

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI
ORIGINAL APPLICATIONS NO.464 & 99 OF 2020**

ORIGINAL APPLICATION NO.464 OF 2020

DISTRICT : MUMBAI

Shri Kottapalli Suryakrishnamurty,)
52 years, 3rd floor, Old Custom House, Fort, Mumbai-1)..Applicant

Versus

1. The State of Maharashtra,)
Through Chief Secretary,)
Mantralaya, Mumbai 400032)
2. The Additional Chief Secretary (Revenue),)
Revenue & Forest Department,)
Mantralaya, Mumbai 400032)..Respondents

WITH

ORIGINAL APPLICATION NO.99 OF 2020

DISTRICT : MUMBAI

1. Shri Bhausahab G. Phatangare,)
2. Shri Subhash S. Borkar,)

3. Shri Padmakar R. Rokade,)
4. Shri Vijay B. Joshi,)
5. Shri Shankarrao Jadhav)
6. Shri Sandeep S. Kalambe,)
7. Shri Ajit Sakhare,)
8. Shri Hanumant Argunde,)
9. Shri Manoj S. Gohad,)
10. Shri Devidas P. Chaudhary)
All working as Deputy Collector,)
C/o Law Counsellors, Advocates for Applicants)..Applicants

Versus

1. The State of Maharashtra,)
Through Chief Secretary,)
Mantralaya, Mumbai 400032)
2. The Additional Chief Secretary (Revenue),)
Revenue & Forest Department,)
Mantralaya, Mumbai 400032)
3. Shri Abhay Kargutkar,)
4. Smt. Reshma R. Mali Waghole,)
5. Shri Ramdas M. Khedkar,)
6. Shri Unmesh Mahajan,)
7. Shri Dhananjay S. Nikam,)
8. Shri Rajesh Khawale,)
9. Smt. Manisha Jayabhaye,)
10. Smt. Vaishali Indani-Untwal,)
11. Shri Dhananjay Sawalkar,)
12. Smt. Mayadevi H. Patole,)

13. Smt. Manjusha R. Miskar,)
14. Shri Sudhir Joshi,)
15. Smt. Manjiri Manolkar,)
16. Shri Pradeep Kulkarni,)
17. Shri Jagannath Virkar,)
18. Shri Shivaji Patil)
19. Smt. Dipali Motiyale)
20. Shri Sanjay S. Jadhav,)
21. Shri Pratap Kale,)
22. Shri Nishikant Deshpande,)
23. Shri Suhas Mapari,)
24. Smt. Snehal Patil-Bhosle,)
25. Shri Mandar Vaidya,)
26. Smt. Sarita Narke Patil)
27. Dr. Rani Tate-Kadam)
28. Smt. Mrinalini Sawant)
29. Shri Arun B. Anandkar,)
30. Shri Upendra G. Tamore,)
31. Smt. Kiran Kulkarni-Musale,)
32. Shri Devdutt Kekan,)
33. Shri K. Suryakrishnamurty,)
34. Shri Bhanudas Gaikwad,)
35. Shri Sanjay S. Sarvade,)
36. Shri Shivaji Shinde,)
37. Shri Sunil Thorve,)
38. Shri Sadanand S. Jadhav,)
39. Shri Sunil Yadav,)
40. Shri Sunil Vinchankar,)
41. Shri Shrikant Deshpande,)
42. Dr. Dadarao Datkar,)
43. Shri Anil Khandagale,)

44. Shri Uttamrao Patil,)
 45. Shri Avinash Katade)
 Nos.3-45 working as Dy. Collector) ..Respondents

AND

**MISC. APPLICATION NO.239 OF 2020
 IN
 MISC. APPLICATION NO.214 OF 2020
 IN
 ORIGINAL APPLICATION NO.99 OF 2020**

- Shri Suhas Shankarrao Mapare ..Intervener
 And
 Shri Bhausahab C. Phatangare & Ors. ..Applicants
 Vs.
 The State of Maharashtra & Ors. ..Respondents

