Mumbai - 400 051.]
- 27] Bhushan Jayram Mhatre,]
Aged 25 yrs, Working as Peon,]
R/O. At Bhramhan Karwale,]
Post Shrimalang Wadi,]
Tal. Ambarnath, Dist. Thane.]
- 28] Pravin Hindurao Pawar,]
Aged 34 Yrs, Working as Peon,]
R/O. B-124/7, Government]
Colony, Bandra [East],]
Mumbai-400 051.]
- 29] Rupali Damodar Mane,]
Aged 33 Yrs, Working as]
Clerk-Cum-Typist,]
R/O.A-5/302,Royal Park]
Near Navare Nagar.B-Cabin road]
Ambarnath(E),Dist-Thane]

- 30] Mayuri Ashok Shahir,]
Aged 29 Yrs, Working as Clerk]
R/O. 1/11, Bharat Building,]
3rd Floor, Room No. 41,]
Sonapur Lane, Chira Bazar,]
Mumbai-400 002.]
- 31] Trupti Anil Sawant,]
Aged 26 Yrs, Working as Clerk]
R/O. B-13/5, Government]
Colony, Near Udipi Hotel,]
Bandra [East], Mumbai-400 051]
- 32] Chetan Vijay Suravkar,]
Aged 28 Yrs, Working as]
Clerk-Cum-Typist,]
R/O. Ram Niwas, Kharkar Ali,]
Near N.K.T. College,]
Thane [W]-400 601.]
- 33] Priyadarshini Anil Chavan,]
Aged 42 Yrs, Working as]
Clerk-Cum-Typist,]
R/O. 1/11, Bharat Bldg.,]
Room No. 43, 3rd Floor,]
M.S.S. Lane, S.P. Marg,]
Chira Bazar, Mumbai-400 002.]

34] Smt. Varsha Vinod Mohite,]
 Aged 34 Yrs,]
 Working as Clerk-Cum-Typist,]
 R/O. Parijat C.H.S., Room]
 No. 06, 1st Floor, Kisan]
 Nagar No. 03, Wagle Estate,]
 Thane-04.]
 All are working in the office]
 of Slum Rehabilitation]
 Authority [SRA],]
 Having Office at 5th Floor,]
 Griha Nirman Bhawan,]
 New Administrative Building,]
 Anant Kanekar Marg Bandra [E]]
 Mumbai-51.].....Applicants

VERSUS

1] The Chief Executive Officer]
 / Secretary,]
 Slum Rehabilitation Authority]
 [SRA], Having Office at]
 5th Floor, Griha Nirman]
 Bhawan, New Administrative]
 Building, Anant Kanekar Marg,]
 Bandra [E], Mumbai-51.]

2] The State of Maharashtra,]
 Through Principal Secretary,]
 Housing Department,]
 Having Office at Mantralaya,]
 Mumbai – 400 032.] RESPONDENTS

Shri B. A. Bandiwadekar, Advocate for the Applicants.
 Shri K. R. Jagdale, Advocate for the Respondent No.1.
 Shri A. J. Chougale, Presenting Officer for the Respondent No.2

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

RESERVED ON : 23.01.2024

PRONOUNCED ON : 26.02.2024

PER : Smt. Medha Gadgil, Member (A)

JUDGEMENT

1. In this Original Application, the Applicants who are working with Slum Rehabilitation Authority (SRA) seek regularization of their services in Group 'C' and Group 'D' posts held by them from initial date of their appointment with all consequential service benefits.

2. Shri B. A. Bandiwadekar, learned Advocate for the Applicants points out that the Applicants are Group 'C' and Group 'D' employees and were appointed on regular basis in the establishment of Respondent No.1 for which the Respondent No1 exercised powers under Section 3(l) of the Maharashtra Slum (improvement, Removal and Re-Development) Act 1971 (hereinafter referred to as 'SLUM ACT 1971' for brevity). This was followed by G.R. dated

28.05.1998 issued by Respondent No.2 creating 147 posts by exercising powers under Section 164 and 19(2) of the Maharashtra Housing and Area Development Act, 1976 r/w G.R. dated 20.03.1989 (page 15). Learned Counsel for the Applicants states that Slum Rehabilitation Authority (SRA) is controlled by the State Government and came to be established under the provisions of 'SLUM ACT 1971'. He, therefore, states that the case of the Applicants is fully covered under the provisions of Section 15 of the Administrative Tribunal Act, 1985. Thus, according to learned Advocate there existed relationship of master and servant between the State Government and the Petitioners.

