

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.457/2022, 460/2022 AND
462/2022**

DISTRICT:- NANDED

(1) O.A.NO.457/2022

1. Vanita Kashinath Panchal,
Age : 44 years, Occ. Service as Avval Karkoon,
R/o. House No.3-6-401, Dhupia House,
Near Maruti Temple, Gurudwara Gate No.1,
Nanded 431 605.

2. Balaji s/o. Digambar Bangarwar,
Age : 40 years, Occ. Service as Avval Karkoon,
R/o. C/o. Yewate Patil, Nileshwari Colony,
Behind Bhavsar Chowk, Nanded – 431 605.

3. Namdev s/o. Vitthal Palekar,
Age : 49 years, Occ. Service as Avval Karkoon,
R/o. Shrikrishna Nagar, Taroda (BK),
Nanded 431 617.

4. Balasaheb s/o. Avdhut Puri,
Age : 53 years, Occ. Service as Avval Karkoon,
R/o. Hounse No.68/69, Ex-Servicemen Colony,
Padhegaon, Aurangabad-431 514.

...APPLICANTS

V E R S U S

- 1) The State of Maharashtra,
Through Principal Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-32.
- 2) The Divisional Commissioner,
Aurangabad Division, Aurangabad.
- 3) The Collector,
Nanded, Tq. & Dist. Nanded.
- 4) Priti Pradiprao Dahale,
Age : Major, Occ : Service,
R/o. Collector Office, Nanded,
Tq. & Dist. Nanded.

- 5) Digambar Govindrao Gadilwar,
Age : Major, Occ : Service,
R/o. Collector Office, Nanded,
Tq. & Dist. Nanded.
- 6) Vijay s/o. Rameshwar Survashe,
Age : Major, Occ : Service,
R/o. Collector Office, Nanded,
Tq. & Dist. Nanded.

...RESPONDENTS

APPEARANCE : Shri Sandeep D. Munde, Advocate
for Applicants.

: Smt. Deepali Deshpande, Presenting
Officer for the respondent
authorities.

(2) O.A.NO.460/2022

1. Ankush s/o. Kachru Hiwale,
Age : 44 years, Occ. Service as Senior Clerk,
R/o. Sneh Nagar, Nanded.
2. Ganesh s/o. Umakant Narhire,
Age : 42 years, Occ. Service as Senior Clerk,
R/o. Shiv Nagar, Nanded.
3. Sunita Kishanrao Parodwad,
Age : 42 years, Occ. Service as Senior Clerk,
R/o. Hanuman Gad, Nanded.

...APPLICANTS

V E R S U S

- 1) The State of Maharashtra,
Through the Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-32.
- 2) The Divisional Commissioner,
Divisional Commissioner Office,
At Aurangabad Tq. & Dist. Aurangabad.
- 3) The District Collector,
Nanded, Tq. & Dist. Nanded.

- 4) Ganesh Shivshankar Swami,
Age : 50 years, Occ : Service,
R/o. Collector Office, Nanded,
Tq. & Dist. Nanded.
- 5) Ganga w/o. Subhashrao Suryawanshi,
Age : 37, Occ : Service as Senior Clerk,
R/o. Neard Jain Mandir, Nanded. **...RESPONDENTS**

APPEARANCE : Shri J.M.Murkute, Advocate for
Applicants.

: Smt. Deepali Deshpande, Presenting
Officer for the respondent
authorities.

(3) O.A.NO.462/2022

1. Shankar s/o. Vitthalrao Vaidya,
Age : 47 years, Occ. Service as Avval Karkoon,
R/o. Prabhat Nagar, Nanded.
2. Ratnakar s/o. Narayan Thakur,
Age : 50 years, Occ. Service as Avval Karkoon,
R/o. Jayprakash Nagar Asarjan,
Tq. & Dist. Nanded.
3. Jagdish s/o. Gangadhar Bhale,
Age : 38 years, Occ. Service as Avval Karkoon,
R/o. Deshmukh Galli, Gandhi Chowk, Bhokar,
Tq. Bhokar, Dist. Nanded-431 801. **...APPLICANTS**

V E R S U S

- 1) The State of Maharashtra,
Through Principal Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-32.
- 2) The Divisional Commissioner,
Aurangabad Division, Aurangabad.
- 3) The Collector,
Nanded, Tq. & Dist. Nanded.
- 4) Ushatai Pralhadrao Subhedar,
Age : Major, Occ : Service,

R/o. Collector Office, Nanded,
Tq. & Dist. Nanded.

- 5) Ashok Balu Jakulwar,
Age : Major, Occ : Service,
R/o. Collector Office, Nanded,
Tq. & Dist. Nanded.

...RESPONDENTS

APPEARANCE : Shri Sandeep D. Munde, Advocate
for Applicants.
: Smt. Deepali Deshpande, Presenting
Officer for the respondent
authorities.