Shri Akhilesh Dubey i/b. Troy Legal – Advocate for Applicant in OA No.464/2020

Shri Rajuram Kuleriya i/b. Law Counsellors – Advocate for Applicants in OA No.99/2020

Shri R.S. Apte – Senior Counsel with Ms. S.P. Manchekar, Chief Presenting Officer for Respondents-State

Ms. Mayuri Karekar i/b. Shri Sandeep Shinde – Advocate for Respondents No.5 to 7 in OA No.99 of 2020

Shri Atul Dhamle i/b. Shri B.S. Shinde – Advocate for Respondent No.11 in OA. No.99 of 2020

- CORAM : Smt. Justice Mridula R. Bhatkar (Chairperson)
 Shri P.N. Dixit, Vice-Chairman (A)
 DATE : 5th April, 2021
 PER : Smt. Justice Mridula R. Bhatkar (Chairperson)

J U D G M E N T

1. Heard Shri Akhilesh Dubey i/b. Troy Legal, learned Advocate for Applicant in OA No.464/2020, Shri Rajuram Kuleriya i/b. Law Counsellors, learned Advocate for Applicants in OA No.99/2020, Shri R.S. Apte, Senior Counsel with Ms. S.P. Manchekar, Chief Presenting Officer for Respondents-State, Ms. Mayuri Karekar i/b. Shri Sandeep Shinde, learned Advocate for Respondents No.5 to 7 in OA No.99 of 2020, Shri Atul Dhamle i/b. Shri B.S. Shinde, learned Advocate for Respondent No.11 in OA No.99 of 2020. Smt. Punam Mahajan, learned Advocate for Intervener in MA No.239/2020 in MA No.214 of 2020 in OA No.99/2020 has filed leave note. Intervener is present in person.

2. In both these OAs the applicants who are working as Deputy Collectors at different places in the State of Maharashtra challenge the decision of the respondents of giving ad hoc promotions by the orders dated 14.8.2019, 6.1.2019 and 30.1.2020 in OA No.99 of 2020 and by order dated 2.9.2020 in OA No.464 of 2020.

3. Shri R.S. Apte, learned Senior Counsel for Respondent-State today files affidavit in reply dated 1.4.2021 on behalf of respondents no.1 and 2 through Dr. Madhav Veer, Deputy Secretary and the same is taken on record and copy is furnished to the other side. Sr. Counsel submits that respondents have considered all the objections of the applicants to the provisional seniority list dated 3.3.2018 in the cadre of Dy. Collector and have prepared final seniority list on 31.12.2020.

4. Sr. Counsel relied on para 6 of the said affidavit which states that:

“6. Despite of getting an earlier date of selection grade by persons whose names are appearing at Sr. No.42 to Sr. No.48 in the ad hoc promotion order dated 14.8.2019, it is likely to be possible that their dates of grant of selection grade may be moved further. It is further submitted they are already promoted on ad hoc basis on higher the promotional posts and discharging the duties on post of Additional Collector and that they will not be reverted and due care will be taken in the light of provisions of said Recruitment Rules of 1977.”

5. Ld. Sr. Counsel submits that Writ Petition (Stamp) No.25104 of 2019 was filed in the Hon'ble High Court by Shri B.G. Phatangare, one of the applicants in OA No.99 of 2020 and the Hon'ble High Court by order dated 18.12.2019 directed the respondents to prepare final seniority list by end of January, 2020 and thereafter time was extended by this Tribunal by order dated 6.10.2020 till 31.12.2020 and so the final seniority list was prepared on 31.12.2020. He submits that respondents have given ad hoc promotions earlier which were subject to the final seniority list. He submits that dates of promotion will change as per final seniority list to the post of Deputy Collector as well as Additional Collector, as the case may be.

