

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.1163 OF 2017 WITH  
ORIGINAL APPLICATION NO.1164 OF 2017 WITH  
ORIGINAL APPLICATION NO.1165 OF 2017**

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**O.A.No.1163/2017**

Mr. Shivaji Yashavant Rambade )  
At the post of Awal Karkun, )  
In the office of District Collector of )  
Mumbai, Old Custom House, Shahid )  
Bhagatsing Marg, Fort, Mumbai 400 001 ) **....APPLICANT**

**VERSUS**

District Collector of Mumbai, )  
Old Custom House, )  
Shahid Bhagatsing Marg, )  
Fort, Mumbai 400 001 ) **....RESPONDENT**

**WITH**

**O.A.No.1164/2017**

Mr. Vijay Laxman Angre )  
At the post of Awal Karkun, )  
In the office of District Collector of )  
Mumbai, Old Octroi House, Shahid )  
Bhagatsing Marg, Fort, Mumbai 400 001 ) **....APPLICANT**

**VERSUS**

District Collector of Mumbai ) **....RESPONDENT**

**WITH**

**O.A.No.1165/2017**

Mr. Sunil Keshav Jadhav )  
 At the post of Awal Karkun, )  
 In the office of District Collector of )  
 Mumbai, Old Octroi House, Shahid )  
 Bhagatsing Marg, Fort, Mumbai 400 001 ) **....APPLICANT**

**VERSUS**

District Collector of Mumbai ) **....RESPONDENT**

Mr. Ashok Tajane holding for Mr. K.P. Shinde, learned Counsel for the Applicants.

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

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

**DATE** : **21.09.2023.**

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

1. In these three Original Applications all the Applicants working on the post of Awal Karkun in the office of District Collector, Mumbai challenge the show cause notice dated 14.12.2017 reverting the Applicants to the post of Peon issued by the Respondent as to why they should not be reverted from the post of Clerk-cum-typist on the ground that they did not pass the MS-CIT.

2. It is admitted fact that all these applicants did not clear the examination of MS-CIT within the stipulated period of two years after their appointment to the post of Clerk-cum-typist. It is also admitted fact that all these Applicants after receipt of this show cause notice

dated 14.11.2017 appeared for the examination and secured the certificate of MS-CIT in the month of February and April, 2018. Thus,

Applicant in O.A.No.1163/2017 after acquiring the certificate in MS-CIT worked for more than one year and retired on 31.05.2019,

Applicant in O.A.No.1164/2017 after acquiring the certificate in MS-CIT worked for five years and retired on 11.01.2023 and

Applicant in O.A.No.1165/2017 is still in service and working on the post of Awal Karkun, will retire on 31.10.2026.

3. Learned Counsel for the Applicants has submitted that the Applicants in O.A.Nos.1163, 1164 and 1165 of 2017 were appointed on compassionate ground on 05.01.1984, 04.11.1985 and 02.02.1987 respectively. Learned Counsel has submitted that today the Applicants have completed more than 30 years of service. The Applicants in O.A.Nos.1163 and 1164 of 2017 have retired on 31.05.2019 and 11.01.2023 resp. and Applicant O.A.No.1165/2017 is at the fag end of retirement which is on 31.10.2026. The Applicants in O.A.Nos.1163 & 1164/2017 are deprived of their pensionary benefits on account of pendency of these matters and so also Applicant in O.A.No.1165/2017 who is going to retire is also going to face the same problem. Learned Counsel has relied on the order **dated 21.12.2022 passed by the Bombay High Court in Writ Petition No.12555/2019, The District Collector of Mumbai City Versus Vijaya Homanand Kelkar.** Learned Counsel has further submitted that after 33 years of service such notices of reversion are issued by the Respondent and hence they are illegal and not maintainable and they are to be quashed and set aside. Learned

Counsel has further submitted that after issuance of the notices in apprehension to the said reversion the Applicants have approached this Tribunal by filing O.A.Nos.1105, 1106 and 1107 of 2017 and this Tribunal by interim order dated 30.11.2017 has granted relief and the Applicants were permitted to appear for the ensuing examination of MS-CIT. Learned Counsel has submitted that though the orders of reversion were issued on 14.17.2012, in view of the interim order dated 30.11.2017 Applicants were allowed to appear for the ensuing MS-CIT examination and impugned order was stayed till final disposal of the said O.As.

