

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**REVIEW APPLICATION NO.07/2024
IN
ORIGINAL APPLICATION NO.380/2023**

DISTRICT:- LATUR

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1. Dinesh S/o Sadashivrao Londhe
Age:-37 years, Occ. Service as a
Agriculture Assistant Presently
working At Taluka Agri Office Bhoom,
R/o. Shirurghat, Taluka Kaij, Dist. Beed
 2. Vinaykumar S/o Ashokrao Pande
Age:-38 years, Occ. Service as a
Agriculture Assistant Presently
working At Taluka Agri Office Kinwat
R/o. Gandhi Chowk, Bhokar,
Taluka - Bhokar, Dist. Nanded.
 3. Shivaji S/o Vishwambharrao Kadam
Age:-40 years, Occ. Service as a
Agriculture Assistant Presently
working At Taluka Agri Office Renapur,
R/o At Andalgaon, Post. Shindhgaon,
Tq. Renapur, Dist. Latur.
 4. Subodh S/o Bhagwanrao Jondhale,
Age:-32 years, Occ. Service as a
Agriculture Assistant Presently working
At Taluka Agri Office Parbhani
R/o. At Janpriya Colony, Karegaon Road,
Parbhani, Dist. Parbhani. ... APPLICANTS

V E R S U S

1. The State of Maharashtra
Through, Principal Secretary,
Agriculture Department,
Mantralaya, Mumbai-32

2. The Commissioner (Agriculture),
Commissioner Office of Agricultural,
Maharashtra State, Pune Krushi Ayuktalay,
2nd Floor, Central Building,
Shivaji Nagar, Pune-411001
3. The Divisional Joint Director of Agriculture,
Latur Division, Latur
Behind Old Collector Office,
Shivaji Chowk, Latur -413512
4. Vaibhav S/o Prabhakar Lenekar
Age-43, Occu-Service as a Agriculture
Assistant Presently working
At Taluka Agri Office Osmanabad,
R/o-Taluka Agriculture Office, Osmanabad,
Tq - Osmanabad, Dist - Osmanabad.
5. Gopal S/o Manikrao Dhage,
Age-Major, Occu-Service as a
Agriculture Assistant Presently working
At Taluka Agri Office Pathri,
R/o-Taluka Agriculture Office Pathri,
Tq-Pathri, Dist-Parbhani.
6. Anil S/o Digambar Banne
Age-Major, Occu-Service as a
Agriculture Assistant Presently working
At Dist Seed Certification Office,
R/o-District Seed Certification Office,
Osmanabad, Tq. & Dist. Osmanabad.
7. Ajit S/o Manikrao Rathod
Age-Major, Occu-Service as a
Agriculture Assistant Presently working
At Taluka Agri Office Renapur,
R/o-Taluka Agriculture Office Renapur,
Tq- Renapur, Dist-Latur.
8. Shripad S/o Indrajit Ambesange
Age-Major, Occu-Service as a
Agriculture Assistant Presently working
At Taluka Agri Office Latur,
R/o-Taluka Agriculture Office,
Latur Tq & Dist- Latur.

9. Mahesh S/o Manikrao Fawade
Age-Major, Occu-Service as a
Agriculture Assistant Presently working
At Taluka Agri Office AUSA,
R/o-Taluka Agriculture Office,
AUSA, Tq-AUSA, Dist- Latur.
10. Shrimant S/o Sitaram Bhatane
Age-Major, Occu-Service as a
Agriculture Assistant Presently working
At Taluka Agri Office Chakur,
R/o-Taluka Agriculture Office Chakur
Tq- Chakur, Dist- Latur.
11. Pramila Chandrakant Wadmare
Age-Major, Occu-Service as a
Agriculture Assistant Presently working
At District Soil Survey & Soil Testing Office,
Parbani, R/o District Soil Survey & Soil
Testing Office, Parbani.
12. Satish S/o Vinayakrao Karhale
Age-Major, Occu-Service as a
Agriculture Assistant Presently working
At Taluka Agri Office Hadgaon,
R/o-Taluka Agriculture Office,
Hadgaon, Tq- Hadgaon, Dist- Nanded.
13. Gajanan S/ Dattarao Vaidya
Age-Major, Occu-Service as a
Agriculture Assistant Presently working
At Taluka Agri Office Manwat,
R/o-Taluka Agriculture Office,
Manwat Tq- Manwat, Dist-Parbhani.
14. Manoj S/o Omprakashrao Lokhande
Age-44 years, Occu-Service as a
Agriculture Assistant Presently working
At Taluka Agri Office Vasmat,
R/o-Taluka Agriculture Office Vasmat,
Parbhani Road, Tq- Vasmat. Dist- Hingoli.