3. Learned Advocate for the Applicants relies on following judgments :-
- a) *AIR 1995 SCC 1636 (R. N. Britto V/s Chief Executive Officer & Ors.)*
 - b) *1991 (1) MH.L.J.1204 (Gangaram Topaji Hupade V/s Digamber S. Kanwale & Ors.)*
 - c) *2023 SCC Online Bom 2087 (Samajik Vikas Prabhodhni & Ors V/s State of Maharashtra & Ors.)*

4. In case of **R.N. Britto** (cited supra), it is held that Secretaries of Panchayat established under Karnataka Village and Local Boards Act where held to be Government Servants. It was stated in the said judgment that there existed a relationship of master and servant between the said government and appellant and thus it was held that secretaries of Panchayat is a person. Para 8 of the said judgment is relevant which is reproduced as under :-

“8. The above excerpts reproduced from the judgment of two Constitution Benches of this Court since furnish the relevant criteria of factors which should form the basis for deciding the question as to when a person in the service of the State or in the civil post under the State could be regarded a servant of the State (a Government Servant) as

envisaged in Article 311 of the Constitution, we shall regard that criteria or factors, as ought to be done, to be a proper basis to determine whether the appellant appointed as Secretary of a Panchayat is a person in service of the State or in civil post under the State envisaged under clause (b) of sub-section (1) of Section 15 of the Tribunal Act, a government servant (servant of Karnataka State) and proceed accordingly.”

5. Learned Advocate further placed reliance on the judgment of the Hon’ble Supreme Court in **W.P. No.3854 of 2023 & Ors** (cited supra). It is apposite to reproduced para 52 of the said judgment which is as under :-

“52. On a reading of Section 15 of the Tribunal Act, it is very clear that the Tribunal has jurisdiction not only in respect of service matters but also in respect of any matter in relation to recruitment and matters concerning recruitment to any civil service of the State or to any civil post under the State. In these circumstances, any person having any dispute or complaint in relation to such recruitment can definitely approach the State Tribunal by virtue of the provisions of Section 15 of the Tribunal Act and it is not only government employees who can approach the Tribunal.”

6. Shri K. R. Jagdale, learned Advocate for the Respondent No.1 takes preliminary objection about the maintainability of the present O.A. Learned Advocate Shri Jagdale for Respondent No.1 states that employees of SRA are not covered by section 15(1) of the Administrative Tribunal Act, 1985 as the State Government has not issued any notification under sub-section (2) of section 15 of the Administrative Tribunal Act, 1985 to bring the employees of SRA under sub-section (3) of Section 15 of the Act. Therefore, this Tribunal has no jurisdiction to entertain any OA filed by an employee of SRA. He placed reliance on Affidavit in Reply filed by Shri Sandeep Deshmukh, Secretary of Slum Rehabilitation Authority, dated 21.07.2023. Learned Advocate for Respondent No.1 states that while it is not disputed that SRA is established under the provision of Maharashtra Slum Area (Improvement, Clearance, and Redevelopment) Act, 1971. It is denied that under Section 3(a) of the said

SLUM Act, the Respondent No.1 is empowered to appoint such officers and servants subordinate to him as it considered if necessary. There is no such Section 3(a) in the Slum Act nor there is any provision in the said Act as claimed. As per the policy decision the employees like Applicants are taken/appointed on contract basis as may be required from time to time.

7. Shri K. R. Jagdale, learned Advocate for Respondent No.1 submits that no Notification under Section 15(2) of the Administrative Tribunal Act, 1985 has been issued which would bring the employees of SRA under the jurisdiction of this Tribunal.

