

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI BENCH

**ORIGINAL APPLICATION NO.503 OF 2017
(SUBJECT : TERMINATION)**

DISTRICT : MUMBAI

1. Shri Santosh Pandurang Arabatti,)
2. Shri Manohar Bhaurao Suryawanshi,)
3. Shri Abhijit Ramakant Kambli,)
4. Shri Arun Dnyanu Kharat,)
5. Shri Manoj Dattaram Rane,)
6. Shri Pandharinath Narayan Jadhav,)
7. Smt. Prerana Raju Gadekar,)
8. Smt. Sharayu Rajaram Lad,)
9. Smt. Vidya Kashinath Nanavare,)
10. Smt. Manshree Rajendra Tambe,)
11. Shri Anil Prabhakar Kasbe,)
12. Smt. Manisha Madhukar Salvi,)
13. Smt. Arati Chandrashekhar Wadekar,)
14. Shri Dnyaneshwar Rajaram Gaikwad,)
15. Shri Sudhakar Lahu Waghmare,)
16. Smt. Archana Dattaram Valanju,)

All working either as Jr. Clerks or Enumerators in the office of Respondent No.1.

C/o. Smt. Punam Mahajan, learned Advocate for the Applicant ...**Applicants**

Versus

1. The District Collector, Mumbai)
Having office at Old Custom House, Mumbai.1)

2. The State of Maharashtra,)
Through Principal Secretary,)
General Administration Department,)
Having office at Mantralaya, Mumbai 400 032)
3. The State of Maharashtra,)
Through Principal Secretary (Revenue),)
Revenue and Forest Department,)
Having office at Mantralaya, Mumbai 400 032) **...Respondents**

Smt. Punam Mahajan, learned Advocate for the Applicants.

Shri S.K. Nair, learned Special Counsel with Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

CORAM : **Shri P.N Dixit, Vice-Chairman**
Shri A.P Kurhekar, Member-J

DATE : **22.08.2019**

PER : **Shri A.P Kurhekar (Member)(J)**

J U D G M E N T

1. Heard Smt. Punam Mahajan, learned Advocate for the Applicants and Shri S.K. Nair, learned Special Counsel with Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

2. In the present Original Application, Applicants are seeking for absorption in service on the post of Junior Clerks / Enumerators in pursuance to the decision already rendered in their favour in O.A.No.292 of 2014 with O.A.No.316 of 2014, decided on 08.10.2015.

3. Indeed all these Applicants have earlier filed O.A.No.292 of 2014 for absorption which has been decided on merit by this Tribunal on 08.10.2015 and admittedly that judgment had attained finality as Respondents have not challenged the same. The paragraphs 10 and 11 of the judgment passed by this Tribunal in O.A.No.292 of 2014 read as follows :-

“10. It is quite clear that the Applicants cases have to be considered in the light of aforesaid decision of Hon’ble Supreme Court in M.L. KESARI’s case. It is held that the Applicants were appointed against sanctioned and vacant posts and if they possessed necessary qualifications and are covered by the aforesaid judgment of Hon’ble Supreme Court, the Respondent No.3 is legally bound to consider their cases for regularization, as the Respondent No.2 has clearly stated that this is a matter to be decided by the Respondent No.3.

11. Having regard to the aforesaid facts and circumstances of the case, the Respondent No.3 is directed to consider the cases of the Applicants for regularization in the light of above observations, within a period of 3 months from the date of this order. These Original Applications are disposed of accordingly with no order as to costs. As the Original Applications have been disposed of, nothing survives in the Misc. Applications, which are also disposed of.”

4. However, the services of some other Applicants i.e. Applicants No.4, 8, 11, 14 and 16 were abruptly terminated in disregard to the judgment passed by this Tribunal in O.A.No.292 of 2014. It followed by the Contempt Proceedings and thereafter these Applicants who were terminated were reinstated in service on 01.04.2019. Presently, all the Applicants admittedly are in service.

5. As the Applicants are seeking apprehension to their services all the Applicants again filed this present O.A.No.503 of 2017 against the apprehended termination and also sought relief of implementation of order by this Tribunal in O.A.No.292 of 2014.

6. Indeed the Respondents were obliged to take decision about the absorption of the Applicants in terms of order passed by this Tribunal in O.A.No.292 of 2014 decided on 08.10.2015. But instead they terminated some of the Applicants. As such action taken by the Respondents is ex-facie illegal in terms of paragraphs No.10 and 11 of the judgment of this Tribunal in O.A.No.292 of 2014.

7. Having heard learned Advocate Smt. Punam Mahajan for the Applicants and learned Special Counsel Shri Nair with learned Chief Presenting Officer Ms. S.P. Manchekar for the Respondents, we are of the considered opinion that the present O.A. can be disposed of with suitable directions as the Respondents have not decided the issue of absorption of the Applicants in terms of judgment passed by this Tribunal in O.A.No.292 of 2014.

8. For the aforesaid reasons, Original Application is disposed of with following directions :-

- (a) Respondents are directed to consider the cases of the Applicants for absorption as per the observations made by this Tribunal in O.A.No.292 of 2014 particularly in paragraph Nos.10 and 11 of the judgment within three months from today and pass appropriate order.
- (b) Order as the case may be communicated to the Applicants within two weeks thereafter.
- (c) In case the decision is taken against the Applicants the same should not be implemented for the period of one month from the date of communication of the decision to them.

- (d) Respondents should ensure that wages/ salary is paid to the Applicants since the date of reinstatement onwards regularly.
- (e) In so far as issue of payment of wages/ salary for the period in which Applicants No.4, 8, 11, 14 and 16 were out of service is concerned the same also shall be decided by the Respondents while considering the issue of absorption of the Applicants as directed above.
- (f) O.A. is disposed of with no order as to costs.

Sd/-

(A.P. Kurhekar)
Member (J)

Sd/-

(P.N Dixit)
Vice-Chairman

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