

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.1131 OF 2018**

District : Sangli

Mr. Babasaheb Dhondiram Chavan, )  
R/o Koli Plot No.5, Shinde Mala, )  
Sangli )

**...APPLICANT**

**VERSUS**

1. The Commissioner, )  
State Excise, M.S. Mumbai )  
Old Custom House, 2<sup>nd</sup> floor, )  
Shahid Bhagat Singh Road, )  
Fort, Mumbai 23 )

2. The Superintendent of State )  
Excise, 29, Vacant Colony, )  
Sangli. )

3. The District Collector, Sangli )

**...RESPONDENTS**

Mr. K.R. Jagdale, learned Advocate for the Applicant.

Mr. A.J. Chougule, learned Presenting Officer for the Respondents.

**CORAM** : **Justice Mridula Bhatkar (Chairperson)**  
**Ms. Medha Gadgil (Member) (A)**

**DATE** : **24.04.2023.**

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

1. The Applicant prays that Respondents be directed to appoint the applicant as Driver-cum-jawan or jawan as the case may be with all consequential service benefits.

2. Applicant had applied for the post of Driver-cum-Jawan or Jawan in State Excise Department. He was working on daily wages as Vehicle Driver and also worked in the capacity of constable in the year 2007 and 2009. On 18.02.2010 Applicant's name was recommended to the Respondent No.2, the Superintendent of State Excise, Sangli for his reappointment on the post of Driver. The Government of Maharashtra vide letter dated 05.03.2010 directed the Respondent No.1 to do the needful for Applicant's appointment and report the same to them. The applicant worked under the Respondent no.2 at Inspector State Excise, Miraj on the post of Driver-cum-jawan. He received last pay salary as on April 2012 from the Respondent No.2, the Superintendent of State Excise. As no action was taken, the applicant submitted the reminder application dated 11.01.2011 in the office of Respondent No.1, the Commissioner, State Excise requesting for his reappointment on the post of Driver. However, without considering the Government of Maharashtra letter dated 05.03.2010 Respondent No.1 communicated the applicant that there is no such provision to appoint the applicant on daily wages. Thereafter the applicant submitted various representations

3. Learned Advocate for the Applicant has submitted that in the year 2017 he was paid by cash. Learned Advocate has submitted that there are six vacancies in State Excise Department. Learned Advocate has relied on the following judgments :

- (i) Hon'ble High Court of Judicature at Bombay in Writ Petition No.3199/2099 dated 24.10.2023 filed by Sampat P. Zele & Ors. Versus Commissioner of Prohibition and State Excise, Mumbai

- (ii) O.A.No.471/2000, dated 19.01.2001, Mr. P.G. Gawade Versus The State of Maharashtra, through Addl. Chief Secretary, Home Department & Anr.
- (iii) O.A.No.70/2003, dated 22.01.2004, Mr. Nazir Habib Shaikh Versus The State of Maharashtra, through Secretary, State Excise Department, Mantralaya.
- (iv) O.A.No.1763/2004, dated 10.06.2005, Mr. Rashid Abdul Hamid Shaikh Versus The State of Maharashtra, through the Add. Chief Secretary Home (Excise) Department & Ors.

4. Learned P.O. for the Respondents relies on the affidavit-in-reply dated 16.09.2019 filed on behalf of Respondent No.2, through Kriti Bhausahab Shedge, Superintendent in the office of State Excise Sangli. He has submitted that the appointment of driver was on daily wages and on temporary basis. It is true that he was recommended for reappointment. By letter dated 15.01.2011, Respondent No.1, the Commissioner, State Excise, M.S. Mumbai directed the Applicant to apply when the fresh recruitment process will commence. Learned P.O. has submitted that on 06.04.2011 the Applicant had moved another representation. It is submitted that the applicant took part in the regular recruitment process. Learned P.O. has submitted whenever there is requirement of staff the persons are taken on temporary or daily wages by the concerned Department. But these persons cannot claim any vested right as they are appointed on daily wages. It is further stated that other few employees who were appointed and later regularized as mentioned in paragraph 7.3 of the O.A. are different. The similar or regular record of the duty of the applicant is not available.

5. In the judgment of Zele (supra) the Hon'ble High Court held that the Petitioners working during the period from 1990 to 2012 were appointed by giving artificial breaks every year. The Petitioners relied on the G.R. dated 08.03.1999 which deals with regularization of temporary employees in the State Government. The said Petitioners have challenged in M.A.T. by filing the O.A. By order dated 08.04.1999, this Tribunal disposed of the O.A. directing the Respondents to send the requisition to the Committee constituted as per G.R. dated 19.08.1993. The Tribunal also directed that it will be open for the Petitioners to apply for the posts occupied by them in pursuance of advertisement issued either by the Committee constituted as per the G.R. dated 19.08.1993 or the Regional Selection Board. The Tribunal recommended that if the Petitioners are found fit for selection they would be entitled for the condonation of age for the period for which they were working. The Tribunal also directed that the Petitioners are not to be displaced or replaced by any other adhoc appointees. In the said case, since the Petitioners were regularized from 01.10.2012, they were permitted to make representation from the date of their initial appointment. The order passed in the case of Zele (supra) is not applicable in the present case as the applicant's case is not similar. In O.A.No.471/2000, the Respondents were directed to give the benefit of G.R. dated 08.03.1999 and also pay the difference in pay. In O.A.No.70/2003 it was directed that as and when the regular vacancy arises, the case of the applicant is to be considered. The period of service the applicant has put in, is to be counted on the regular basis for age relaxation. In O.A.No.1763/2004 the applicants were appointed on temporary basis on 08.06.2000 for the

period of 29 days. They were given technical breaks. It was admitted by the Respondents that the applicants were appointed as Driver and not Driver-cum-Constable in Solapur site. These all rulings are not useful to the applicant.

6. We are of the view that the Applicant has no right for any legal claim on the impugned post of the Driver-cum-jawan. The case of the applicant is sans merit.

7. O.A. stands dismissed.

Sd/-

**(Medha Gadgil)**  
**Member (A)**

Sd/-

**(Mridula Bhatkar, J.)**  
**Chairperson**

prk