8. Shri K. R. Jagdale, learned Advocate for Respondent No.1 relies on following judgment :-

- a) *O.A. No.543/2017 (Ms Pritika A. Patil V/s State of Maharashtra & Ors.)*
- b) *2011 (5) ALT 337 High Court of Andhra Pradesh (B. Satyanarayana V/s A. P. Administrative Tribunal & Ors.)*
- c) *O.A.962/2014 (Smt. Deepa B. Chitale V/s State of Maharashtra & Anr.)*
- d) *O.A.No.1134/2013 (Mr. Sandeep B. Sanap V/s State of Maharashtra & Ors.)*

9. Shri A. J. Chougule, learned P.O. refutes contentions of the learned Advocate for the Applicants. He points out that this O.A. is not maintainable as no notification as required under Section 15(2) of the Administrative Tribunal Act, 1985 has been issued bringing the SRA under the jurisdiction of this Tribunal. He relies on following judgments :-

- a) *M.A.No.67/2007 in M.A.51/2007 with O.A.90 & 91/2007 with O.A.108/2007 with O.A.109/2007 (Diwakar M. Prasad & Ors. v/s State of Maharashtra & Ors.)*
- b) *O.A. No.972/2012 (Dr. Shri Jayant S. Chiwhane V/s State of Maharashtra & Ors.)*
- c) *O.A.962/2014 (Smt.Deepa B. Chitale V/s State of Maharashtra & Ors.)*
- d) *O.A.1068/2018 (Mr. S. P. Shinde V/s State of Maharashtra & Ors.)*

10. We have carefully gone through the submissions of both sides. Before going into merits of the case, it is necessary to look into the question of jurisdiction of this Tribunal. As regards the jurisdiction of the Tribunal, admittedly, the Applicants who were contractual employees of Slum Rehabilitation Authority (SRA) are not Government Employees. This Authority has been created by the Maharashtra Slum Areas (Improvement, Clerance and Redevelopment) Act, 1971. By Notification dated 16.12.1995, this Authority has been constituted by the Government of Maharashtra in exercise of power under sub-section (1) and (2) of Section 3-A of the aforesaid Act. The employees of SRA are not covered by Section 15(1) of the Administrative Tribunal Act, 1985 as the State Government has not issued any Notification under sub-section (2) of Section 15 of Administrative Tribunal Act, 1985 to bring the employees of SRA under sub-section (3) of Section 15 of the Act. They are not State Government employees amenable to jurisdiction of this Tribunal.

11. Section 15 of the Administrative Tribunal Act,1985 provides for jurisdiction power and authority of State Administrative Tribunal is as under:-

"15. JURISDICTION, POWERS AND AUTHORITY OF STATE ADMINISTRATIVE TRIBUNALS. -

*(1) Save as otherwise expressly provided in this Act, Administrative Tribunal for a State shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court 1[***]in relation to -*

(a) recruitment, and matters concerning recruitment, to any civil service of the State or to any civil post under the State;

(b) all service matters concerning a person [not being a person referred to in clause (c) of this sub-section or a member, person or civilian referred to in clause (b) of sub-section (1) of section appointed to any civil service of the State or any civil post under the State and pertaining to the service of such person in connection with the affairs of the State or of any local or other authority under the control of the State Government or of any corporation or society owned or controlled by the State Government;

(c) all service matters pertaining to service in connection with the affairs of the State concerning a person appointed to any service or post referred to in clause (b), being a person, whose services have been placed by any such local or other authority or corporation [or society] or other body as is controlled or owned by the State Government at the disposal of the State Government for such appointment.

(2) The State Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of sub-section (3) to local or other authorities and corporations or societies controlled or owned by the State Government :

Provided that if the State Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different classes of, or different categories under any class of local or other authorities or corporations [or societies].