4. Learned Presenting Officer has relied on the affidavit-in-reply filed on behalf of Respondent, through Mr. Prashant G. Thakare, Tahsildar in the office of Collector, Mumbai. Learned Presenting Officer for the Respondent while defending the orders of reversion has submitted that it was mandatory on the part of the Applicants to clear the MS-CIT examination and obtain the certificate accordingly within two years after their appointment on the post of Clerk-cum-typist. As the Applicants failed to comply with the said condition which is contemplated as per G.R. dated 10.05.2005 the Respondent has rightly issued the notices of reversion after giving them show cause notice. Relevant portion of G.R. dated 10.05.2005 reads as below :

“२. गट “ड” मधील कर्मचारी गट “क” मध्ये पदोन्नत हेण्यापूर्वी जर त्याने संगणकाची अर्हता प्राप्त केली नसेल तर गट “क” मधील पदावरील नियुक्तीपासून २ वर्षांच्या काळात विहित संगणक ज्ञानाची अर्हता त्यास प्राप्त करावी लागेल. अन्यथ: त्याला गट “ड” मधील पदावर पदावनत व्हावे लागेल.”

Hence, action of the Respondent of reverting the Applicants to the post of Peon is fully justified.

5. It is admitted fact that the Applicants did not clear the examination within two years of their appointment as contemplated in the G.R. dated 10.05.2005. The Applicants in O.A.No.1163, 1164 and 1165/2017 were appointed on compassionate ground as Peon on 01.06.1961, 19.01.1965 and 28.10.1968 resp. The Applicants in O.A.No.1163, 1164 and 1165/2017 were promoted to the post of Clerk-cum-typist by orders dated 01.09.2009, 25.05.2010 and 27.10.2009 respectively. Thereafter the Applicants were promoted to the post of Awal Karkoon by orders dated 17.08.2012, 07.02.2014 and 07.02.2014 respectively. The Applicants in O.A.Nos.1163 & 1164/2017 have retired on 31.05.2019 and 11.01.2023 and Applicant in O.A.No.1165/2017 is due to retire on 31.10.2026. All the Applicants cleared the MS-CIT examination in the month of February, 2018 and April, 2018. As per this G.R. Applicants in O.A.Nos.1163, 1164 and 1165/2017 was supposed to clear the MS-CIT examination by 01.09.2011, 25.05.2012 and 27.10.2022 and the Applicants completed 50 years of age on 01.06.2011, 19.01.2015 and 28.10.2018 respectively. However, all the applicants completed their MS-CIT. Notices of reversions to all the Applicants were given on 12.10.2017 i.e. after 33 years, 32 years and 30 years i.e. after the two years period to pass the MS-CIT examination was exhausted. The Respondent issued show cause notices dated 14.12.2017 to the applicant, copy wherein is at page 85, 92 and 93 reverting them to the post of Clerk-

cum-typist on account of their failure to clear MS-CIT examination. Though the Applicants did not clear the MS-CIT examination within two years after their appointment on the post of Clerk-cum-typist the Respondent did not issue notices of reversion which was in fact necessary. It is not so that the notices of reversion were not issued, but on the other hand they were all given further promotions to the post of Awal Karkoon. Thus, considering the facts of the case we are of the view that the Respondent allowed them to continue their service on the promotional post and thereafter gave promotion from 2011 till 2017. Further, they were continued on account of the interim order of the Tribunal. Thus, all of them have rendered their services on this promotional post and accordingly were paid. Thus, there is no point now in reverting them back at this fag end and moreover the Respondent itself has continued and retained them for long term of five to six years on the promotional post of Clerk-cum-typist and Awal karkoon. Thus, considering the equity, we are of the view that order dated 21.12.2022 passed in Writ Petition No.12555/2019 by the Bombay High Court, wherein the Tribunal has recommended similarly situated Petitioners who have also failed to clear MS-CIT, the Hon'ble High Court while confirming the order of the Tribunal has taken into account the long period of service of 24 years rendered by the Petitioners. The Petitioner was also appointed on compassionate ground like the present Applicants. The present Applicants have also cleared MS-CIT examination like the said Petitioner.

6. In view of above, we pass the following order :

(a) O.A. is allowed.

(b) Respondent is directed to clear the pension papers in respect of the applicants who have retired at the earliest.

Sd/-

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

prk

Sd/-

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

