

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

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**O.A.NO. 634/2011 WITH O.A.NO. 842/2011 WITH  
O.A.NO. 843/11 WITH O.A.NO. 846/2011 WITH O.A.NO.  
277/2012 WITH O.A.NO. 278/2012 WITH**

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**01. ORIGINAL APPLICATION NO. 634 OF 2011****DISTRICT: - AURANGABAD.****Shri. Prakash Dagdu Bharambe**Age: 57 years, Occ: Dairy Manager,  
Class-III, Government Milk Scheme,  
Aurangabad.

.. APPLICANT.

**VERSUS**

- 1) The State of Maharashtra through,  
Chief Presenting Officer,  
Maharashtra Administrative Tribunal  
Aurangabad.
- 2) The Secretary, Animal Husbandry,  
Dairy Development and Fisheries  
Department, Mantralaya, Mumbai.
- 3) The Commissioner Dairy Development  
Department, Mumbai.
- 4) The Regional Dairy Development Officer,  
Aurangabad. .. RESPONDENTS.

**WITH**

**02. ORIGINAL APPLICATION NO. 842 OF 2011****DISTRICT: - JALGAON.****Shri. Uttam S/o Kashiram Patil,**

Age: 58 years, Occ: Shift Manager, Class-III  
Government Milk Scheme, Dhule,  
Hq. District Dairy Development Officer,  
Jalgaon.

.. APPLICANT.

**V E R S U S**

- 1) The State of Maharashtra through,  
Chief Presenting Officer,  
Maharashtra Administrative Tribunal  
Aurangabad.
- 2) The Secretary, Animal Husbandry,  
Dairy Development and Fisheries  
Department, Mantralaya, Mumbai.
- 3) The Commissioner Dairy Development  
Department, Mumbai.
- 4) The Regional Dairy Development Officer,  
Nashik. .. RESPONDENTS.

**W I T H****03. ORIGINAL APPLICATION NO. 843 OF 2011****DISTRICT: - JALGAON.****Shri. Ganesh S/o Gopalrao Patil,**

Age: 53 years, Occ: Dairy Manager, Class-III  
Government Milk Scheme, Chalisgaon,  
Dist. Jalgaon.

.. APPLICANT.

**V E R S U S**

- 1) The State of Maharashtra through,  
Chief Presenting Officer,  
Maharashtra Administrative Tribunal  
Bench at Aurangabad.
- 2) The Secretary, Animal Husbandry,  
Dairy Development and Fisheries  
Department, Mantralaya, Mumbai.
- 3) The Commissioner Dairy Development  
Department, Mumbai.
- 4) The Regional Dairy Development Officer,  
Nashik. .. RESPONDENTS.

**W I T H****04. ORIGINAL APPLICATION NO. 846 OF 2011****DISTRICT: - NANDURBAR.****Shri. Vilas S/o Shambhai Patil,**

Age: 57 years, Occ: Dairy Manager,  
Class-III, Government Milk Scheme,  
Vani, R/o. 99 Bansilal Nagar Near  
Grivihar Housing Society Nandurbar  
Dist. Nandurbar

.. APPLICANT.

**V E R S U S**

- 1) The State of Maharashtra through,  
The Chief Presenting Officer,  
Maharashtra Administrative Tribunal  
Bench at Aurangabad.

- 2) The Secretary, Animal Husbandry,  
Dairy Development and Fisheries  
Department, Mantralaya, Mumbai.
- 3) The Commissioner Dairy Development  
Department, Mumbai.
- 4) The Regional Dairy Development Officer,  
Nashik. .. RESPONDENTS.

**W I T H**

**05. ORIGINAL APPLICATION NO. 277 OF 2012**

**DISTRICT: - NANDED.**

**Shri. Sanjeev Ranganath Kadam,**

Age: 58 years, Occ: Asst. Dairy  
Development Officer, in the office  
of Dist. Dairy Development Officer,  
Nanded.

.. APPLICANT.

