

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 193 of 2018 (D.B.)

Shri Vikas S/o Shankar Bangar,
Aged about 43 years, Occ. Service,
R/o at Post Isoli (Part 1), Tahsil Chikhali,
District Buldana-444 301.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Revenue and Forest Department,
Mantralya, Mumbai-400 032.
- 2) The Collector, Buldana,
Collectorate Compound, Buldana,
District Buldana.
- 3) Resident Deputy Collector, Member
Secretary of Selection Committee, Buldana,
Office of Collectorate Compound, Buldana,
District Buldana.
- 4) The Tahsildar, Chikhali,
Tahsil Office Chikhali, District Buldana.
- 5) The Tahsildar, Mehkar,
Tahsil Office Mehkar, District Buldana.
- 6) Shri Sanjay S/o Chindhu Borkar,
Aged about 45 years, Occ. Service,
Office of Collector, Buldana (GAD)
Department, Buldana, District Buldana.
- 7) Shri Sanjab @ Sanjay Maroti Manwatkar,
Aged about 40 years, Occ. Service,
Office of Collector, Buldana (GAD) Department,
Buldana, District Buldana.
- 8) Shri Vijay S/o Tukaram Manwatkar,
Aged about 35 years, Occ. Service,
Office of Collector, Buldana (GAD) Department,
Buldana, District Buldana.

- 9) Shri Narayan S/o Uttam Tayade,
Aged about 44 years, Occ. Service office at
Collector (GAD), Buldana, Tahsil & District Buldana.

Respondents.

**Shri A.P. Sadavarte, Advocate for the applicant.
Shri V.A. Kulkarni, learned P.O. for respondent nos.1 to 5.
None for respondent nos.6 to 9.**

WITH

ORIGINAL APPLICATION No. 194 of 2018 (D.B.)

Shri Gajanan S/o Sahebrao Ambhore,
Aged about 45 years, Occ. Service,
R/o at Post Mangrulnavghare, Tahsil Chikhali,
District Buldana-444 301.

Applicant.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Revenue and Forest Department,
Mantralya, Mumbai-400 032.
- 2) The Collector, Buldana,
Collectorate Compound, Buldana, District Buldana.
- 3) Resident Deputy Collector, Member
Secretary of Selection Committee, Buldana,
Office of Collectorate Compound, Buldana,
District Buldana.
- 4) The Tahsildar, Chikhali,
Tahsil Office Chikhali, District Buldana.
- 5) The Tahsildar, Mehkar,
Tahsil Office Mehkar, District Buldana.
- 6) Shri Sanjay S/o Chindhu Borkar,
Aged about 45 years, Occ. Service,
Office of Collector, Buldana (GAD)
Department, Buldana, District Buldana.

- 7) Shri Sanjab @ Sanjay Maroti Manwatkar,
Aged about 40 years, Occ. Service,
Office of Collector, Buldana (GAD) Department,
Buldana, District Buldana.
- 8) Shri Vijay S/o Tukaram Manwatkar,
Aged about 35 years, Occ. Service,
Office of Collector, Buldana (GAD) Department,
Buldana, District Buldana.
- 9) Shri Narayan S/o Uttam Tayade,
Aged about 44 years, Occ. Service office at
Collector (GAD), Buldana, Tahsil & District Buldana.

Respondents.

**Shri A.P. Sadavarte, Advocate for the applicant.
Shri V.A. Kulkarni, learned P.O. for respondent nos.1 to 5.
None for respondent nos.6 to 9.**

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

Dated :- 31/01/2023.

COMMON JUDGMENT

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

Heard Shri A.P. Sadavarte, learned counsel for the applicants and Shri V.A. Kulkarni, learned P.O. for respondent nos.1 to 5. None for respondent nos.6 to 9.

2. The respondent nos. 6 and 7 are served, but not appeared.

3. In both the O.As., the applicants were appointed as a Kotwal. It is the contention of both the applicants that they were wrongly shown in the seniority list. As per the Govt. G.R. they are to be appointed in Class-IV posts as per seniority and merit. It is the contention of the applicants that respondent nos.6 to 9 were not eligible for appointment in Class-IV post. It is submitted that the respondent no.2 wrongly shown the applicants juniors to respondent nos.6 to 9 in the seniority list, therefore, they were not shown eligible for the Class-IV post. The respondent nos.6 to 9 were wrongly given appointments. As per one of the condition in the appointment order, the respondent nos.6 to 9 shall have to give undertaking that they are not having more than two children after cut-off date, i.e., 28/03/2005.

4. Both the applicants prayed for direction to the respondents to disqualify the respondent nos.6 to 9 and appoint both the applicants in Class-IV post, after correcting seniority list.

5. Both the O.As. are strongly objected by the respondent nos.1 to 5. It is submitted that examinations were held and respondent nos. 6 to 9 appeared in the examination, they were senior and as per rules they were appointed in Class-IV post. Both the applicants secured less marks therefore they were not appointed in Class-IV post. Hence, the O.As. are liable to be dismissed.

6. During the course of argument, the learned counsel for the applicants Shri A.P. Sadavarte has pointed out the documents filed on record. These documents (Annex-A-19 to 22) show that the respondent nos.6 and 7 were having more than two children on cut-off date. The learned P.O. Shri V.A. Kulkarni fairly submits that show cause notices are issued to respondent nos.6 and 7 as to why their services should not be terminated. Learned counsel for applicant submits that more marks are given to respondent nos.6 and 7 (Annex-A-18). He has pointed out mark sheet filed on record.

7. The documents filed on record clearly show that the respondent nos.6 and 7 were having more than two children on the cut-off date, therefore, they were not qualified. As per the appointment order, they were directed to give undertaking that they were not having more than two children on the cut-off date. The documents filed on record show that they were having more than two children. The respondent nos.6 and 7 were having more than two children even though they were appointed in Class-IV post. Hence, we pass the following order –

ORDER

(i) The O.As. are partly allowed.

(ii) The respondent no.2 is directed to take necessary action to remove the respondent nos.6 and 7 from Class-IV post.

(iii) The respondent no.2 is directed to consider the claim of applicants for appointment in Class-IV posts, if they are eligible, after correcting the seniority list.

(iv) The respondent nos.1 to 5 are directed to comply the order within a period of four months from the date of receipt of copy of this order.

(v) No order as to costs.

(Justice M.G. Giratkar)
Vice-Chairman

(Shree Bhagwan)
Vice- Chairman

Dated :- 31/01/2023.

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 : 31/01/2023.