IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO 31 OF 2014

DISTRICT : RAIGAD

Shri Pratap Dasuji Rathod,)
Working as Circle Officer,)
In the office of the Collector,)
Raigad.)
Add for service of notice:)
Shri A.V Bandiwadekar,)
Advocate for the Applicant,)
Having office at 9, "Ram Kripa",)
Lt Dilip Gupte Marg, Mahim,)
Mumbai 400 016. ...**Applicant**

Versus

1. The Divisional Commissioner,)
   Konkan Division, having)
   Office at Konkan Bhavan,)
   Navi Mumbai 400 614.)
2. The State of Maharashtra,)
   Through Addl. Chief Secretary)
   Revenue Department,)

Mantralaya, Mumbai 400 032.)

3. Shri L.G Chavan,)
Working as Circle Officer,)
In the office of the Collector,)
Dist-Thane.)

4. Shri S.R Korvi,)
Working as Circle Officer,)
In the office of the Collector,)
Sindhudurg.)...**Respondents**

Shri A.V Bandiwadekar, learned advocate for the Applicant.

Shri N.K. Rajpurohit, learned Chief Presenting Officer for the Respondents no 1 & 2.

None for Respondents no 3 & 4.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)
Shri R.B. Malik (Member) (J)

DATE : 04.01.2016

PER : Shri Rajiv Agarwal (Vice-Chairman)

O R D E R

1. Heard Shri A.V Bandiwadekar, learned advocate for the Applicant, Shri N.K. Rajpurohit, learned

Chief Presenting Officer for the Respondents no 1 & 2. None for Respondents no 3 & 4.

2. This Original Application has been filed by the Applicant challenging the final seniority list as on 1.1.2011 published on 21.11.2013 in respect of Circle Officers of Konkan Division.

3. Learned Counsel for the Applicant argued that the seniority list of Circle Officers in Konkan Division as on 1.1.2011 was published by the Respondent no. 1 on 13.3.2013. The name of the Applicant is at Sr. no. 6 for VJ-A category. The Respondents no 3 & 4 are at Sr. No 8 & 9 in the same category. Learned Counsel for the Applicant stated that the Applicant joined Government service as Talathi on 4.6.1996. The Applicant passed the Revenue Qualifying Examination (RQE) on 26.4.2001, while the Respondent no. 3 was exempted from passing R.Q.E on 16.6.2001 on reaching the age of 45 years. The Respondent no. 4 passed the R.Q.E on 5.2.2003. On 13.3.2013, the Respondent no. 1 published the revised final seniority list as on 1.1.2011 on 21.11.2013, where the name of the Applicant is at Sr. No. 200. In the list of VJ-A candidates, the Applicant is shown below the Respondents no 3 & 4. Learned Counsel for the Applicant argued that the Applicant had passed the R.Q.E examination within the prescribed time and chances as per the Maharashtra Revenue Qualifying Examination for

promotion to the post of Circle Officer (from the cadre of Talathis) Rules, 1998. He has, therefore, maintained his seniority in the cadre of Talathi from the date of joining service. The Respondent no. 3 lost his seniority as he did not pass the R.Q.E and was exempted from passing R.Q.E on attaining the age of 45 years. The Respondent no. 4 joined service after the Applicant and also passed R.Q.E after him. He, therefore, cannot be senior to the Applicant. Learned Counsel for the Applicant argued that the final seniority which was published on 13.3.2013 was correct and the revised seniority list published by the Respondent no. 1 on 21.11.2013 on the directions of the Respondent no. 2 dated 19.12.2013 is in violation of the Revenue Qualifying Examination rules of 1988, and therefore, should be struck down.

4. Learned Chief Presenting Officer (C.P.O) argued on behalf of the Respondents that the cadre of Talathis and Circle Officers are district cadres and seniority lists are maintained by the Collectors of the districts. The promotional post for the Circle Officer is Naib Tahsildar, which is a divisional cadre. The Commissioner of a division prepares a combined seniority list of Circle Officers of all the district in that division by appropriately merging the district wise seniority lists. The Applicant is from district Raigad. The Respondent nos 3 & 4 are from Thane and Sindhudurg districts respectively. As the cadre of Circle Officers is a district

cadre, they were promoted as Circle Officers on different dates, depending on their seniority in their respective district cadres. While initially merging district wise seniority lists, to prepare a common seniority list of Circle Officers in Konkan Division, it was prepared on the basis of date of entry in service as Talathi and taking into account the fact whether a Talathi lost seniority for failure to pass Sub-Service Departmental Examination (S.S.D) and R.Q.E within given time and chances. The fact of the actual date of promotion as Circle Officers in their respective district cadres was not considered. However, by letter dated 9.10.2013, the State Government (the Respondent no. 2) gave directions to the Divisional Commissioner, Konkan Division (the Respondent no. 1) as to how to prepare the seniority list correctly. Learned C.P.O contended that seniority list as on 1.1.2011 published on 21.11.2013 is correct. However, the Government has issued circular dated 31.1.2014 to all Divisional Commissioners in the State to prepare divisional seniority lists of Circle Officers taking into account Rules 3(c) and 4(1) of the Maharashtra Civil Services (Regulation of Seniority) Rules, 1982. This Tribunal by interim order dated 22.8.2015 in O.A no 964/2014 directed the Respondent no. 1 to prepare seniority lists of Circle Officers as per Circular dated 31.1.2014, within a period of six months from 20.8.2015. Further, by letter dated 24.6.2015, the State Government has directed all the Divisional Commissioners and

Collectors to revise seniority lists of Awal Karkoon w.e.f 21.6.1982. Learned C.P.O contended that work of preparation of revised seniority lists of circle Officer/Awal Karkoon is underway in all divisions including the Konkan Division and the issues raised by the Applicant will be considered while publishing final seniority lists. Learned C.P.O argued that the Applicant is not entitled to any relief at this stage.

5. It is seen that the seniority lists for Circle Officers are prepared district wise and are later merged at the divisional level. Government Circular dated 31.1.2014 makes it clear that Talathis promoted in their respective cadres as Circle Officers, will be entitled to maintain that seniority when the district wise lists are merged to prepare a divisional seniority list as per provisions of the Maharashtra Civil Services (Regulation of Seniority) Rules, 1982. The State Government by letter dated 20.8.2015 directed the Commissioners and Collectors to revise such lists w.e.f 21.6.1982 and in O.A no 966/2014 by interim order dated 20.8.2015, this Tribunal had directed the Respondent no. 1 to complete this exercise within six months from 20.8.2015. The issue raised by the Applicant will be decided while preparing the final seniority lists as per Government circular dated 31.1.2014 and letter dated 24.6.2015. Any decision by this Tribunal in the present Original Application may amount to prejudicing the issues. We

are, therefore, not inclined to grant any relief to the Applicant in the present Original Application.

6. The Applicant may make a representation to the Respondents, which will be duly considered by them while preparing revised seniority lists as per Government Circular dated 31.1.2014 and Government letter dated 24.6.2015. This Original Application is disposed of accordingly with no order as to costs.

Sd/-
(R.B. Malik)
Member (J)

4.1.16

Sd/-
(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai
Date : 04.01.2016
Dictation taken by : A.K. Nair.

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