

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No.16 of 2023
WITH CIVIL APPLICATION No.70 of 2024 (D.B.)

1. Umesh Shyamraoji Wankhade,
Aged about 46 years, Occu.: Service,
R/o 6 B, Shrihari Nagar No. 2, Arjun Nagar Distt. Amravati.
2. Ashish Mohanrao Tayade,
Aged about 42 years, Occu.: Service,
R/o Krushak Colony, Ramnagar, Distt. Amravati.
3. Sunil Hiralal Telkhade,
Aged about 45 years, Occu.: Service,
R/o Shiromani Apartment, Kinark Colony,
Kathora Road, Distt. Amravati.
4. Manish Rameshrao Bhagwat,
Aged about 42 years, Occu.: Service,
R/o Balajinagar Ward No. 9 Warud,
Distt.Amravati.
5. Ashish Manoharpant Shingane,
Aged about 48 years, Occu.: Service,
R/o At Post Chincholi Shingane, Tq. Anjangaon Surji,
Distt. Amravati.
6. Rajendra Rameshrao Chikte,
Aged about 42 years, Occu.: Service,
R/o D.Ed College Road, Gurukunj Mazari,
Tq. Tiwasa, Distt. Amravati.
7. Gajanan Janardan Deshmukh,
Aged about 53 years, Occu.: Service,
R/o Susanyoung Colony, Kathora Road,
near Narayan Nagar, Distt. Amravati.
8. Pravin Wamanrao Madaghe,
Aged about 49 years, Occu.: Service,
R/o At Post, Kandali, Paratwade,
Tq. Achalpur, Distt. Amravati.

9. Atul Nilkanth Andhare,
Aged about 45 years, Occu.: Service,
R/o At Post Shirla, (Andhare) Tq. Patur, Distt. Akola.
10. Santosh Pralhadrao Kalpande,
Aged about 40 years, Occu.: Service,
R/o At Post Vivara, Tq. Patur, Distt. Akola.
11. Nitinkumar Dattatray Ulemale,
Aged about 45 years, Occu.: Service,
R/o Santoshimata Nagar, Akola Naka Road,
Washim, Distt Washim.
12. Sanjay Kishorrao Jahagirdar,
Aged about 47 years, Occu.: Service,
R/o Tilak Chowk, Washim, Distt. Washim.
13. Vishal Umeshrao Ghude,
Aged about 44 years, Occu.: Service,
R/o Chhatrapati Nagar, near Govt. Rest House,
Tilak Ward, Warora, Distt. Chandrapur.
14. Pravin Nivrutti Ulemale,
Aged about 42 years, Occu.: Service,
R/o IUDP Colony, near Mahakali Temple,
Distt. Washim.
15. Mahesh Kamalakar Sirdeshpande,
Aged about 47 years, Occu.: Service,
R/o 87, Vatsala Parvana Nagar, Canal Road,
Nanded. Distt. Chanrapur.
16. Umesh Narayanrao Masal,
Aged about 47 years, Occu.: Service,
R/o 75, Gurukrupa Nagari near Shradha Nagar,
in front of Dr. Bahiphale Clinic, Wadgoan Road,
Distt. Yavatmal.
17. Ajay Uttamrao Chavan,
Aged about 45 years, Occu.: Service,
R/o Plot No. 29 Sant Nagari, Kaulkhde,
Akola, Distt. Akola.

18. Raju Vishwanath Taksande,
Aged about 41 years, Occu.: Service,
R/o Munot Layout, Ralegoan, Distt. Yavatmal.
19. Premnath Parashram Ade,
Aged about 47 years, Occu.: Service,
R/o 64, Borde Layout, near Reliance Tower,
Distt. Yavatmal.
20. Kalyan Babanrao Bedarkar,
Aged about 46 years, Occu.: Service,
R/o Plot No. 90 Ekvira Mahatma Phule Society,
Waghapur, Distt. Yavatmal.
21. Ramesh Shankarao Jadhav,
Aged about 47 years, Occu.: Service,
R/o Ambika Nagar, Lakala, Washim, Distt. Washim.
22. Gajanan Sakharam Darade,
Aged about 42 years, Occu: Service,
R/o Limbala Post Padhegoan, Tq. Jintur,
Distt. Parbhani.
23. Sunil Gulabrao Ekade,
Aged about 44 years, Occu: Service,
R/o Ranglal Layout Youjana Park, Civil Line,
Washim, Distt. Washim.

