

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 906 /2020 (D.B.)

1. Shafiulla Karim Sayyad,
Aged about 30 years, Occ. Service,
R/o C/o Shivsing Rajure,
Mutthelayout, Near Joshi Hospital,
Behind Bus Stand, Buldhana.
2. Ku. Suvarna Shankar There,
Aged about - adult, Occ. Service,
R/o C/o Shri Vasant Yerne,
Near Mahesh Bhavan, Hanuman Nagar,
Tukkam, Chandrapur-445 001.
3. Ku. Prachi Vilas Kulat,
Aged about - adult, Occ. Service,
R/o C/o Dhiraj Lodam, I.T.I. Colony,
Gurukul Kaman, Malkapur,
District Akola-444 004.

Applicants.

Versus

- 1) The State of Maharashtra,
Through its Secretary,
Department of Skill Development,
Employment and Entrepreneurship,
Mantralaya, Mumbai-32.
- 2) Commissioner of Skill Development,
Employment & Entrepreneurship,
Kokan Bhawan (Annx) 3rd Floor,
C.B.D. Belapur,
Navi Mumbai-400 614.

Respondents

With

ORIGINAL APPLICATION NO. 20 /2021 (D.B.)

Mira D/o Kailashrao Deshmukh
(Mira W/o Sachin Deshmukh),
Aged about 34 years, Occ. Nil,
R/o Ambashi, Tahsil Chikhli,
District Buldhana.

Applicant.

Versus

- 1) The State of Maharashtra,
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai-32.
- 2) The State of Maharashtra,
Through its Secretary,
Public Works Department,
Mantralaya, Mumbai-32.
- 3) The Superintendent Engineer,
Public Works Circle,
Bandhkam Bhavan,
Gaurakshan Road,
Akola, District Akola-444 001.
- 4) The Executive Engineer,
Public Works Department,
Besides S.T. Stand,
Buldhana, District Buldhana-443 001.

Respondents

With**ORIGINAL APPLICATION NO. 185 /2021 (D.B.)**

Kuldeep S/o Gangadhar Kalurkar,
Aged about 31 years, Occ. Nil,
R/o C-3, Datta Garden Building,
Beside Ashirwad Garden,
Ring Road, Chattrapati Square,
Nanded, District Nanded.

Applicant.

Versus

- 1) The State of Maharashtra,
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai-32.
- 2) The State of Maharashtra,
Through its Secretary,
Social Justice and Special Assistance Department,
Mantralaya, Mumbai-32.
- 3) The Commissioner Social Welfare,
Social Welfare Commissionerate,
3 Church Path,
Maharashtra State,
Pune-411 001.
- 4) The Regional Deputy Commissioner,
Social Welfare Department,
Nagpur-440 001.
- 5) The Assistant Commissioner,
Social Welfare Department,
Ambedkar Bhavan,
In front of Gyanmata School,
Namaskar Chowk, Nanded-431 601.
- 6) The District Social Welfare Officer,
Zilla Parishad Bhandara,
District Bhandara- 441 904.

Respondents

Shri P.V.Thakre & V.B.Gawali, Id. Advocates for the applicants.

Shri A.M.Ghogre, Id. P.O. for the respondents.

**Coram :- Hon'ble Shri Shree Bhagwan, Vice-Chairman &
Hon'ble Shri M.A.Lovekar, Member (J).**

JUDGMENT

Judgment is reserved on 28th Feb., 2023.

Judgment is pronounced on 15th Mar., 2023.

(Per:-Member (J))

Heard Shri P.V.Thakre & V.B.Gawali, learned counsel for the applicants and Shri A.M.Ghogre, learned P.O. for the Respondents.

2. These original applications which involve an identical issue were heard together and they are being decided by this common judgment.

3. On 09.07.2014 Maharashtra State Reservation (of seats for admissions in educational institution in the State and for appointments on posts in the public services under the State) for Educationally and Socially Backward Category (E.S.B.C.) Ordinance, 2014 was promulgated providing 16% reservation to the aforesaid category. This Ordinance was challenged in W.P. No. 2053/2014. Its implementation was stayed by the Hon'ble Bombay High Court. Thereafter, Socially and Economically Backward Category (S.E.B.C.) Act, 2015 was passed. It was challenged in W.P. No. 3151/2014. Its implementation, too, was stayed by the Bombay High Court. To deal with these developments G.R. dated 02.12.2015 was issued by G.A.D., Government of Maharashtra. The applicants, in response to various advertisements, applied for different posts, they underwent selection process and were given appointment as Open Category Candidates on various posts initially for a period of 11 months

or till the decision of the writ petition/s whichever was earlier. Their services were extended from time to time by virtue of interim orders passed by the High Court. Thereafter, State of Maharashtra enacted the Economically and Socially Backward Category Act, 2018. It was challenged in P.I.L. No. 719/2018. The Bombay High Court upheld validity of said Act of 2018 by judgment dated 27.06.2019. Pursuant to this judgment, on 11.07.2019 G.R. was issued to complete the selection process initiated as per E.S.B.C. Ordinance of 2014, to terminate services of Open Category candidates who were appointed to posts reserved for E.S.B.C. and to appoint candidates of said category to these posts. As per this G.R. services of the applicants were terminated. Judgment of the Bombay High Court dated 27.06.2019 was challenged in a batch of Civil Appeals and Writ Petitions before the Hon'ble Supreme Court. The Hon'ble Supreme Court, by judgment dated 05.05.2021 (**Dr. Jaishri Laxmanrao Patil Vs. The Chief Minister and Ors. (2021) 8 SCC 1**) set aside the impugned judgment of the Bombay High Court. In view of judgment of the Supreme Court dated 05.05.2021 all the applicants have been reinstated in service.

4. In the aforesaid factual background the applicants are praying for grant of continuity in service and wages for the period between their termination and reinstatement. In support of these prayers the applicants have relied on the judgment dated 12.08.2022

delivered in a batch of three Original Applications 993, 995 & 996/2019 by the Principal Bench of this Tribunal. By this judgement both the reliefs viz continuity of service and backwages, were granted by observing as follows:-

“In the present case, though there was order of the Hon’ble Supreme Court dated 12.7.2019 that the order of the Hon’ble High Court for the reservation in question shall not have any retrospective effect, the services of the applicants were terminated thereafter on the ground of G.R dated 11.7.2019. The said G.R was also subsequently cancelled by the Respondent-State as it was erroneously issued. However, the services of the applicants were terminated and they were kept out of service for no fault of theirs.”

The applicants in these Original Applications stand on the same footing. Hence, the order:-

O R D E R

All three Original Applications are allowed in the following terms with no order as to costs. Services of the applicants shall be treated to be continuous from the date of their initial appointment for all purposes

including pensionary benefits. The applicants are further held entitled to backwages for the period between their termination and reinstatement.

(M.A.Lovekar)
Member(J)

aps

Dated - 15/03/2023

(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 Vice Chairman
& Hon'ble Member (J).

Judgment signed : 15/03/2023.
on and pronounced on

Uploaded on : 16/03/2023.