

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION No. 325 of 2015**  
**WITH CIVIL APPLICATION No.110 of 2016 (D.B.)**

- (1) Laxmikant S/o Prakash Raulkar,  
aged 42 years, Occupation : Service,  
r/o B-7 Jantar Mantar Apartments besides  
LIT College Bharatnagar, Amravati Road, Nagpur.
- (2) Prakash S/o Ramdas Taksande,  
Aged about 45 years, Plot No.24, Patil Layout  
near Rachana Madhukosh Apartment Bhamti, Nagpur.
- (3) Sunil S/o Nagorao Bawane,  
Aged about 48 years, Occ : Assistant Engineer Grade II,  
r/o Plot no.35, Ulhas Nagar Manewada Road, Nagpur.
- (4) Mahesh S/o Manoharrao Mathurkar,  
aged 43 years, Occ. Service : Assistant Engineer Grade II,  
r/o Plot No.36, Naringe Nagar, Dhamangaon Road,  
Yavatmal.
- (5) Jitendra S/o Narayanrao Kale,  
aged 44 years, Occ. Service Assistant Engineer Grade II,  
r/o Public Works Residency Jalambnaka, Khamgaon,  
Dist. Buldana.
- (6) Nitin P. Muttyalwar,  
aged 47 years, Occ. Service Assistant Engineer Grade II,  
r/o Anand Nagar, Wani, Dist. Yavatmal.

**Applicants.**

**Versus**

- 1) State of Maharashtra,  
through Secretary (Construction),  
Public Works Department, Maharashtra State,  
Mantralaya, Mumbai.
- 2) Chief Engineer,  
Public Works Department,  
Nagpur Region, Civil Lines, Nagpur.

- 3) Prashant Bhanudas Shankarpure,  
Aged about 42 years, Occ. Assistant Engineer Grade-II,  
R/o Plot No.87, Vitthal Nagar No.1,  
Near Uday Nagar Square, Nagpur.
- 4) Arif Abdul Sheikh,  
Aged 43 years, Occ. Assistant Engineer Grade-II,  
R/o 'Anmol' 34-C, Rathod Layout, Anand Nagar,  
Nagpur.

**Respondents.**

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**Shri S.P. Palshikar, Advocate for the applicants.  
Shri A.M. Ghogre, learned P.O. for respondent nos.1 and 2.  
S/Shri M.M. & A.M. Sudame, Advocates resp. nos.3&4.**

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**Coram :- Hon'ble Shri Shree Bhagwan,  
Vice-Chairman and  
Hon'ble Shri Justice M.G. Giratkar,  
Vice-Chairman.**

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**Date of Reserving for Judgment : 2<sup>nd</sup> August,2022.  
Date of Pronouncement of Judgment : 11<sup>th</sup> August,2022.**

**JUDGMENT**

**(Delivered on this 11<sup>th</sup> day of August, 2022)**

**Per : Shri Justice M.G. Giratkar, Vice-Chairman.**

Heard Shri S.P. Palshikar, learned counsel for the applicants, Shri A.M. Ghogre, learned P.O. for respondent nos.1 & 2 and Shri A.A. Potnis, learned counsel holding for Shri M.M. Sudame, learned counsel for respondent nos.3 and 4.

2. All the applicants were appointed in the year 1996 on the post of Assistant Engineer, Grade-II. They have passed the Maharashtra Public Service Commission (MPSC) examination in first

attempt held in the year 1998. The respondents have published the seniority list. The names of the applicants were wrongly shown below the name of respondent nos.3 and 4. The respondent nos. 3 and 4 were appointed in the year 2000, but they are shown senior to the applicants. The objections of the applicants were not considered, therefore, filed the present O.A. for correction of seniority list.

3. The O.A. is opposed by the respondents / authority. It is submitted that the applicants are placed in the seniority as per their ranking in the merit list as recommended by MPSC and as per the Recruitment Rules of the said post. Therefore, there is no merit in the O.A. and liable to be dismissed.

4. Heard learned counsel for the applicants Shri S.P. Palshikar. He has pointed out the Judgment of this Tribunal in O.A.No. 686/2018 with connected matters.