15. Balaji S/o Manoharrao Panchal
Age-43 years, Occu-Service as a
Agriculture Assistant Presently working
At Taluka Phal Ropwatika office Vasmat,
R/o-Taluka Phal Roapwatika Office
Vasmat, Parbhani Road, Vasmat,
Tq- Vasmat, Dist- Hingoli.
16. Pramod S/o Shivshankar Jangam
Age-41 years, Occu-Service as a
Agriculture Assistant Presently working
At Taluka Agri Office Hadgaon
R/o- Taluka Agriculture Office,
Hadgaon, Tq. Hadgaon,
Dist. Nanded.

.. RESPONDENTS

APPEARANCE : Shri Sudhir K. Chavan, learned Counsel
for the applicants.

: Shri V.R. Bhumkar, learned Presenting
Officer for the respondent authorities.

CORAM : JUSTICE SHRI V.K.JADHAV, MEMBER (J)
AND
: SHRI VINAY KARGAONKAR, MEMBER (A)

DECIDED ON : 26.11.2024

ORDER

[Per : Shri Vinay Kargaonkar, Member (A)]

Heard Shri Sudhir K. Chavan, learned Counsel for
the applicants and Shri V.R. Bhumkar, learned Presenting
Officer for the respondent authorities.

2. This review application is filed for recalling the order
dated 01-08-2024 passed by this Tribunal in O.A.No.380/2023
and the applicant is now seeking modification in the said order

to the extent of directing the respondents to consider the available vacancies and in furtherance consider the applicant for promotion on these vacancies and issue appointment orders to the applicants on the post of Agriculture Supervisor – Group ‘C’ as advertised on 13-01-2023. The applicants submit that certain specific grounds have come to light, along with important documents revealing material facts of the case, which were not available or produced at the time the order in O.A.No.380/2023 was passed.

3. Learned Counsel for the applicants submitted that after the publication of the final select list on 02-05-2023 the respondents failed to update the waiting list. Applicants No.1 and 2, initially placed at Sr.No.5 and 6 in the waiting list, have now moved to Sr.No.1 and 2 due to candidates ahead of them either refusing promotion or being involved in departmental inquiries. The respondents currently have five vacant posts, and the applicants are eligible to be considered and accommodated against these vacancies.

4. During the arguments, Learned Counsel for the applicants reiterated the points raised in the O.A. It was submitted that the applicants had secured 45% marks in both papers, qualifying them for inclusion in the provisional select

list. However, respondent Nos.4 to 8, who also appeared for the examination, did not meet the required threshold of 45% marks in both papers as prescribed in the G.R. dated 04-05-2022.

5. Clause 8(a) of the said G.R. mandates that candidates must secure a minimum of 45% marks to qualify, while clause 8(c) specifies that only candidates meeting this criterion can be included in the merit list. Thus, the final selection list dated 19-05-2023, issued by respondent No. 3, is legally unsustainable and ought to be quashed and set aside to the extent of including respondent Nos. 4 to 8.

6. In the original application, the applicants contended that the merit list should have been prepared based on the criterion of securing 45% marks in each paper rather than on the basis of total marks secured. The applicants argued that they had secured 45% marks in each paper, whereas some of the selected candidates had failed to achieve 45% in individual papers but had secured more than 45% in total. The Tribunal adjudicated upon this issue with proper reasoning and concluded that the respondents' method of preparing the merit list based on total marks was valid.

7. In the review petition, the applicants have raised an entirely new issue, contending that they should now be

considered for appointment against vacant posts that have arisen due to:

- Some selected or waitlisted candidates refusing promotion.
- Disqualification of certain candidates for promotion due to pending departmental inquiries or other reasons.

