

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 83 OF 2018

DISTRICT: - NANDED.

1. **Shri Vyankat s/o Swarooprao More,**
Age : 57 years, Occu. : Service,
Working as Cleaner,
Office of Deputy Engineer,
Mechanical Sub-Division,
Asarjan, Head Quarter Nanded,
Dist. Nanded.
2. **Shri Rama s/o Bhujanga Dadhe,**
Age : 52 years, Occu. : Service,
Working as Cleaner,
Office of Deputy Engineer,
Mechanical Sub-Division Nanded,
Dist. Nanded.
3. **Shri Hamid Khan s/o Majid Khan,**
Age : 56 years, Occu. : Service,
Working as Cleaner,
Office of Deputy Engineer,
Quality Control and Examination,
Sub-Division Nanded,
Dist. Nanded.
4. **Shri Abdul Magdum s/o Abdul Raheman,**
Age : 59 years, Occu. : Service,
Working as Cleaner,
Office of Executive Engineer,
Mechanical Division Nanded,
Dist. Nanded.
5. **Shri Ram s/o Shivlingappa Kulkarni,**
Age : 59 years, Occu. : Service,
Working as Cleaner,
Office of Deputy Engineer,
Regional Workshop,
Sub-Division No. 1 Nanded,
Dist. Nanded.

6. **Shri Datta s/o Bhagoji Shinde,**
Age : 59 years, Occu. : Service,
Working as Cleaner,
Office of Deputy Engineer,
Quality Control and Examination,
Sub-Division Nanded,
Dist. Nanded.
7. **Shri Madhukar s/o Mahadu Garad,**
Age : 58 years, Occu. : Service,
Working as Cleaner,
Executive Engineer,
Mechanical Division,
Urdhav Penganga Prakaalp,
Nanded, Dist. Nanded.
8. **Shri Subhash s/o Ramchandra Mahajan,**
Age : 58 years, Occu. : Service,
Working as Cleaner,
Office of Executive Engineer,
Mechanical Division Nanded,
Dist. Nanded.
9. **Shri Vinayak s/o Khanderao Sangle,**
Age : 56 years, Occu. : Service,
Working as Cleaner,
Office of Deputy Engineer,
Mechanical Sub-Division,
Asarjan, Head Quarter Nanded,
Dist. Nanded.
10. **Shri Deepak s/o Munjaji Satpute,**
Age : 55 years, Occu. : Service,
Working as Cleaner,
Office of Deputy Engineer,
Mechanical Sub-Division-3,
Nanded, Dist. Nanded.
11. **Shri Bhagwan s/o Madhavrao Shinde,**
Age : 56 years, Occu. : Service,
Working as Cleaner,
Office of Executive Engineer,
Mechanical Division Beed,
Dist. Beed.

12. **Mukund s/o Raghoji Wakle,**
Age 56 Years, Occu: Service,
Working as Cleaner,
Office of Executive Engineer,
Mechanical Division, Beed, Dist. Beed.
13. **Bhima s/o Govinda Wakle,**
Age 59 Years, Occu: Service,
Working as Cleaner,
Office of Executive Engineer,
Mechanical Division, Beed,
Dist. Beed.
14. **Sk. Anwar s/o Sk. Sarwar,**
Deceased through his L.Rs.
- 14-A) **Sk. Amjad s/o Sk. Anwar,**
Age 20 Years, Occu: Nil,
R/o Bhagirath Nagar,
Shashkiya Vasahat,
Nanded Dist. Nanded.
- 14-B) **Smt. Raisa Begum w/o Sk. Anwar,**
Age 54 Years, Occu: Household,
R/o Bhagirath Nagar,
Shashkiya Vasahat,
Nanded Dist. Nanded.
- 14-C) **Sk. Akbar s/o Sk. Anwar,**
Age 31 Years, Occu: Labour,
R/o Labour Colony, Nanded,
Dist. Nanded.
- 14-D) **Asma Begum w/o Syed Zaker,**
(Asma Begum d/o Sk. Anwar)
Age 28 Years, Occu: Household,
R/o Phule Market, Nanded,
Dist. Nanded.
- 14-E) **Sk. Azhar s/o Sk. Anwar,**
Age 20 Years, Occu: Nil,
R/o Bhagirath Nagar,
Shashkiya Vasahat,
Nanded Dist. Nanded.

