

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO.490/2017

DISTRICT – JALNA

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Ganesh s/o. Ashruba Sahane,  
Age : 45 years, Occ : Unemployed,  
R/o. Soyagaon Devi,  
Tq. Bhokardan, Dist. Jalna.

...APPLICANT

V E R S U S

1. The State of Maharashtra,  
Through its Secretary,  
Department of General Administration,  
Mantralaya, Mumbai.
2. The District Selection Committee and  
Collector, Yavatmal,  
Collector Office, Yavatmal.
3. Sub-Divisional Officer,  
Vani, Tq. Vani, Dist. Yavatmal.
4. The Tahasildar,  
Tahasil Office, Bhokardan,  
Tq. Bhokardan, Dist. Jalna.

...RESPONDENTS

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APPEARANCE :Shri S.N.Lute learned Advocate for the  
applicant.

Shri V.R.Bhumkar learned Presenting  
Officer for the respondents.

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CORAM: Justice A.H.Joshi, Chairman

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Reserved on : 7<sup>th</sup> December, 2017.  
Pronounced on :11<sup>th</sup> December, 2017.  
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**ORDER**  
**(Delivered on 11<sup>th</sup> day of December, 2017)**

1. Heard Shri S.N.Lute learned Advocate for the applicant and Shri V.R.Bhumkar learned Presenting Officer for the respondents with consent.
  
2. Admitted facts of the case are as follows:
  - (a) Applicant has been selected as Talathi from the category of "Open Anshakalin Karmachari". Applicant was asked to appear with relevant documents.
  
  - (b) The letter of selection dated 18-05-2016 (Exhibit-B, paper book page 10) and calling the applicant to appear for verification of documents was issued by the Sub Divisional Officer (S.D.O.), Vani.
  
  - (c) S.D.O., Vani forwarded applicant's Anshakalin certificate to Tahsildar, Bhokardan for verification by letter dated 01-06-2016 i.e. within 15 days from the date of communication of selection.
  
  - (d) S.D.O, Vani sent a reminder to Tahsildar, Bhokardan asking to furnish the requisite verification of the Anshakalin certificate.

(e) It is seen that Collector, Yavatmal also wrote a letter dated (circular) dated 02-04-2017 and asked Tahsildar, Bhokardan to issue necessary communication regarding verification of the "Anshakalin Certificate".

(f) By letter dated 12-04-2017, S.D.O., Vani called report from Tahsildar, Bhokardan after re-verification on account of certain discrepancy.

(g) By letter dated 13-04-2017, Tahsildar, Bhokardan reiterated correctness and worthiness of the certificate.

(h) S.D.O., Vani wrote to Collector, Yavatmal requesting the Collector to issue order in favour of the applicant in view of the verification of the applicant's credentials relating to his status as Anshakalin employee.

(i) Collector by letter dated 08-05-2017 has informed the S.D.O, Vani that as the life of selection list has expired, he is not inclined to issue appointment order in favour of the applicant, as is evident from the letter dated 08-05-2017 (copy

whereof is at paper book page 20) on the ground mentioned in 4<sup>th</sup> un-numbered paragraph of the said letter. Text of the said paragraph reads as follows:

*"rFkfi 'kkl u fu.kz I kkl; izkkl u foHkx  
 delad%ikfue&2007@izdz46@07@13&v] fnukad&27-06-  
 2008 ps ifjPNn 7 e/; s fuoMI pph dkye; kzk ueq dsybh  
 vkg R; kud kj fuoMI I ferhus r; kj dsybh fuoMI pph , d  
 o"kk kbh fclok fuoMI pph r; kj djrkuk T; k fnukadki ; rph fjDr  
 i nsfopkkr ?ks; kr vkyh vkg R; k fnukadki ; r] tsuarj ?MMy R; k  
 fnukadki ; r fof/kxtg; Bjsy- R; kuarj gh fuoMI pph 0; i xr gkby  
 v'kh rjrm vkg*

*(Quoted from paper book page 21)"*

(j) S.D.O, Vani has written communication dated 22-05-2017 to the applicant that Collector, Yavatmal has declined to verify the Anshakalin employee certificate.

(k) Applicant has approached this Tribunal seeking mandatory relief that appointment order may be issued in his favour.

3. The case proceeds in limited compass of controversy as follows:

(a) Verification of applicant's status and certificate as Anshakalin employee is a matter within the province and purview of the authorities.

(b) Tahsildar, Bhokardan took time to verify the certificate of the applicant.