Applicants.

Versus

1. State of Maharashtra,
Through its Secretary, Department of Agriculture,
Animal Husbandry Dairy Development & Fisheries,
Mantralaya, Mumbai -32.
2. Commissioner (Agri.).
Agriculture Commissionerate,
Maharashtra State, Pune.
3. Joint Director of Agriculture,
Office of Divisional Agriculture Joint Director,
Amravati.

4. Sachin S/o Dinkar Raut,
Aged about 44 years, Occu: Service,
R/o Laxmi Nagar, Mothi Umri, Distt. Akola.
5. Pallavi D/o Eknathrao Band,
Aged about 45 years, Occu: Service,
R/o 127, Shrirang Sant Colony Amravati,
Tah & Distt. Amravati.
6. Sarika W/o Sharadchandra Adhau,
Aged about 42 years, Occu: Service
R/o Popalkhed oad, Akot, Tah Akot, Distt. Akola.
7. Aatish S/o Tukaram Malkhede,
Aged about Major, Occ: Service
R/o Yashoda Nagar, Manora Road, Karanja Lad,
Tah. Karanja Lad, Distt. Washim.
8. Vaijnath S/o Uttamrao Misal,
Aged about 40 years, Occ: Service,
R/o Shivnagar, Shegaon Road, Telhara,
Tah. Telhara, Distt. Akola.
9. Shrikrishna S/o Gyandeo Shinde,
Aged about 39 years, Occ: Service
R/o Kolwad, Tah & Distt. Buldhana.
10. Kishor S/o Vishwanath Kambdi,
Aged about 38 years, Occ: Service
R/o Waghoda, Post Nara, Tah. Karanja Gadghe, Distt. Wardha.
11. Dinesh S/o Santosh Mahure,
Aged about 37 years, Occ: Service
R/o Sanatan Colony, Near Ngesn Bhudhvihar,
Warud, Tah- Warud, Distt. Amravati.

Respondents.

S/Shri N.R. Saboo, N.D. Dhoot, A. Lanjewar, Advs. for the applicant.

Shri M.I. Khan, learned P.O. for the respondent nos.1 to 3.

S/Shri N.B. Kalwaghe, N.R. Raut, Advs. for resp. nos.4 to 11.

WITH

ORIGINAL APPLICATION No.383 of 2023

1. Kishor Tulshiram Bodkhe,
Aged 38 years, Occ:Service, r/o Shegaon,
District Buldana.
2. Sandip Murlidhar Gavhale,
Age major, Occ: Service,
R/o Eklara, Tahsil Chikhali, District Buldana.
3. Gajanan Bhaskar Dukare,
Age major, Occ: Service,
R/o Sawargaon (Dúkare), Tq.Chikhali, District Buldana.
4. Vilas Subhash Shelke,
Aged major : Service, R/o Shirpur,
Taluka & District Buldana.
5. Dattatray Wamanrao Sitaphale,
aged major, Occ: Service,
R/o Khandala Makardhwaj, Tahsil Chikhali,
District buldana.
6. Ravindra Sahebrao Mali,
aged major, Occ: Service,
r/o Bahadura, Tahsil Balapur, District Akola.
7. Sachin Sakharam Deshmukh,
aged major, Occ: service, r/o Sakharkherda,
Tahsil Sindkhedraja, District Buldana.
8. Sadashiv Shankar Ingle,
aged major, Occ: Service, r/o Utarda,
Post Peth, Tahsil Chikhali, District Buldana.
9. Vitthal Ramesh Dhande,
aged major, Occ: Service, r/o Yesapur,
Post Sultanpur, Taluka Lonar, District Buldana.
10. Radhyeshyam Pandurang Kharde,
aged major, Occ: Service, r/o Behind Regional Workshop
House No.32, New Mahsul Colony, Khadki(Bk),
Tahsil & District Akola.