**V E R S U S**

- 1) The State of Maharashtra through,  
The Chief Presenting Officer,  
Maharashtra Administrative Tribunal  
Bench at Aurangabad.
- 2) The Secretary, Animal Husbandry,  
Dairy Development and Fisheries  
Department, Mantralaya, Mumbai.
- 3) The Commissioner Dairy Development  
Department, Mumbai.
- 4) The Regional Dairy Development Officer,  
Aurangabad. .. RESPONDENTS.

**W I T H****06. ORIGINAL APPLICATION NO. 278 OF 2012****DISTRICT: DHULE.****Shri. Prakash S/o Dhadku Bhadane,**Age: 58 years, Occ: Dairy Manager,  
Class III, Government Milk Scheme,  
Dhule.

.. APPLICANT.

**V E R S U S**

- 1) The State of Maharashtra through,  
The Chief Presenting Officer,  
Maharashtra Administrative Tribunal  
Aurangabad.
- 2) The Secretary, Animal Husbandry,  
Dairy Development and Fisheries  
Department, Mantralaya, Mumbai.
- 3) The Commissioner Dairy Development  
Department, Mumbai.
- 4) The Regional Dairy Development Officer,  
Nashik. .. RESPONDENTS.

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APPEARANCE : Shri J.B. Choudhary – learned  
Advocate for the Applicants in all  
these matters.

: S/Shri M.P. Gude, I.S. Thorat, D.R.  
Patil & Smt. Resha S. Deshmukh –  
learned Presenting Officers for the  
respective respondents in respective  
matters.

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**CORAM** : **HON'BLE SHRI RAJIV AGARWAR,**  
**VICE CHAIRMAN (A).**  
**AND**  
: **HON'BLE SHRI J.D. KULKARNI,**  
**MEMBER (J)**  
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**PER** : **Hon'ble Shri J.D. Kulkarni,**  
**Member (J)]**  
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### **J U D G M E N T**

**[Delivered on this 16<sup>th</sup> day of December, 2016]**

1. All these Original Applications are being disposed of by this common judgment and order, since the issues involved in all these Original Applications are one and the same.
2. The applicants are serving as Shift Manager/ Dairy Manager, Class-III in Government Milk Scheme, Dhule. The applicants were initially appointed as Assistant Dairy Chemist, Class-III and thereafter they were promoted to the post of Shift Manager/Dairy Manager, Class-III. Thereafter they were due for promotion for the post of Dairy Manager, Class-II. The respondent Nos. 2 & 3 published gradation list and deemed date was granted to the applicants. The State level the seniority list was also published in the year 2004.

Some of the Shift Managers, Class-III have challenged the said seniority list by filing O.A. Nos. 691/2006 and 420/2007 before the Principal Seat of this Tribunal at Mumbai. In the said OAs the Tribunal issued directions to the respondents to publish seniority list at State level. In the said seniority list various dates of deemed date of promotion were granted to the applicants. However, they were not granted deemed date of promotion to the post of Dairy Manager, Class-II from the date on which they were due for such. The applicants have, therefore, filed the separate Original Applications. The details of the applicants as regards their date of appointment as Assistant Dairy Chemist, promotion as Shift manager, Class-III and the date of promotion on the post of Dairy Manager, Class-II etc., are given in detail in the following chart: -

O.A. NO.	Date of appointment as Asst. Dairy Chemist	Date of promotion as Dairy Manager, Class-III	Deemed date of promotion as per final seniority list. (Dairy Manager, Class-II)
634/2011	04.11.1975	05.05.1979	21.05.1978
842/2011	15.09.1977	14.08.1984	28.10.1979
843/2011	23.09.1977	18.07.1985	28.10.1979
846/2011	13.03.1978	30.06.1983	05.05.1979
277/2011	09.07.1975	26.06.1978	26.01.1978
278/2012	05.09.1977 Dairy Supervisor	01.10.1980	28.10.1979

3. The applicants are claiming that they are liable to get deemed date of promotion as mentioned in the chart aforesaid, even their juniors were promoted. It is stated that the respondents have published the list of 2010 in which juniors to the applicants were shown as promoted as Class-II in the year 1984. The said names of junior employees are as under: -