6. Ld. Sr. Counsel made a specific statement that all the applicants and respondents who are working at present on ad hoc promotions their position will not be disturbed by the State, except the dates, so that at present no prejudice will be caused to anybody. Thus, Sr. Counsel submits that in view of these further developments nothing remains in this two OAs and they have become infructuous.

7. Ld. Counsel for the applicants submits that though the applicants in these OAs have challenged the orders issuing ad hoc promotions to the respondents who are below them, Shri Kottapalli Suryakrishnamurthy (Applicant in OA No.464/2020) and Shri Padwal have filed OAs No.236 and 237 of 2021 respectively wherein the final seniority list dated

31.12.2020 is challenged. Ld. Counsel submits that challenge of the applicants to the ad hoc promotions can be carried forward in OAs No.236 and 237 of 2021. He submits that earlier in OA No.526 of 2004 this Tribunal by order dated 17.4.2008 has given specific rules and guidelines to the respondents and are to be followed for preparing the seniority list. Pursuant to those rules and guidelines provisional seniority lists were prepared in 2009, 2014 and then in 2018. Seniority lists of 2009 and 2014 were correctly prepared as per the directions given by this Tribunal in OA No.526 of 2004. However, provisional seniority list dated 3.3.2018 was arbitrarily prepared which gave birth to these litigations. The ad hoc promotion is also subject matter of the challenge.

8. Ld. Counsel submits that as per provisional seniority list the services of the applicants have been shown as fortuitous. Thus the applicants are going to be deprived of their legitimate claim of seniority and the promotions and consequential promotion and therefore they want to challenge the final seniority list along with ad hoc promotions. Ld. Counsel submits that if the issue of ad hoc promotion is also kept open along with challenge to the final seniority list and also other consequential challenges are kept open and the applicants may be permitted to modify their prayers in OA.236 of 2021, then these two OAs can be disposed off.

9. Sr. Counsel Shri Atul Dhamale for respondent no.11 in OA No.99 of 2020 submits that if at all the respondents have any other grievances and if at all he is made party to this OA No.236 of 2021 then he may also raise certain objections and his contentions are to be kept open pertaining to his placement as per seniority list.

10. Ms. Mayuri Karekar i/b. Shri Sandeep Shinde, learned Advocate for Respondents No.5 to 7 in OA No.99 of 2020 adopts the submissions made by Sr. Counsel Shri Dhamale.

11. Intervener in OA.99/2020 Shri S.S. Mapari submits that he may also be given opportunity to raise his objections and plead accordingly.

12. On query counsel for the applicant in OA No.464/2020 submits that in OA No.236 of 2021, Intervener Shri Suhas Mapari is not made party respondent and also clarified in OA No.236 of 2021 the applicant has made (1) Abhay Kargutkar-Respondent No.3, (2) Manjusha Miskar-Respondent No.13, (3) Pradeep Kulkarni-Respondent No.16 and (4) Devdutt Kekan-Respondent No.32 from direct recruit as party respondent in representative capacity and not all the respondents in OA No.99 of 2020 are made party respondents.

13. In view of this as final seniority list is prepared, a statement is made by Sr. Counsel for the respondent-State that all the objections of the applicants were considered and the decision is taken and the record of the same is perused and can be made available as and when required. We are of the view that nothing remains in these two OAs.

14. We dispose off these two Original Applications and keep all the contentions open in OA No.236 of 2021 in respect of promotions including ad hoc promotions in the final seniority list. We give liberty to the applicants to modify and amend OA No.236 of 2021 by moving formal application in the said OA. All the contentions of both the sides are kept open. MA No.239 of 2020 is also disposed off. No orders as to cost.

Sd/-

(P.N. Dixit)
Vice-Chairman (A)
5.4.2021

Sd/-

(Mridula R. Bhatkar, J.)
Chairperson
5.4.2021

Dictation taken by: S.G. Jawalkar.