11. Bhaskar Madhukar Shelke,
aged major, occ: service, r/o Hatedi (Bk),
Tahsil & District Buldana.
12. Dipak Bhaskar Gawate,
Aged major, Occ. Service, R/o near Pundlikbaba Temple,
Pundlik Nagar, Chikhali, Tahsil Chikhali, District Buldana.
13. Samadhan Ambadas Wagh,
aged major, Occ: service, r/o Near Jijamata Janmasthan,
Sindkhedraja, Tahsil Sindkhedraja, District Buldana.
14. Prashant Dinkarrao Dholekar,
Aged major, Occ: service,
R/o Shri Shivaji Society, Circular Road, Buldana,
District Buldana.
15. Pravin Sahebrao Satao,
Aged major, Occ: service,
R/o Vyankatesh Nagar, Bande Wadi, Warud,
Tahsil Warud, District Amravati.

Applicants.

Versus

1. State of Maharashtra, through its secretary,
Department of Agriculture, Animal Husbandry,
Dairy Development & Fisheries, Mantralaya, Mumbai-32.
2. The Commissioner (Agril.),
Agriculture Commissionerate, Pune.
3. The Joint Director of Agriculture,
Amravati Division, Amravati.
4. Sachin S/o Dinkar Raut, aged about 44 years,
Occupation: Service, R/o Laxmi Nagar, Mothi, Dist: Akola.
5. Pallavi D/o Band, aged about 45 years,
Occupation: Service, R/o Shirang Santa Colony,
Dist: Amravati.
6. Sarika W/o Sharudchandra Adhau,
aged about 42 years, Occupation: Service,
r/o Populkhed road, Dist: Akola.

7. Aatish S/o Tukaram Malkhede,
aged about years, Occupation: Service,
R/o Yashoda nagar Manora road, Karanja Lad,
Washim, Dist: Akola.
8. Vaijinath S/o Uttamrao Masal,
aged about 40 years, Occupation: Service,
R/o Shivnagar, Shegaon Road Telhara, Tah and Dist: Akola.
9. Shrikrishna S/o Gyandeo Shinde,
aged about 34 years, Occupation: Service,
R/o Kolwad, Dist: Buldhana.
10. Kishor s/o Vishwanath Kambdi,
aged about 38 years, Occupation: Service,
R/o Waghoda, post nara, Tah: Karanja, Dist: Wardha.
11. Dinesh S/o Santosh Mahure,
aged about 37 years, Occupation: Service,
R/o Sanatan Colony, Nagsen Bhudhvihar Near Warud,
Tah: Warud, Dist: Amravati.

Respondents.

S/Shri D.M. Kakani, G.K. Bhusari, Advs. for the applicant.
Shri M.I. Khan, learned P.O. for the respondent nos.1 to 3.
S/Shri N.B. Kalwaghe, N.R. Raut, Advs. for resp. nos.4 to 11.

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

Date of Reserving for Judgment : 27th February, 2024.
Date of Pronouncement of Judgment : 5th March, 2024.

COMMON JUDGMENT

(Delivered on this 5th day of March, 2024)

Heard Shri N.R. Saboo, learned counsel for applicants (in
O.A.No.16 of 2023), Shri G.K. Bhusari, learned counsel for applicants
(in O.A.No.383 of 2023), Shri M.I. Khan, learned P.O. for respondent

nos.1 to 3 (in both O.As.) and Shri N.R. Raut, Id. counsel for respondent nos.4 to 11 (intervener).

2. The regular Division Bench is not available. The Hon'ble Chairperson, M.A.T., Principal Bench, Mumbai issued Circular No.MAT/MUM/JUD/469/2023, dated 24/04/2023. As per the direction of Hon'ble Chairperson, if both the parties have consented for final disposal, then regular matter pending before the Division Bench can be disposed off finally. Hence, the matter is heard and decided finally with the consent of learned counsel for both the parties.

3. The case of the applicants in O.A.No.16/2023 in short is as under—

The applicants were appointed and posted on the post of Agricultural Assistant under the supervision of respondent no.3. As per the Recruitment Rules 1983, the quota of 50% by promotion and 50% by nomination / examination were provided.

4. As per Notification dated 19/08/2004, respondent no.1 framed new recruitment rules for the post of Agricultural Assistant as well as for the post of Agricultural Supervisor. As per the said rules, priority was given to the degree holders in promotion. As per the Notification dated 29/01/2018 recruitment rules are amended for the post of Agricultural Supervisor which provides promotion amongst

Agricultural Assistant or by selection of suitable person on the basis of merit list prepared by holding limited departmental competitive examination.

