

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**M.A.NO.211/2023 in ORIGINAL APPLICATION NO.116/2021 with  
M.A.NO.215/2023 in ORIGINAL APPLICATION NO.823/2022**

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**ORIGINAL APPLICATION NO.116/2021 WITH M.A.NO.211/2023**

Mr. Shrikrishna Shivram Bhusare )  
Working as Jailor Grade-I, Brostal School, )  
Near CVS, Nashik ) **...APPLICANT**

**VERSUS**

1. The State of Maharashtra, )  
Through Principal Secretary, )  
(Prison), Home Department, )  
Having office at Mantralaya, )  
Mumbai 400 032 )

2. The Additional Director, )  
General of Police and Inspector )  
General of Prisons, M.S. office at )  
Old Central Building, 2<sup>nd</sup> floor, )  
Pune 1 ) **....RESPONDENTS.**

**WITH**

**ORIGINAL APPLICATION NO.823/2022 WITH M.A.NO.215/2023**

Mr. Abasaheb Trymbak Patil )  
Working as Jailor Grade-I, Byculla District )  
Prison, Byculla, Mumbai 8 )  
R/o. Pratapgarh Building, Second Floor, )  
Room No.3, Byculla, Mumbai. ) **...APPLICANT**

**VERSUS**

1. The Additional Director General )  
General of Police and Inspector )  
General of Prisons and Correction of )  
Services, M.S., Pune having office at )  
Old Administrative Building, )  
Building No.2, Pune 1 )
2. The State of Maharashtra, )  
Through Additional Chief Secretary, )  
Home Department (Prisons), having )  
Having office Madam Cama Road, )  
Opp. Mantralaya, Mumbai 400 032 ) **....RESPONDENTS.**

Mr. Bhushan A. Bandiwadekar, learned Advocate for the Applicants.

Ms. K.S. Gaikwad, learned Presenting Officer for the Respondents.

**CORAM** : **Justice Mridula Bhatkar (Chairperson)**

**DATE** : **27.04.2023.**

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

1. M.A.No.211/2023 and M.A.No.215/2023 are filed seeking directions to dispose of O.A.No.116/2021 and O.A.No.823/2022 in terms of the decision of M.A.T. Bench Aurangabad by order dated 08.02.2023 passed in O.A.No.25/2019.

2. By consent of both the parties, M.A.No.211/2023 and M.A.No.215/2023 are allowed & O.A.No.116/2021 and O.A.No.823/2022 are heard in terms of the decision dated 08.02.2023 O.A.No.25/2019, Dnyaneshwar Dashrath Kale Versus The State of Maharashtra & Ors. rendered by M.A.T. Bench Aurangabad.

3. Learned Advocate for the Applicants pray that Applicant in O.A.No.25/2019 is similarly situated as the present applicants and therefore present Applicants in O.A.No.116/2021 and O.A.No.823/2022 be promoted to the post of Deputy Superintendent Central Prison, Group-B with all consequential service benefits.

4. Learned Advocate for the Applicants has submitted that the Applicants are working as Jailor Grade-1. The Applicants have not passed the Departmental Examination of Executive Officer Qualifying Examination. Applicants were not considered for promotion. Learned Advocate has submitted that as per Rule 4(a) of the Maharashtra Prison Department (Executive Officers Qualifying Examinations) Rules, 1977 (hereinafter referred as EQE Rule, 1977 for brevity), the Applicant become entitled for exemption from passed the Departmental Examination on attaining the age of 48 years of age and as per G.R. dated 01.11.1977 the said exemption is granted from 45 years of age.

5. Learned Advocate for the Applicants has submitted that the Division Bench of M.A.T. Bench Aurangabad by order dated 08.02.2023 passed in O.A.No.25/2019 in favour of Applicant by name Mr. Dnyaneshwar Dashrath Kale on identical issue in respect of exemption in Departmental Examination after attaining the age of 48 years and his name was to be considered for the promotional post of Deputy Superintendent. Based on the said judgment this Tribunal had dealt with the similar issue in O.A.No.1017/2018 by order dated 17.04.2023 filed by Mr. Vilas Pandit Kapade Versus The State of Maharashtra & Anr.

Learned Advocate has submitted that the Applicant in O.A.No.116/2021, Mr. S.S. Bhusare stands at serial No.1 and Applicant in O.A.No.823/2022, Mr. A.T. Patil stands at serial No.36 in the seniority list as on 01.01.2014. However, they are pushed down.

6. Learned C.P.O. for the Respondents relies on the affidavit-in-reply dated 13.12.2021 filed on behalf of Respondents No.1 & 2 through Mr. Nitin Krishna Neman, Personal Assistant to Special Inspector General of Police (Prison), South Region. While opposing these O.As. she submit that the applicants Mr. S.S. Bhusare and Mr. A.T. Patil are now placed at serial Nos.73 and 40 respectively. They are pushed down as they have not cleared Departmental Examination which is compulsory.

7. I have gone through the judgments dated 08.02.2023 and 17.04.2023 and passed in O.A.No.25/2019 and O.A.No.1017/2018 respectively. In the judgment in O.A.No.1017/2018 it is held that,

“6. We have gone through the judgment. Similar issue of exemption under Rule 4(a) of the EQE Rule, 1977 was raised before the Division Bench at the Aurangabad Bench. The Applicant is similarly situated person. The specific directions are given by the Division Bench in the said judgment as are applicable to the present applicant as well,

‘Similar benefits may be extended to similarly situated Executive Officers in service on the date of passing of this order, who are not before this Tribunal.’

8. The learned P.O. on instructions has submitted that the applicants are similarly situated persons like Mr. Dnyaneshwar Dashrath Kale, Applicant in O.A.No.25/2019.

9. In view of above, following order is passed :

**O R D E R**

- (a) O.A.No.116/2021 with O.A.No.823/2022 are allowed.
- (b) Applicant, Mr. S.S. Bhusare in O.A.No.116/2021 is to be placed at Sr. No.1 and Applicant, Mr. A.T. Patil in O.A.No.823/2022 is to be placed at Sr. No.36 in the seniority list as on 01.01.2014.
- (c) Applicants are to be considered for promotion to the post of Deputy Superintendent Central Prison, Group-B.
- (d) Applicants are to be granted notional promotion i.e. deemed date of promotion, but they are not entitled to pecuniary benefits.
- (e) The said order is to be complied with on or before 15.06.2023.

Sd/-

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

prk