

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATIONS NO.1222 & 1126 OF 2022

**ORIGINAL APPLICATION NO.1222 OF 2022
(O.A. St. No.1452/2022-Aurangabad)**

WITH

MISC. APPLICATION NO.33 OF 2023

DISTRICT : AURANGABAD

1. Kishor Kantilal Gaikwad,)
2. Mangesh Prabhakar Nikam,)
3. Somnath Ramnath Veer,)
4. Sanjay Bhanudas Dhabale,)
5. Sayrabano Gulamnabi Mirza,)
6. Yogesh Popatrao Divekar,)
7. Gopaldas Rajaram Zunjare,)
8. Pradip Vitthalrao Chavan,)
9. Vishwanath Laxman Gavit,)
10. Sachin Sitaram Borude,)
11. Surekha Nanasaben Mandlik,)
12. Sanjivani Sambhajirao Katore,)
13. Pradip Shahadeo Nimbalkar,)
14. Sudhakar Motiram Susar,)
15. Mukinda Tukaram Sisode,)
16. Pravin Ramchandra Wagh,)
17. Balkrishna Shankarrao Suryawanshi,)
18. Nandu Rakhmaji Jatode,)
19. Ashok Goroba Gadhe,)
20. Baliram Bapurao Jawane,)

21. Sandip Ashok Patil,)
22. Adesh Gulabrao Gaikwad,)
23. Shoba Shriram Nagargoje,)
24. Ghansham Kisan Sonawane,)
25. Kishor Laxman Pathade,)
26. Ashok Pundalikrao Waghchoure,)
27. Sandip Yashwant Waghule,)
28. Raju Gangadhar Kumbhar)
 All working as Agriculture Assistant)
 C/o Arvind G. Ambetkar, Advocate,)
 M.A.T. Aurangabad)..Applicants

Versus

1. The State of Maharashtra,)
 Through its Principal Secretary,)
 Agriculture, Animal Husbandry, Dairy)
 Development and Fisheries Department,)
 Mantralaya, Mumbai 400 032)
2. The Principal Secretary,)
 General Administration Department,)
 Mantralaya, Mumbai 400032)
3. The Commissioner (Agriculture),)
 Commissioner office of Agriculture,)
 Krushi Ayuktalai, 2nd floor, Central Building,)
 Shivaji Nagar, Pune-01)
4. The Agriculture Divisional Joint Director)
 (Establishment), Krushi Ayuktalai, 2nd floor,)
 Central Building, Shivaji Nagar, Pune-01)

5. The Divisional Joint Director of Agriculture,)
 Aurangabad Division, Kranti Chowk,)
 Kotala Colony, Samata Nagar, Aurangabad)..Respondents

WITH

ORIGINAL APPLICATION NO.1126 OF 2022

WITH

MISC. APPLICATION NO.34 OF 2023

DISTRICT : THANE

1. Smt. Kishori Dharma Vishe,)
 2. Mangesh Vilas Galande,)
 3. Smt. Sujata Arjun Gawade,)
 4. Ashok D. Rathod,)
 All working as Ad hoc Agriculture Supervisor,)
 C/o Arvind G. Ambetkar, Advocate,)
 M.A.T. Aurangabad)..Applicants

Versus

1. The State of Maharashtra,)
 Through its Principal Secretary,)
 Agriculture, Animal Husbandry, Dairy)
 Development and Fisheries Department,)
 Mantralaya, Mumbai 400 032)
 2. The Principal Secretary,)
 General Administration Department,)
 Mantralaya, Mumbai 400032)

3. The Commissioner (Agriculture),)
 Commissioner office of Agriculture,)
 Krushi Ayuktalai, 2nd floor, Central Building,)
 Shivaji Nagar, Pune-01)
4. The Agriculture Divisional Joint Director)
 (Establishment), Krushi Ayuktalai, 2nd floor,)
 Central Building, Shivaji Nagar, Pune-01)
5. The Divisional Joint Director of Agriculture,)
 Aurangabad Division, Kranti Chowk,)
 Kotala Colony, Samata Nagar, Aurangabad)..Respondents

Shri A.G. Ambetkar – Advocate for the Applicants

Ms. S.P. Manchekar – Chief Presenting Officer for the Respondents

CORAM : Smt. Justice Mridula Bhatkar, Chairperson
 Smt. Medha Gadgil, Member (A)

DATE : 30th March, 2023

J U D G M E N T

1. In OA No.1222/2022 the applicants who are working as Agriculture Assistant are seeking promotion to the post of Agriculture Supervisor and seeking declaration that Rule 3(b), 4 and 5 of the Recruitment Rules of 2018 published vide notification dated 29.1.2018 are illegal and ultra-vires and be quashed and set aside and also directions to the respondent no.3 to decide the representation dated 7.7.2022 filed by the applicants for promotion.

