

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION NO.833 OF 2018

DISTRICT : RAIGAD

Ajit Dhondiba Kamble)
Age : 33 years, working as Daftar Karkoon,)
Residing at Sunder Kalpna Aagan,)
Near Midas Building Shivaji Chowk)
Sonarali Dahiwali, Tal- Karjat, Dist-Raigad,)
Raigad 410 201) **...APPLICANT**

VERSUS

1. Superintending Engineer,)
Thane Irrigation Circle, Thane.)
3rd floor, Sinchan Bhavan,)
Kopri Society, Thane East, Pin 400 603)
2. Zonal Superintending Engineer)
& Circle Officer, Vigilance)
Irrigation Department, Mumbai Zone, Thane.)
3. Executive Engineer,)
Raigad Irrigation Division,)
Kolad, Tal : Roha, Pin 402 304) **...RESPONDENTS.**

Shri D.B. Khaire, learned Advocate for the Applicant.

Ms. S.P. Manchekar, learned Chief Presenting Officer for Respondents.

CORAM : **JUSTICE MIRDULA BHATKAR, CHAIRPERSON**
SHRI P.N. DIXIT, VICE-CHAIRMAN

RESERVED ON : **05.04.2021.**

PRONOUNCED ON : **15.04.2021.**

PER : **JUSTICE MIRDULA BHATKAR, CHAIRPERSON**

J U D G M E N T

1. The Applicant, working as Daftar Karkoon is reverted by order dated 20.06.2018 and his services were brought to an end, as he did not submit the passing certificate of typing examination with the required speed.

2. The Applicant also challenges the order dated 03.07.2018 seeking his undertaking that in the event of reversion of his services from Group-C for want of requisite typing certificate that, if at all he has accepted the post of Group-D then he again cannot claim the post of Group-C. The Applicant was appointed on compassionate ground as Daftar Karkoon on 13.11.2014 in Group-C. He was required to pass either Marathi typing examination with 30 w.p.m. or English Typing examination with 40 w.p.m. within two years from the date of his appointment i.e. on or before 12.11.2016 (approx.). As he did not submit the passing certificate of typing, by order dated 26.06.2018 the Applicant was reverted from Group-C to Group-D that

he shall not claim for upgradation to the post in the Group-C. The Applicant has challenged both these orders.

3. The learned Counsel Shri D.B. Khaire appearing for the Applicant has submitted that the Applicant passed the typing examination on 09.03.2018 i.e. before reversion order was issued. He submitted that when the reversion order was issued the Applicant was, in fact, holding the valid typing certificate. Thus, the ground on which the Applicant was reverted was not available to the Respondents to pass such order of his reversion.

4. The learned Counsel in support of his submissions relied on the judgment of Bombay High Court at Aurangabad in **Writ Petition No.4872 of 2012, dated 14.03.2013, Sachin Vitthalrao Kshirsagar Versus The State of Maharashtra & 2 Ors.** and prayed that the order of reversion dated 26.06.2018 and the order of taking undertaking i.e. dated 03.07.2018, both be quashed and set aside.

5. The learned C.P.O. Ms. S.P. Manchekar appearing for the Respondents while opposing this application has submitted that the applicant was aware of this condition when he was appointed on compassionate ground by the Respondents. She submitted that the Applicant was required to pass the typing examination within two years from the date of joining of the services. However, he did not cleared it nearly

more than 3 ½ years. She relied on the affidavit-in-reply, dated 27.02.2019, on behalf of Respondent No.3, through Shri Dhananjay Maruti Godase, Executive Engineer, office of Raigad Irrigation Division, Kolad, District Raigad.

6. Considered the submissions. Perused the pleadings in the Original Application and so also affidavit-in-reply filed by the Respondents. In the case of **Sachin Vitthalrao Kshirsagar (supra)** he was appointed as Clerk-cum-typist in the Irrigation Department on 05.08.2009 on compassionate basis. The similar condition that the Petitioners would have to pass the typing test in Marathi and English within one year from the date of joining service. The Petitioners though completed one year of service, did not pass the typing test in Marathi and English. However, they were continued in the services in view of Government Resolution (G.R.) dated 08.09.1997 providing time of two years to pass such examination. The Petitioners further did not pass typing test within two years from the date of joining i.e. upto 05.08.2011, so show cause notice was given to the Petitioners. The Petitioners informed that they have appeared for typing test both in Marathi and English in the month of November, 2011 and so their services should not be terminated. However, the Respondents-State terminated the Petitioners service on 30.12.2011. The result of the typing tests was declared on 31.01.2012, declaring that the Petitioners have cleared the examination. In the said case, the Division Bench has taken the view that

the Petitioners are appointed on compassionate ground and they had cleared the typing tests of Marathi and English, and the said examination was conducted prior to their termination of service and the notice of termination of the service was set aside and quashed. The present applicant in case in hand is on better footing than the case of **Sachin Vitthalrao Kshirsagar (supra)**. The Applicant has passed the typing examination test in the month of March, 2018 i.e. three months prior to the order of reversion, when the order was issued he has already cleared the condition of his services.

7. Hence, we take same view and thus, the orders dated 26.06.2018 and 03.07.2018 are hereby quashed and set aside.

8. In view of this, the present Original Application is hereby allowed.

Sd/-

(P.N Dixit)
Vice-Chairman (A)

prk

Sd/-

(Mridula Bhatkar, J.)
Chairperson