5. As per the G.R. dated 11/04/2018 respondents / department considered the case of the applicants for first benefits of Assured Career Progressive Scheme (ACPS). It is submitted that although recruitment rules were framed in 2018, respondents department did not conduct such examination for 30% quota since last 4 years. As per the G.R. dated 20/04/2021, the Government of Maharashtra issued direction to fill all vacant posts by issuing ad-hoc promotion subject to result of pending proceeding before Hon'ble Supreme Court. All applicants are granted ad-hoc promotion on the post of Agricultural Supervisor vide orders dated 11/06/2021 and 16/07/2021. The applicants are discharging their duties on the post of Agricultural Supervisor as per the order of promotion dated 16/07/2021. Respondent no.1 vide memorandum dated 21/10/2022 granted permission to hold limited departmental competitive examination. It is submitted that the applicants are already promoted on the post of Agricultural Supervisor based on their eligibility and seniority. Therefore, they need not to appear in the departmental examination. The applicants approached to this Tribunal for the following reliefs –

“ (9) (i) It is therefore, prayed that this Hon'ble Tribunal, may kindly be pleased to quash and set aside Circular dated 01.11.22 issued by office of respondent no. 2, Commissioner of Agriculture, Pune, at Annexure.

(ii) By appropriate order be pleased to direct the respondents to continue applicants on the post of Agriculture Supervisor as per there order of promotion, vide order dated 11.06.21 & 16.07.21.

(iii) By appropriate order be pleased to restrain the respondents to fill posts of Agriculture Supervisor occupied by applicants as per order of promotion dated 11.06.21 & 16.07.21, by conducting Limited Departmental Competitive Examination, amongst Agriculture Assistants.

(10) By appropriate interim relief be pleased to restrain the respondents from issuing any advertisement and conducting Limited Departmental Competitive Examination for the post of Agriculture Supervisor, which are already occupied by applicants as per order of promotion dated 11.06.21 & 16.07.21.

6. The respondent nos.1 to 3 filed their reply. It is submitted that respondents have already framed recruitment / promotion rules. They have stated that as per the rules, the respondents are acting to fill up the posts of Agricultural Supervisor on promotion. The employees who are / were working on the post of Agricultural Assistant have to appear in the competitive examination. As per the recruitment / promotion rules dtd. 29/01/2018, all the applicants were granted ad-hoc promotion. Those promotions were not permanent, therefore, they cannot say that they should be continued on the said

post. Some of the applicants have appeared in the departmental examination which was held on 03/04/2023. The applicant nos.1 to 4 & 6 to 22 filled the form to appear in the examination. The applicant nos.5 and 23 not filled the form and not appeared in the examination (in O.A. 16/2023).

7. The applicant nos.3,4,12,13,18 and 22 have cleared the examination and remaining applicants not cleared the examination as per the cut-off marks. It is submitted that the M.A.T., Bench at Aurangabad passed the order in O.A.No.260/2021 directing the respondents to complete the process of promotion by holding competitive examination as per the recruitment rules of 2018. The respondents have complied the procedure. The applicants who have passed examination, are entitled to continue on the promotional post, but those who have not passed / appeared are not entitled to continue on the said post. The promotional orders issued to the applicants are very specific. As per the promotional order, there are conditions. At last submitted that both the O.As. are liable to be dismissed.

8. In O.A. 383/2023, the contention of the applicants near about same as like in O.A. No.16/2023.

9. All these applicants in these O.As. were granted ad-hoc promotion. As per their contentions, they need not to appear in the competitive examination and their ad-hoc promotions cannot be

cancelled. They have also prayed the same relief as the relief prayed in the above O.A.No.16/2023.

10. Both the O.As. are based on the same facts and circumstances. Therefore, both the O.As. are decided by this common Judgment.

11. The learned counsel for applicants Shri N.R. Saboo in O.A.No.16/2023 has submitted that the applicants are already granted ad-hoc promotion. They need not to appear in the competitive examination. The rules framed in the year 2018, i.e., 29/01/2018 were never acted upon. The respondents have already promoted the applicants. They cannot direct to appear in the competitive examination. Hence, communication / circular of respondents dated 01/11/2022 is liable to be quashed and set aside. The applicants be continued on the promotional post.

12. Shri M.I. Khan, learned P.O. has pointed out the promotional orders issued to the applicants. As per the condition nos.4 and 5, the applicants were given ad-hoc promotion. The promotions were granted till the regular promotion. As last submitted that as per the recruitment rules, the respondents have followed the procedure as per the direction of the M.A.T., Bench at Aurangabad passed the order in O.A.No.260/2021. Hence, the O.As are liable to be dismissed.