5. There is no dispute that the applicants were appointed in the year 1996. The applicant no.1 has filed affidavit on record. As per this affidavit dated 2/8/2022, all the applicants were appointed in the year 1995/ 1996. All applicants have passed the MPSC examination in first attempt held in the year 1998. The results were declared in the year 1999. The Government has issued the G.R. dated 01/03/2000 and regularised the services of the applicants alongwith others. This

Tribunal has noted the said G.R. in the Judgment of this Tribunal in O.A.No. 686/2018, decided on 26/04/2022. The relevant paragraphs 11,12 and 13 are reproduced as below –

“11. The learned counsel for the applicants has pointed out various Govt. G.Rs. There is no dispute that all three applicants were appointed in the year 1996 on temporary basis on the post of Assistant Engineer (Grade II). Their appointments were regularised as per the Govt. G.R. dated 01/03/2000 on following conditions -

**शासन निर्णय :-**

शासन आता पाटबंधारे विभाग व सार्वजनिक बांधकाम विभागात मिळून सहायक अभियंता श्रेणी-२ संवर्गात (स्थापत्य/विद्युत/यांत्रिकी/कृषि अभियांत्रिकी) दि.२.४.८९ ते ३१.१२.९६ पर्यंत पाटबंधारे विभागातील १०९७ व सार्वजनिक बांधकाम विभागातील १०५३ अशा एकूण २१५० पदांवरील तदर्थ नियुक्त्या घटनेच्या कलम ३२० (३) अन्वये महाराष्ट्र लोकसेवा आयोगाच्या कक्षेतून वगळून नियमित करण्यासाठी पुढील प्रमाणे मंजूरी देत आहे.

अ) दि.२.४.८९ ते दि.१६.४.८४ पर्यंत नियुक्त केलेल्या पदवीधर कनिष्ठ अभियंत्यांना त्यांच्या नियुक्तीच्या दिनांकापासून सहायक अभियंता श्रेणी-२ पदाचा दर्जा यापूर्वीच दिलेला आहे. आता अशा सहायक अभियंता श्रेणी-२ संवर्गातील एकूण ७५५ अभियंत्यांच्या नियुक्त्या नेमणुकीच्या दिनांकापासून नियमित करण्यात येत आहेत.

ब) दि.१७.४.१९८४ ते ३१.१२.१९९३ पर्यंत करण्यात आलेल्या एकूण ५९६ तदर्थ नेमणुकावरील अभियंत्यांना त्यांच्या नियुक्तीच्या दिनांकापासून सहायक अभियंता श्रेणी-२ संवर्गात नियमित करण्यात येत आहेत.

क) दि.१.१.१९९४ ते दि.३१.१२.१९९६ पर्यंतच्या एकूण ३९९ तदर्थ नेमणुका त्यांच्या नियुक्तीच्या दिनांकापासून सहायक अभियंता श्रेणी-२ संवर्गात नियमित करण्यात येत आहेत.

ड) दि.१.४.१९८९ ते दि.१६.६.१९९७ पर्यंत म्हणजेच सेवा प्रवेश नियम अंतिम होईपर्यंत सेवेत राहून पदवी धारण केलेल्या पदवीधारक कनिष्ठ अभियंता/शाखा अभियंता यांची ज्येष्ठता शासनाच्या दि.२९.११.८४ च्या शासन निर्णयातील ३/८ सेवा जोडून दिलेल्या मानीव दिनांकापासून निश्चित

करुन अशा एकुण ४०० अभियंत्यांच्या, सहायक अभियंता श्रेणी-२ संवर्गातील नेमणुका नियमित करण्यात येत आहेत.

२. संबंधित सहायक अभियंता श्रेणी-२ संवर्गातील अभियंत्यांना त्यांच्या नियमितीकरणाच्या दिनांकापासून जेष्ठता निश्चित करण्यात येऊन त्यानुसार सदर अभियंत्यांची जेष्ठतासूची यथावकाश प्रसिध्द करण्यात येईल. सदर आदेश सार्वजनिक बांधकाम विभागाच्या व सामान्य प्रशासन विभागाच्या सहमतीने निर्गमित करण्यात येत आहेत.

12. As per the Govt. Notification dated 16/06/1997, rules of “Assistant Engineers (Civil), Grade-II, in the Maharashtra Service of Engineers, Group-B (Recruitment) Rules,1997” were framed. The Rule-8 of the Rules,1997 reads as under –

“(8) Notwithstanding anything contained in rule 3, the temporary appointments made to the post till the 31<sup>st</sup> December, 1996, may be regularised in the following manner, namely:-

- (a) The persons who have completed minimum three years of continuous service as on the 31<sup>st</sup> December, 1996 and have satisfied the requirements of qualification and age limit mentioned in rule 3, at the time of their appointment, shall have to viva-voce or Limited Competitive examinations to be held by the Commission during 1997-1998.
- (b) Services of those persons who will qualify in such examination will be regularised.
- (c) The seniority of such qualified person shall be fixed as per the existing rules noticed vide Government Notification General Administration Department No.SRV 1076/XII, dated 21<sup>st</sup> June 1982 regarding fixation of seniority.
- (d) The services of persons who do not qualify in such examination shall be terminated by the Government.
- (e) The person who has been appointed to the post on or after 1<sup>st</sup> January 1994 but on or before 31<sup>st</sup> December 1996 and who possess

the qualification mentioned in rule 3(ii) shall, in relaxation if necessary of the age-limit prescribed in rule 3(i), be required to get selected in the first attempt in the regular combined competitive examination to be held by the commission during 1997-1998. Service of such persons who have not been selected in the above competitive examination shall be terminated by the Government, and the seniority of selected persons shall be fixed in accordance with the rules mentioned in Government Notification dated the 21<sup>st</sup> June 1982 mentioned in rule 8 (c).”