**CORAM : JUSTICE SHRI P.R.BORA, VICE CHAIRMAN
AND
SHRI BIJAY KUMAR, MEMBER (A)**

Decided on : 28-09-2022

**C O M M O N O R A L O R D E R
(PER: JUSTICE SHRI P. R. BORA)**

1. Applicants in all these 3 matters have been reverted by the respondents on similar grounds. We have, therefore, heard these matters together and we deem it appropriate to decide these O.As. by a common reasoning.

2. Heard Shri Sandeep D. Munde, learned Counsel for the applicants in O.A.No.457/2022 & 462/2022, Shri J.M.Murkute, learned Counsel for applicants in O.A.No.460/2022 and Smt. Deepali Deshpande, learned Presenting Officer for the respondent authorities in all the O.As.

None appears for the private respondents.

3. It is the grievance of the applicants in these matters that the orders of their reversion to lower posts are passed without giving any opportunity of hearing to them and the other grievance is that the impugned action of reversion is based on the seniority list published on 26-05-2020, which has been cancelled by this Tribunal by order passed in O.A.No.390/2020. Learned Counsel appearing for the applicants pointed out that the order in O.A.No.390/2020 was passed on 30-03-2022 and the orders impugned in the present O.As. have been passed on 13-05-2022. Learned Counsel submitted that the date on which the orders are passed, the seniority list on the basis of which the orders are passed was not in existence as it was quashed and set aside by this Tribunal.

4. Learned Counsel have put forth one more ground that had the applicants given opportunity of hearing they would have brought to the notice of respondents all relevant facts and would have put forth their defence. On these two grounds orders of reversion are challenged in these O.As. and are sought to be set aside.

5. Learned P.O. supported the impugned orders. It is the contention on behalf of the respondent authorities that the decision to revert these applicants was taken in the meeting held of DPC on 21-03-2022, on the date on which the seniority list dated 26-05-2020 was very much in existence. It is their further contention that relevant decision was taken to revert the applicants based on another decision of this Tribunal delivered in O.A.No.354/2015. Learned P.O. submitted that the applicants are not making any statement on merit whether the private respondents can be held to be junior to them if the criteria as laid down in O.A.No.354/2015 are applied in their cases. In the circumstances, learned P.O. has prayed for dismissal of the O.As.

6. Other respondents i.e. private respondents though have been duly served have not caused their appearance in the matter. Obviously, therefore, there is nothing on record from their side.

7. After having considered submissions of learned Counsel for the parties, it appears to us that the present orders may not sustain for two reasons as have been canvassed by the learned Counsel for the applicants. We

are not intending to go into merit whether the respondents have considered judgment in O.A.No.354/2015 and accordingly some changes are made by them which they claim to be in accordance with law. The question remains that in the orders of reversion, respondents have referred to seniority list dated 26-05-2020 which was admittedly set aside by the Tribunal on 30-03-2022 and was not in existence when the impugned orders were passed. This fact could not have been ignored by the respondents.

8. Consequently, there was no reason for the respondents for not giving opportunity of hearing to the applicants before passing the orders adverse to their interest. The order of reversion has been passed on 13-05-2022. Before passing such order had the respondents given an opportunity of hearing to the applicants they would have certainly brought to notice of the respondents that, seniority list published on 26-05-2020 has been set aside by the Tribunal vide order passed on 30-03-2022.

9. The contention raised on behalf of the respondents is that, the decision to revert the applicants was taken in the DPC meeting held on 21-03-2022 when the seniority list dated 26-05-2020 was very much in existence. It is,

therefore, further contention of the respondents that the order of reversion cannot be held unsustainable on the ground that seniority list on the basis of which reversion order came to be passed was set aside by this Tribunal by the judgment and order passed in O.A.No.390/2020 on 30-03-2022. The contention so raised is fallacious. Though it is accepted that the decision to revert the applicants was taken in DPC meeting held on 21-03-2022, the fact remains that the order of reversion was not immediately passed and communicated to the applicants till 13-05-2022. Had it been passed before 30-03-2022, perhaps equations would have been different. However, on 13-05-2022 when the impugned order was passed, undisputedly, seniority list dated 26-05-2020 was not in existence and was set aside by this Tribunal by the judgment and order passed in O.A.No.390/2020

10. For the reasons as foresaid, it appears to us that there is no need of deliberating on other issues raised by the parties and the impugned orders deserve to be set aside only on the ground that the seniority list on the basis of which the order of reversion is passed was not in existence on 13-05-2022. The O.As., therefore, deserve to be allowed. Hence, the following order:

ORDER

(i) Order dated 13-05-2022 impugned in the present O.As. is quashed and set aside.

(ii) Consequently, the respondent authorities are directed to place the applicants on their original position and cancel the promotions granted in favour of the private respondents.

(iii) We clarify that, it would be open for the respondent authorities to take a fresh decision by giving due opportunity of hearing to the applicants as well as the private respondents and holding fresh DPC for the said purpose.

(iv) There shall be no order as to costs.

(BIJAY KUMAR)
MEMBER (A)

(JUSTICE P.R. BORA)
VICE CHAIRMAN

Place : Aurangabad

Date : 28th September, 2022