

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 930 of 2021 (DB)**

Sarika Shampant Babhale,  
aged about 41 years, Occ. Service (Civil Engineer Assistant),  
R/o 8/A, Pushapak Colony,  
Opp. Jaika Petrol Pump, Badnera Road,  
Nagpur.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
through its Additional Chief Secretary,  
Public Works Department,  
Mantralaya, Mumbai-32.
- 2) The Deputy Secretary (Establishment),  
Public Works Department (Civil),  
Having its office at,  
Mantralaya, Mumbai-32.
- 3) The Chief Engineer,  
Public Works Region Division,  
Amravati.
- 4) The Superintendent Engineer,  
Public Works Department (Circle),  
Amravati.

**Respondents.**

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**Shri S.N.Gaikwad, Ld. counsel for the applicant.**

**Shri A.M.Khadatkar, ld. P.O. for the respondents.**

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**Coram :- Shri Shree Bhagwan, Vice-Chairman and  
Shri M.A. Lovekar, Member (J).**

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**Date of Reserving for Judgment : 17<sup>th</sup> June, 2022.**

**Date of Pronouncement of Judgment : 21<sup>st</sup> June, 2022.**

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**JUDGMENT****Per : Vice Chairman.****(Delivered on this 21<sup>st</sup> day of June, 2022)**

Heard Shri S.N.Gaikwad, Id. Counsel for the applicant and Shri A.M.Khadatkar, Id. P.O. for the respondents.

2. As submitted by Id. Counsel for the applicant and synopsis of the O.A. initially the applicant was appointed on 17.05.2008 as a Civil Engineering Assistant and she joined duty on 20.05.2008.

3. As per notification dated 08.08.2001 (A-2, Pg. No. 18), clause 13 on page no. 22 following provisions is there:-

*“13. Period and number of chances for passing the examination – subject to the provisions of rule 3 above, an employee or Civil Engineering Assistant shall be required to pass the examination within 3 chances and within a period of 4 years from the date of the first examination. However, the second chance shall be availed within a period of one year from the first examination.”*

4. The applicant was supposed to pass required examination within three chances and within a period of four years from date of her first examination. In 2009 applicant did not appear for the examination. However, in the next year 2010 she filled form to appear but due to some mistake of department the form was rejected and she could not appear in the examination. Subsequently, unfortunately applicant met with an

accident and she suffered grave injury to her leg/knees. She was initially admitted in the hospital and thereafter she was bedridden for three years and she was on medical leave on 18.11.2011 to 18.08.2014 (A-4, Pg. No. 34). These periods of leave were sanctioned by respondent no. 1 as per document filed on record. Government vide its letter dated 05.06.2015 P.W.D. (A-4, Pg. No. 34) sanctioned her leave and it was mentioned that total 789 days leave have been sanctioned on medical ground as extra ordinary leave/ special leave. Admittedly, Government realised that for 879 days it was unavoidable situation for applicant to perform duty and normal work and she had to be on medical leave and take bed-rest. So, till 18.08.2014 it was not possible for the applicant to come on duty and appear in the examination as prescribed in notification dated 08.08.2001 para no. 13. She joined after that and she appeared in 2015 examination and she passed in the same year (A-5, Pg. No. 35); her name and seat number in said examination is 405006 and she secured 472 marks which proves that she was sincere and very much competent to pass the examination.

5. Now, problem is that how to fix her seniority and consider her passing the examination for further promotion. This is a very peculiar case where from normal administrative procedure exceptional situation should be carved out and then provisions should be considered. As per documents on record letter dated 04.01.2021 (A-10, Pg. No. 55) written by

Superintending Engineer, P.W.D., Amravati to Government; her name appears at page no. 59, Sr. No. 87 and considering her genuine unforeseen problem he has recommended that since she has now passed the examination her seniority should be taken from 20.05.2008 which is an exceptional sympathetic and humanitarian ground.

6. While delivering administration we should not work like Mechanical tools/ Computer otherwise human brain will remain unutilised and decision can be taken by Computer or Human only. Recommendation of Superintending Engineer is quite valid and it should be taken to the logical conclusion that applicant's seniority should be given w.e.f. 20.05.2008; considering unforeseen incident which took place in her life that will show the human face of administration.

7. In the administration; human face is very much necessary and employee should feel that if there is any unfortunate incident in the career or life it is considered by employer sympathetically as a human face.

8. In view of facts discussed above, Respondent no. 1 particularly Secretary, P.W.D. is directed that he should personally go through the whole incident and examine the letter of 04.01.2021 written by Superintending Engineer, P.W.D., Amravati and make a special case to give her seniority from 20.05.2008 process the file through G.A.D. and get approval from Hon'ble Minister and finally from Hon'ble Chief Minister as a special case and

considering the special circumstances of the applicant, issue order after approval of Hon'ble Chief Minister that considering a special case of the applicant and unfortunate incident of her life and since she has passed examination in the first attempt after recovery as per recommendation of Superintending Engineer, Amravati dated 04.01.2021; her seniority should be treated from 20.05.2008 and she should be entitled for all the consequential benefits according to the Law except the period for which she has granted Medical Leave for 879 days as per letter dated 05.06.2015 (A-4, Pg. No. 34).

9. It is expected that Secretary, P.W.D. will take extra effort for this case and as a special case the decision will be communicated to the applicant within three months from the date of receipt of this order.

10. Application is allowed in there terms. No order as to costs.

**(M.A.Lovekar)**  
**Member(J)**

aps

Dated - 21/06/2022

**(Shree Bhagwan)**  
**Vice Chairman**

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Akhilesh Parasnath Srivastava.  
Court Name : Court of Hon'ble Member (J).  
Judgment signed on : 21/06/2022.  
and pronounced on  
Uploaded on : 22/06/2022.