13. The rules of 16/06/1997 were amended on 8/7/2009. The rule 8 was amended as under -

“8. Notwithstanding anything contained in rule 3, the appointments made to the posts till the 16<sup>th</sup> June 1997, shall be regularised in the following manner, namely:-

(a) The persons appointed on regular basis during the period from the 2<sup>nd</sup> April 1981 to the 16<sup>th</sup> April 1984 to the post of Graduate Junior Engineers (Class-III) either through the State Selection Board or from the candidates who have given bonds for serving in Government service as per the then prescribed procedure for appointment, shall have to pass vivo-voce test that shall be the qualifying examination, to be held by the Commission during the period 2009-2010 or immediately thereafter, to enable them to be absorbed in the cadre of Assistant Engineer, Grade II (Junior Gazetted Class-II), created for Graduate Junior Engineers vide Government Resolution, Irrigation Department, No.CDS 1582 / 158 (215) / EST-(10), dated the 16<sup>th</sup> April 1984.

(b) The Diploma holder Junior Engineers regularly appointed in Class-III post and who have obtained A.M.I.E. (Equivalent to B.E. Degree) or B.E. Degree while in service have been given benefit of 3/8<sup>th</sup> of service rendered as Junior Engineer, during the period from the 1<sup>st</sup> April 1981 to 16<sup>th</sup> June 1997, in the light of the provisions of the Government Resolution, Irrigation

Department, No.S.L.S.2681/1273/(500)/EST (8), dated the 29<sup>th</sup> November 1984. Such persons shall have to pass viva-voce test that shall be the qualifying examination, to be held by the Commission during 2009-2010 or immediately thereafter, to enable them to be absorbed in the cadre of Assistant Engineer, Grade II, vide Government Resolution, dated the 16<sup>th</sup> April 1984.

**(c) Services of persons appointed on temporary basis to the post of Assistant Engineer, Grade II, during the period from the 17 April 1984 to 31<sup>st</sup> December 1996 and who have already qualified in viva-voce test held by the Commission from the 7<sup>th</sup> August 1997 to 2<sup>nd</sup> September 1997 and those who have qualified in the combined competitive examination held by the Commission during the period from the 12<sup>th</sup> December 1998 to 13<sup>th</sup> December 1998 shall be regularised in the cadre of Assistant Engineer, Grade-II, from the date of their initial appointment in the cadre of Assistant Engineer, Grade-II.**

(d) The persons appointed during this period from 17<sup>th</sup> April 1984 to 31<sup>st</sup> December 1996, and not qualified in the above said viva-voce test or Combined Competitive Examination as the case may be held by the Commission shall have to pass in the vivo-voce test to be held by the Commission during the period 2009-2010 or immediately thereafter, to enable them to get regularised in the cadre of Asstt. Engineer, Grade-II

(e) Persons who do not pass in such viva-voce test shall be given second opportunity to appear for the viva-voce test to be held by the Maharashtra Public Service Commission, to enable them to get their services regularised in the cadre of Assistant Engineer, Grade-II.

(f) The persons who do not pass in the second attempt shall be given one more opportunity by way of last chance to appear for the viva-voce test to be held by the Maharashtra Public Service Commission, to enable them to get their services regularised in the cadre of Assistant Engineer, Grade-II. -----”

6. The applicants have passed the MPSC examination in first attempt. The Recruitment Rules framed by the Government do not show that seniority is to be fixed as per the merit list. The rules only show that Assistant Engineers, Grade-II those who are appointed before 1996, their appointments shall be regularised who have passed the MPSC examination in the first attempt. All the applicants have passed the departmental examination in the first attempt. Therefore, they are entitled to maintain their seniority on the date on which they were appointed. Therefore, the following order –

**ORDER**

- (i) The O.A. is allowed as prayed.
- (ii) The respondent no.1 is directed to show the name of applicants in the seniority list after Serial No.655.
- (iii) The C.A. also stands disposed off accordingly.
- (iv) No order as to costs.

**(Justice M.G. Giratkar)**  
**Vice-Chairman**

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

**Dated** :- 11/08/2022.

dnk.



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

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 11/08/2022.

Uploaded on : 11/08/2022.

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