

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL,**

**NAGPUR BENCH, NAGPUR**

**ORIGINAL APPLICATION NO.858/2009.**

**(D.B.)**

Rajesh Gopalrao Lande,  
Aged about 45 years,  
R/o Yashwant Apartment, 1<sup>st</sup> floor,  
Ravinagar, Amravati-421 606.

**Applicant.**

**-Versus-**

- 1) The State of Maharashtra,  
Through its Principal Secretary,  
Department of Finance,  
Mantralaya, Mumbai-400 032.
- 2) The Director of Accounts and Treasuries,  
Free Press Journal Road, Opp. Mantralaya,  
Mumbai-21.
- 3) The Maharashtra Public Service Commission,  
Through its Secretary,  
Bank of India Building, Fort, Mumbai.
- 4) Shri A.S. Waghvase,  
Pay and Accounts Officer,  
Free Press Journal Road, Opp. Mantralaya,  
Mumbai-21.
- 5) Shri P.D. Shende,  
Comptroller (Finance),  
Maharashtra Housing and Area Development Authority,  
Mumbai.
- 6) Shri A.R. Dahiphale,  
Senior Accounts Officer,  
Zilla Parishad, Jalna.

- 7) Shri P.P. Sawalakhe,  
Chief Accounts and Finance Officer,  
Zilla Parishad Bhandara.
- 8) Smt. J.J. Zakeriya,  
Assistant Director, (Accounts),  
Mul Nyaya Shakha (Original Judicial Side),  
High Court, Mumbai.

**Respondents**

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Shri Bharat Kulkarni, the learned counsel for the applicant.  
Shri P.N. Warjekar, the learned P.O. for the respondents 1 to 3.  
None appeared for respondent Nos. 4 to 8.

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**Coram:-Shri Shree Bhagwan, Member (A)**  
**and Shri A.D. Karanjkar, Member (J)**

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**JUDGMENT**

**Per: Member (A)**

(Delivered on this 22<sup>nd</sup> day of February 2019.)

Heard Shri Bharat Kulkarni, the learned counsel for the applicant and Shri P.N. Warjekar, the learned P.O. for the respondent Nos. 1 to 3. None appeared for respondent Nos. 4 to 8.

2. The applicant is working as Chief Auditor, Municipal Corporation, Amravati in Class-I cadre. The applicant was selected by M.P.S.C. and on its recommendation he was appointed by the Government of Maharashtra M.F. and A.S. class I (Junior) cadre. The respondent no.1 published the seniority list on 17-6-2009, the applicant is challenging this seniority list in this O.A. It is submission of the applicant that he had sent his representation and challenged

the provisional seniority list, but without considering his representation the final seniority list was published, therefore, it is illegal. .

3. The Principal Bench of this Tribunal at Mumbai decided the O.A. No.403/2008 on 25.2.2009 regarding the fixation of seniority of Maharashtra Finance and Accounts Service, Class-I (Junior) cadre officers. In that matter specific direction was given to the respondents no.1 to 3 to prepare the seniority list within 2 months and the respondents were directed not to fill the promotional posts in M.F. and A.S. class I senior cadre till preparation of the final seniority list. In paragraph No.15 of the judgment guidelines were given for preparation of the seniority list. It is case of the applicant that the respondents did not follow the directions in O.A.No.403/2008 and hurriedly prepared the seniority list and the same was finalized and published on 18.5.2009 within a month. The applicant had raised objections for the same, but the respondent authorities did not pay any heed to the representation of the applicant. Being aggrieved by the same, the applicant has approached this Tribunal by filing the present O.A.

4. The respondent Nos. 1 and 2 have filed their affidavit in reply and denied the contentions raised by the applicant in his application about his grievance in toto.