2. In OA No.1126/2022 the applicants who are working as ad hoc Agriculture Supervisor are seeking directions to the respondents to issue permanent orders of the applicants to the post of Agriculture Supervisor as per seniority and challenging the communication dated 21.10.2022 issued by Jt. Secretary, Agriculture, Animal Husbandry, Dairy Development and Fisheries Department. In May 2022 all the applicants were made ad hoc Agriculture Supervisor. Ld. Advocate for the applicants submitted that applicant no.1 is regularized and hence his case is not pressed. Hence, now there are three applicants.

3. In MA No.33/2023 in OA No.1222/2022 and MA No.34/2023 in OA No.1126/2022, the applicants are praying to stay the advertisement dated 13.1.2023 issued by respondent no.5. Ld. Advocate for the applicant prays that these MAs are to be heard urgently as examination is going to be held on 3.4.2023.

4. Ld. Advocate for the applicants relied on Rule 3(b) and Rule 4 of the Recruitment Rules, 2018, which reads as under:

“3. Appointment to the post of Agriculture Supervisor in Group-C in the Commissionerate shall be made either,-

(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.”

5. Ld. Advocate for the applicant pointed out earlier recruitment rules dated 6.12.1975 of the Agriculture Department and submits that no ratio is mentioned in these rules. Thereafter recruitment rules dated 22.11.1983 were framed and in these rules also there is no ratio mentioned.

6. We have considered both the rules. There is no provision of passing examination for the post of Agriculture Supervisor. In Rule 3(c) of Recruitment Rules dated 19.8.2004 the ratio is mentioned as 70:30 for appointment by promotion and nomination. We have gone through the earlier rules and also the present rules for the post of Agriculture Supervisor. The Govt. has all powers to change the rules and introduce or change conditions i.e. examination, age, ratio etc. The said power cannot be challenged, unless shown arbitrary, unfair. In the present cases nothing such is pointed out. Hence, applications fail.

7. Ld. Advocate for the applicants submit that in earlier rules no ratio was mentioned and preference was given to the seniority and hence it is ultra vires and void and cannot be accepted. The Govt. has power to make, amend and change the rules for the purpose of administration under Article 309 of the Constitution of India and thus even if the ratio was not provided earlier or what should be the ratio cannot be challenged. We do not find any illegality in the rules. Hence, no interim relief can be granted. We make it clear that considering the nature of relief prayed in OA No.1222/2022, now nothing remains and the same is disposed off.

8. Ld. CPO while opposing OA No.1126/2022 relies on para 4 of the affidavit in reply dated 9.1.2023 filed by Sanjay Pandurang Suryawanshi, Assistant Administrative Officer in the office of Divisional Joint Director of Agriculture, Konkan Division, Thane, which reads as under:

“4. It is respectfully submitted that the applicants will be regularized on the post of supervisor as and when the vacancies in promotion quota will be available (i.e. 70% promotion quota in agriculture supervisor cadre) as per rules.”

9. Ld. Advocate for the applicants tender copy of order dated 9.3.2023 passed by the Hon'ble Bombay High Court, Bench at Aurangabad in W.P. No.5528/2022 & other connected matters Ramrao Kalyanrao Yadav Vs. The State of Maharashtra & Ors. He submits that before the Hon'ble High Court, Aurangabad Bench the respondents have made submissions that they will consider those petitioners and promotion orders will be issued and now these orders are issued.

10. Considering the prayer of the applicants and para 4 of the reply given in OA No.1126/2022 which is quoted above, as the Govt. has taken decision to promote the applicants as per their seniority as and when vacancies will be available in their quota, we do not find any other point in keeping this OA No.1126/2022 pending as the grievance of the applicants is resolved and the OA stands disposed off.

11. In view of the above observations, both the OAs. and MAs are disposed off. No order as to costs.

Sd/-

(Medha Gadgil)
Member (A)
30.3.2023

Sd/-

(Mridula Bhatkar, J.)
Chairperson
30.3.2023

Dictation taken by: S.G. Jawalkar.