.. APPLICANTS.

V E R S U S

1. **The State of Maharashtra,**
Through Secretary,
Irrigation Department,
Mantralaya, Mumbai -32.
2. **The Superintending Engineer,**
Mechanical Circle, Nanded,
District Nanded.
3. **The Executive Engineer,**
Mechanical Division,
Nanded Dist. Nanded.
4. **The Deputy Engineer,**
Mechanical Sub-Division,
Nanded, Dist. Nanded.
5. **The Executive Engineer,**
Mechanical Division,
Beed Dist. Beed.
6. **The Deputy Engineer,**
Mechanical Sub-Division,
Beed, Dist. Beed.

..RESPONDENTS

APPEARANCE : Shri. T.B. Bhosale, learned Advocate
for the applicants.

: Shri S.K. Shirse, learned Presenting
Officer for the respondents.

CORAM : **JUSTICE A.H. JOSHI, CHAIRMAN**

RESERVED ON : **03.06.2019**

PRONOUNCED ON : **04.06.2019**

ORDER

1. Heard Shri T.B. Bhosale, learned Advocate for the applicants and Shri S.K. Shirse, learned Presenting Officer for the respondents.

2. The present applicants have approached this Tribunal by filing the present Original Application praying for the reliefs to set aside the impugned order dated 06.02.2018, Exhibit 'A-1', page-14. Prayer clause 'B' of para 11 reads as follows : -

“(B) The impugned order dated 06.02.2008 issued by the office of respondent No. 2 i.e. Superintending Engineer, Mechanical Circle Nanded District Nanded ANNEXURE-A-1 and statements prepared by the respondent No. 3 to 6 thereby reducing the time bound promotional pay scale of applicants at ANNEXURE-A-2-Colly, may kindly be quashed and set aside.”

(Quoted from page No. 10 of paper book of O.A.)

3. The applicants have placed on record a copy of judgment and order passed by this Tribunal in O.A. No. 382/2009, Exhibit 'A-5', page-56. It would be appropriate to reproduce paragraph No. 6 of the order dated 16.10.2010

passed by this Tribunal in O.A. No. 382/2009, which is done as below: -

“6. Consequently, O.A. succeeds. The communication dated 6.2.08 and 20.11.06 are quashed to the extent those hold that, Cleaners are not eligible for promotion as Drivers. Naturally the benefit of time bound promotion as was accorded in the year 1996 shall be continued and no recovery shall be effected.”

(Quoted from page No. 62 of the paper book of O.A.)

4. In view of the fact that the order dated 06.02.2008 is already set aside by this Tribunal by order and judgment dated 16.10.2010 in O.A. No. 382/2009, any further reiteration thereof is not required.

5. The present applicants have also shown that the judgment and order passed by this Tribunal dated 16.10.2010 in O.A. 382/2009 was carried before the Hon'ble High Court by the State by filing Writ Petition No. 2107/2011 and the said Writ Petition has been dismissed.

6. Learned Advocate for the applicants has shown that on the same principles on which order dated 06.02.2008 [set aside by this Tribunal], order dated 21.09.2012, Exhibit 'A-2'

has been passed and the pay fixation of the applicants has been done by giving retrospective effect and consequential recovery is effected from the pensionary benefits of the applicants in the year 2018.

7. The recovery pertains towards payments made way back in the year 1998 and onwards.

8. In the result, the present Original Application succeeds. The recovery based on the impugned order is also quashed and set aside.

9. The amount deducted from the pensionary benefits of the applicants be refunded to them within a period of six months from the date of this order.

10. In the facts and circumstances of this case, the parties are directed to bear their own costs.

(JUSTICE A.H. JOSHI)
CHAIRMAN

PLACE : AURANGABAD.

DATE : 04.06.2019

O.A.NO.83-2018(SB-Recovery)-HDD-2019