5. The respondent no.1 have published, vide G.R. dated 17.2.2009 (Annexure A-1), it is mentioned in this G.R. that as per direction in O.A. No.403/2008 provisional seniority list was published with circular dt/18-5-2009 and after considering the objections the final seniority list from 1-1-1997 to 1-1-2007 was published. There is no dispute about fact that in O.A. No. 403/2008, order was delivered on 25.2.2009 by the Principal Bench of this Tribunal at Mumbai. In the said judgment, guidelines were issued for fixation of seniority, while preparation of the seniority list; in clauses (i) to (v) in para No.15 of the judgment. However, as per the record available, it seems that the respondent No.4 Shri A.S. Waghwase, respondent No.6 Shri A.R.Dahiphale, respondent No.7 Shri P.P. Sawwalakhe, respondent No.8 Smt. J.J. Zakeriya and many other employees' seniority vis-à-vis the applicant is not fixed as per the guidelines given in the said judgment. The applicant has invited our attention to the chart in which in which date of birth, date of joining service, initial posting, dates of passing departmental examinations,

dates of exemption from passing examination etc. are shown. The chart is as under:-

| R. No | Name          | Seniority for 1.1.2000. Sr.No./Page. | Seniority Given from the date | Date of passing departmental examination | Date of birth and eligible for exemption at the age of 45 | Seniority given                | Applicant pass exam. Not pass exempt | Remarks if any.            |
|-------|---------------|--------------------------------------|-------------------------------|------------------------------------------|-----------------------------------------------------------|--------------------------------|--------------------------------------|----------------------------|
| 4     | A.S. Waghmare | 61 / Page 58                         | 3.1.1994                      | Not pass Exam.                           | 19.6.1956<br>19.6.2001                                    | 3.1.1994<br>Required from 2001 | 170/ P.64<br>1998/99<br>pass         | Seniority above applicant. |
| 5     | P.D. Shende   | 15/ Page 52                          | 1.1.1992                      | Exam.pass 1999                           | 27.9.1955<br>9/2000                                       | 1.1.1992                       | Required From 1999                   |                            |
| 6.    | Dahifale      | 119/ Page 60                         | 8.1.1997                      | Not pass exam.                           | 1.5.1955<br>5/2000                                        | 8.1.1997                       | 5/2000                               |                            |
| 7.    | Sawalakhe     | 112/ Page 59                         | 8.1.1997                      | Not pass Exam.                           | 7.1.1954                                                  | 8.1.1997                       | 8.1.1997                             |                            |
| 8.    | Smt. Zakariya | 129/ Page 61                         | 1.1.1998                      | Not pass Exam.                           | 9.2.1959                                                  | 1.1.1998                       |                                      | Required 2/2004.           |

6. We have perused the disputed seniority list which is attached to Anx. A . After examining the service details of the respondents no.4 to 8 it appears that the respondents have not taken in account the facts,

- 1) when these respondents were brought in cadre of M.F.& A.S. class I (Junior) officers,
- 2) when they passed departmental examinations or the respective dates on which they were exempted from passing the departmental examinations.

7. It is mentioned in the seniority list as on 1-1-2007 that the applicant was directly appointed in M.F.& A.S. class I (Junior) cadre

on 24-9-1998, whereas the respondents no.4 to 8 were promoted to this cadre. The respondents no. 4, 6-8 have not passed the departmental examination. The applicant has passed the part one examination in Apr. 1999 and part 2 in Oct. 1998. The respondent no.7 has not passed the departmental examinations and he completed age of 45 on 1-7-1954. Thus it seems that these facts were not considered. The respondent no.6 has not passed the departmental examination and he completed the age of 45 on 5-1-2000. The respondent no.8 has not passed the departmental examination and she has completed age of 45 on 2-9-2014. Thus it is apparent that while seniority list was prepared the specific directions and guidelines given in O.A. no.403/2008 were not considered and also the objections raised by the applicant were not considered. In view of this, we are of the view that it is necessary in the interest of justice to direct the respondents no.1 and 2 to prepare the seniority list as per the guidelines issued in O.A. no.403/2008. Hence, we proceed to pass the following order:-

### **ORDER**

- (i) The O.A. is allowed and the seniority list finalized vide G.R. dated 17.2.2009 (A-1) is quashed and set aside.
- (ii) The respondent No.1 is directed to follow all the procedures laid down in judgment in O.A.

No. 403/2008 delivered on 25.2.2009 in para No. 15 (i) to (v) from 1.1.1997 by M.A.T., Principal Bench, Mumbai.

- (iii) This exercise be completed within a period of four months from the date of this order. Till that time, no promotional action should be taken as per G.R. dated 17.2.2009 (A-1).
- (iv) No order as to costs.

(A.D. Karanjkar)  
Member (J)

(Shree Bhagwan)  
Member (A)

Dt. 22.2.2019.  
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