Sr. No.	Name	Deem date awarded in class III cadre	Date/ year of promotion in class II cadre
1.	S.S. Abhyankar	13.12.1979	30.07.1984
2.	S.P. Jadhav	05.06.1979	prior to 1984
3.	P.P. Chori	11.06.1979	prior to 1984
4.	P.S. Fanse	20.09.1980	prior to 1984
5.	A.D.Dewale	26.09.1979	prior to 1984
6.	S.V.Pradha	25.10.1979	prior to 1984

4. The applicants have, therefore, claimed the following relief :-

***“A. The Respondent No. 2 and 3 may kindly be directed to consider the case of the applicant for promotion in the cadre of class-II as the employees who are junior to the applicant are already promoted as class-II.***

***B. The Respondent No. 2 & 3 may kindly be directed to grant the deem date of promotion***



***to the applicant in the cadre of class II of 1985 on the date on which his juniors were promoted and to grant other consequential benefits.***

***C. The Respondent No. 2 and 3 may kindly be directed to take the decision on the representation of the applicant for granting him deem date and promotion in the cadre of class-II in view of his modified deem date in the cadre of class-III.”***

5. The respondent Nos. 2 to 4 have filed their reply affidavit. The respondents have admitted almost all the facts. It is admitted that the applicants are not promoted to Class-II. It is also admitted fact that some juniors were promoted earlier than the applicants. It is also admitted that the seniority list at State level was finalized in the year 2010 and the juniors to the applicants were already promoted before publication of said seniority list, as per the seniority list of 2007.

6. The applicants have filed rejoinder and given the details as to how the juniors of the applicants are promoted. In O.A. No. 843/2011, it is stated that one Shri S.S.

Abhyankar, who was appointed on 13.3.1969 was promoted on 13.12.1979, Shri Phanse, who was appointed on 10.3.1969 was promoted on 20.9.1980 and Shri Kothawale, who is junior to the applicant was promoted on 17.09.1985.

7. Heard Shri J.B. Choudhary – learned Advocate for the applicants and S/Shri M.P. Gude, I.S. Thorat, D.R. Patil & Smt. Resha S. Deshmukh – learned Presenting Officers for the respondents. We have also perused the application, affidavit, affidavit in reply filed by the respondents, rejoinder affidavit filed by the applicant and various documents placed on record by the learned Advocates for the respective parties.

8. The only material point is to be considered as to whether the applicants are entitled to deemed date of promotion as claimed by them to the post of Dairy Manager, Class-II?

9. As already stated most of the facts have been admitted in these cases. The respondents have also admitted fact that some juniors to the applicants have been promoted

prior to the applicant and, therefore, there remains no doubt that the applicants are entitled to deemed date of promotion from the date on which their juniors have been promoted. It is also true that in view of the directions given in O.A. Nos. 691/2006 and 420/2007, the impugned seniority list published earlier was quashed and set aside and the respondents were directed to publish the provisional list and invite objection and suggestion, if any. The said order is dated 17.6.2008 and it seems that as per the said direction the State level seniority list was published and objections were called. The said list became final on 28.10.2010 and in the said seniority list, seniority of the applicants have been changed and they became more senior in the list. Admittedly, some juniors have been promoted earlier to the applicants and, therefore, obviously it was necessary for the respondents to grant deemed date of promotion to the applicants from the date on which their respective juniors have been promoted. We are, therefore, satisfied that the claim of the applicants is genuine and, therefore, we pass the following order: -

**ORDER**

- (i) The present Original Applications are allowed.
- (ii) The respondent Nos. 2 & 3 are directed to consider the cases of the applicants for promotion in the cadre of Class-II since the date on which their juniors are promoted to such post.
- (iii) The respondents are directed to pay all the consequential financial benefits in view of such deemed date of promotion to the applicants. Such benefits would be restricted to three years prior to the date of filing the Original Applications
- (iv) In the facts and circumstances of the cases, there shall be no order as to costs.

**MEMBER (J)****VICE CHAIRMAN (A)**

O.A.NOs.277,278,634,842,843&amp;846-2012(hdd)-2016(DB)