(c) It is nowhere suggested that the delay which had occurred at the level of Tahsildar, Bhokardan had occurred on account of any act amounting contribution in negligence or sole act of negligence on the part of the applicant.

(d) Thus, going by the general principle of law and equity, applicant cannot be blamed in any manner for delay caused at the level of Tahsildar, Bhokardan for verification of applicant's certificate.

(e) Letter dated 3<sup>rd</sup> April, 2017 written by Collector, Yavatmal (which is a circular letter), copy whereof is at paper book page 14-15, reveals that it is a D.O. letter written by him to various officers before whom verification of certificates was pending. It is pertinent to note that, this letter is circulated almost at the

verge of expiry of one year referred to by the Collector in his letter dated 08-05-2017. This letter indicates that it is written almost after 355 days from the date of preparation of the selection list. This shows the cold blooded and dispassionate rather negligent approach the Administration had, as regards the applicant (candidates) and despite this, administration has courage to indicate a finger at the applicant and show him exit with a contention that now the selection list has lost its life practically when only 7 working days were left.

(f) If transit time is taken into account/considered, the Collector really did not give adequate span of time to others responding to his communication. This attitude is shocking rather than amazing.

(g) The Collector's action of refusal to appoint applicant on the ground that the life of the selection list has expired, is based on misbelief, particularly when no fault is attributable to the applicant. The aspect of life of the list cannot be viewed in isolation, particularly when the fault lies with the administration.

4. The act of the Collector, Yavatmal refusing to issue appointment order in favour of the applicant on the ground assigned by him is thus unjust and unfair.

5. No law can ever have a design to directly or indirectly render civil consequences in an evil manner adverse to an individual, when he is not at fault or he has not contributed for the same.

6. Moreover, it was the duty of the Collector, Yavatmal to secure the result of verification certificate and pursue for that purpose in a quickest manner. As it is evident from record the Collector's communication, selection list was prepared on 13-04-2016 and letter requiring the Tahsildar, Bhokardan to verify the certificate was itself dispatched on 01-06-2016 i.e. after one and half month after completing the selection process.

7. Whatever delay has occurred, it has occurred on the part of the Tahsildar, Bhokardan as can be seen from the record. Tahsildar, Bhokardan did not take steps from June, 2016 to 5<sup>th</sup> April, 2017.

8. Therefore, the applicant cannot be punished for any fault on his part. Such an action on the part of Collector, Yavatmal is in violation of guarantee of fairness and principles of natural justice at one and the same time.

9. Administration is expected to act justly, and there lies the justice. The act of the Collector indirectly impounding the fault to the applicant and connivance at the level of Tahsildar, Bhokardan, is unjust and unfair.

10. In the result, O.A. succeeds. O.A.No.490/2017 is allowed.

11. The approach of the Collector, Yavatmal expressed in communication dated 08-05-2017 is grossly disapproved. His decision deserves to be ignored.

12. Now, this Tribunal has to deal with the reasons assigned in the Collector's communication refusing to appoint the applicant. Relevant text thereof is quoted in foregoing clause (i) of paragraph 2. It is a matter of fact that the selection list has crossed one year's tenure. This one year cannot be viewed in such fashion that a candidate be denied right for appointment accrued to him upon his



due selection when there is no fault attributable to the candidate. In the present case, it is seen that his Anshakalin certificate was sent for verification only on 01-06-2016 and the final result was received in April, 2017. Since it is nobody's case that, delay in verification of the certificate was attributable to the candidate, assigning the cause of life of the selection list for refusing to appoint the applicant is unjust, arbitrary and unfair. Period of one year will have to be reckoned by excluding the time lost/spent due to the delay/inaction or lethargy including genuine reasons, if any, on the part of the respondents. Therefore, reason for delay in scrutiny of Anshakalin certificate, though factually correct, is used in an illegal and wrong manner. Hence, the reason of refusal narrated in the letter dated 08-05-2017 deserves to be quashed and is quashed.

13. Applicant is entitled to the mandatory relief sought by him.

14. The Collector, Yavatmal is directed to appoint the applicant on the post of Talathi on which he was selected in furtherance to communication dated 18-05-2016 without

delay and as far as possible within 30 days from the date of receipt of the order.

15. Steno copy is allowed to the learned P.O. He shall communicate this order to the respondents as early as possible. O.A. stands disposed of accordingly with full costs.

**(A.H. JOSHI)**  
**CHAIRMAN**

**Place : Aurangabad**

**Date : 11-12-2017.**

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