*(3) Save as otherwise expressly provided in this Act, the Administrative Tribunal for a State shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation, all the jurisdiction, powers and authority exercisable immediately before that date by all courts (except the Supreme Court [***] in relation to -*

(a) recruitment, and matters to recruitment, to any concerning service or post in connection with the affairs of such local or other authority or corporation [or society]; and

(b) all service matters concerning a person [other than a person referred to in clause (b) of sub-section (1) of this section or a member, person or civilian referred to in clause (b) of sub-section (1) of section 14 appointed to any service or post in connection with the affairs of such local or other authority or corporation or society and pertaining to the service of such person in connection with such affairs.

(4) For the removal of doubts, it is hereby declared that the jurisdiction, powers and authority of the Administrative Tribunal for a State shall not extend to or be exercisable in relation to, any matter in relation to which the jurisdiction, powers and authority of the Central Administrative Tribunal extends or is exercisable"

(emphasis placed)

12. It is thus explicit that jurisdiction of the Tribunal is in relation to service matters to any civil post under the State. As per Section 15(2), it is only in case of issuance of Notification by the State Government, service matters pertaining to services to local or other authorities and corporations controlled or owned by the State Government, the Tribunal can exercise its jurisdiction. In the present case, there is no such notification as contemplated under Section 15(2) of Administrative Tribunal Act, 1985. This being clear position on the point of jurisdiction, the O.A. is not maintainable. The reliance placed on the decision in ***AIR 1995 SCC 1636 (R. N. A. Britto v/s Chief Executive Officer and Ors)*** is totally misplaced. In that case, the Applicant was appointed as a Secretary of Bajpe Panchayat established under the provisions of Karnataka Village and Local Boards Act, 1959. The Hon'ble Supreme Court held that several functions which were required to be performed by the State are entrusted to Panchayat as well as funds of Panchayat are of the Government and those were collected by way of tax. Therefore, the employees of Panchayat were held as State Government servants amenable to jurisdiction of Karnataka State Administrative Tribunal. However, in present case, the Applicants were contractual employee of Slum Rehabilitation Authority (SRA) and as per Section 15 of the Administrative Tribunal Act, 1985, employees of SRA are not entitled to seek relief before this Tribunal. Therefore, in our considered opinion, the said decision is of no assistance to

the Applicant in present facts. We do not find it necessary to discuss the other two rulings as the Applicant has relied heavily on the case of ***Britto (supra)***. On the other hand, the ratio laid down in the case of ***B. Satyanarayana (supra)*** where the clerk in Andhra Pradesh State Road Transport Corporation (APSRTC) moved the application before the Administrative Tribunal for redressal of his grievance. The Hon'ble Supreme Court has held that the employees of APSRTC are not entitled to approach the Administrative Tribunal and no original Application to such employee can be entertained by the Tribunal unless and until the Notification is issued by the Government of Andhra Pradesh under Section 15(2) of the Andhra Pradesh Administrative Tribunal Act. The Hon'ble Supreme Court further clarified that specific exclusion of certain class of the Government servants i.e. from Naval, Arm Forces, Court employees etc. cannot be read as inclusion of all others civil employees before the Tribunal.

13. Thus, it is seen that the provision of Section 15 of the Administrative Tribunal Act, 1985 are clearly enough to show that the employees or persons whose services are engaged on contract by Respondent No.1 do not fall under the caption of 'Civil Services' or any of the categories as mentioned in the clause 'b' & 'c' of sub section 1 of Section 15 of Administrative Tribunal Act, 1985. Sub Section 2 of Section 15 provides that State Government can make provisions applicable to local or other authorities by Notification in official Gazettee. The Respondent No.1 functions under the provisions of Slum Act. The State Government has not yet issued such notification under Sub-Section

2 of Section 15 which will be applicable to the establishment of Respondent No.1.

14. The totality of the aforesaid discussion leads us to conclude that this Tribunal does not have the jurisdiction to decide the issue raised by the Applicants. We, therefore, pass the following order :-

ORDER

- (A) Original Application is dismissed for want of jurisdiction.
- (B) No order as to costs.

**Sd/-
(Medha Gadgil)
Member (A)**

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