13. From the perusal of documents there is no dispute that the respondents have framed promotion / appointment rules of 2018. The rules 3 and 4 are reproduced as below –

“(3) Appointment to the post of Agriculture Supervisor in Group 'C' in the Commissionerate shall be made either -

(a) by promotion of a suitable person on the basis of seniority subject to fitness from amongst the persons holding the post of Agriculture Assistant, Group 'C', having not less than three years regular service on that post; or

(b) by selection of a suitable person on the basis of merit list prepared on the basis of limited Departmental Competitive Examination from amongst the persons holding the post of Agriculture Assistant, Group 'C', having not less than five years regular service on that post.

(4) Appointment to the post of Agriculture Supervisor shall be made by promotion and selection in the ratio of 70: 30, respectively.”

14. Due to pendency of some litigations in the Hon'ble Supreme Court and in the Hon'ble High Court, the respondents could not conduct competitive examination as per the rules. Therefore, ad-hoc promotions were granted to the applicants. The conditions nos.4,5 & 7 of promotion order are very clear. Those are reproduced below –

“ ४. सदर तदर्थ पदोन्नती ही मा. उच्च न्यायालय, मुंबई यांनी याचिका क्र. २७९७/२०१५ मध्ये दिनांक ०४/०८/२०१७ रोजी दिलेल्या निर्णयाविरोधात राज्य शासनाने मा. सर्वोच्च न्यायालयात दाखल केलेल्या व प्रलंबित असलेल्या विशेष अनुज्ञा याचिका क्र.२८३०६/२०१७ च्या अधिन राहतील. तसेच मा. महाराष्ट्र प्रशासकीय न्यायाधिकरण, मुंबई येथे दाखल मुळ अर्ज क्र.७५४/२०१८ च्या न्याय निर्णयाच्या अधिन राहिल. तसेच वेगवेगळ्या

न्यायाधिकरण/न्यायालयातील न्याय निर्णयाच्या अधिन राहून संबंधीत कृषि सहाय्यक यांना कृषि पर्यवेक्षक संवर्गात मर्यादीत विभागीय स्पर्धा परिक्षेद्वारे भरावयाच्या खुल्या प्रवर्गातील रिक्त पदांवर निव्वळ तात्पुरत्या स्वरूपात तदर्थ पदोन्नतीने ज्येष्ठतेनुसार देण्यात येत आहेत.

५. सदर तदर्थ पदोन्नती ही तात्पुरत्या स्वरूपाची असल्यामुळे पदोन्नतीच्या दिनांकापासून सेवाज्येष्ठतेचा हक्क सांगता येणार नाही. ज्यावेळी उपरोक्त कर्मचाऱ्यांची पदोन्नती नियमित होईल, तेव्हापासून त्यांची सदर पदावरील सेवाज्येष्ठता निर्धारित करण्यात येईल.

६. -----

७. सदर तदर्थ पदोन्नती ही ११ महिने किंवा मर्यादीत विभागीय स्पर्धा परिक्षेद्वारे पदे भरली जाईपर्यंत अथवा निवड सुचीवरील नियमित नियुक्ती होईपर्यंत यापैकी जे लवकर घडेल तेवढ्या कालावधीकरीता असेल. सदर कालावधी नंतर सदर पदोन्नती आदेश आपोआप संपुष्टात येतील.”

15. As per the promotion order, ad-hoc promotions were given to the applicants. They have accepted the conditions mentioned in the promotion order. Now they cannot say that they should be continued on the ad-hoc promotion. The respondents have conducted the competitive examination as per the direction of the M.A.T., Bench at Aurangabad in O.A.No.260/2021, dated 05/04/2022.

16. Some of the applicants appeared in the competitive examination. Some of them are successful, but some of the applicants are not successful. From the perusal of recruitment rules and procedure adopted by the respondents to conduct competitive examination is perfectly legal and correct. The applicants cannot claim that without success in the competitive examination, they shall be continued on ad-hoc promotion. Hence, the following order –

ORDER

- (i) Both O.As. are dismissed with no order as to costs.
- (ii) The C.A. No.70/2024 (in O.A. No.16/2023) also stands disposed of.

Dated :- 05/03/2024.

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

dnk.

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

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 05/03/2024.