8. Review jurisdiction is confined to correcting errors apparent on the face of the record in the original order. It does not permit re-arguing the matter or raising fresh issues that were not part of the original application.

9. The issue decided in the original application pertained solely to the preparation of the merit list based on total marks rather than individual subject marks. No error apparent on the face of the record has been pointed out in the review petition regarding this finding.

10. The applicants' contention for appointment against vacant posts arising from the refusal or disqualification of other candidates is an entirely new issue. This was not argued or raised in the original application and therefore cannot be addressed in a review petition.

11. Review proceedings cannot be used as a substitute for initiating fresh litigation to address new grievances. In **Meera**

Bhanja V/s Nirmala Kumari Choudhury [(1995) 1 SCC 170],

the Hon'ble Supreme Court held that the scope of review is limited to correcting errors apparent on the face of the record and does not allow for re-examination of the case on new grounds. Relevant part of the judgment is reproduced below:

“The review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47, Rule 1, CPC. The review petition has to be entertained only on the ground of error apparent on the face of the record and not on any other ground. An error apparent on the face of record must be such an error which must strike one on mere looking at the record and would not require any long-drawn process of reasoning on points where there may conceivably be two opinions. The limitation of powers of court under Order 47 Rule 1, CPC is similar to the jurisdiction available to the High Court while seeking review of the orders under Article 226.”

12. In **Ajit Kumar Rath v. State of Orissa [(1999) 9 SCC 596]**, the Hon'ble Supreme Court clarified that review petitions cannot introduce fresh issues or arguments not part of the original proceedings. Relevant part of the judgment is reproduced below:

“Power of review available to an Administrative Tribunal is the same as has been given to a court under Section 114 read with Order 47 CPC. The power is not absolute and is hedged in by the restrictions indicated in Order 47. The power can be exercised on the application of a person, on the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was made. The power can

also be exercised on account of some mistake or error apparent on the face of the record or for any other sufficient reason. A review cannot be sought merely for a fresh hearing or arguments or correction of an erroneous view taken earlier. The power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for establishing it. The expression "any other sufficient reason" used in Order 47, Rule 1 means a reason sufficiently analogous to those specified in the rule.

Any attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment."

13. Order 47 Rule 1 of the Code of Civil Procedure (CPC) outlines the specific grounds and limitations under which a party may seek a review of a judgment. The rule emphasizes that review proceedings are not intended to serve as an appeal, but rather to address particular errors or omissions in the original judgment. Important Provisions of Order 47 Rule 1 of CPC are as follows:

1. Grounds for Review: A review can be sought on three primary grounds:

[i] Discovery of New Evidence: This involves presenting new and significant evidence that was not available during the original proceedings, despite due diligence.

[ii] Error Apparent on the Face of the Record: This refers to clear mistakes that can be identified without extensive

reasoning. Such errors must be self-evident and should strike anyone reviewing the record immediately.

[iii] Any Other Sufficient Reason: This is a broader category that can include misconceptions of law or fact by the court or counsel, but it must still align with the principles governing reviews.

2. Nature of Review Proceedings: Reviews are strictly confined to the scope defined in Order 47 Rule 1. The Hon'ble Supreme Court has consistently reiterated that review applications cannot be used to reargue points already decided, nor can they serve as a means to challenge a judgment simply because it is perceived as erroneous. For instance, in the case of **Perry Kansagra vs. Smriti Madan Kansagra [(2019) 20 SCC 753]**, the Hon'ble Supreme Court has emphasized that an erroneous decision may be appealed but does not provide grounds for a review under this rule.

3. Limitations on Review: A review cannot be initiated simply because one party disagrees with the outcome of the original judgment.

- The power of review is not meant to substitute a different view or correct judgments based on merit; it is focused on rectifying clear mistakes or addressing new evidence.

- Even changes in law or subsequent decisions by higher benches do not automatically warrant a review.

The Supreme Court has clarified that a well-reasoned judgment should not be subject to review unless there is a compelling reason that justifies revisiting the decision. An

error must be glaringly obvious; if it requires detailed analysis or reasoning to identify, it does not qualify as an error apparent on the face of the record.

14. The claim that the applicants should now be considered for appointment against vacant posts is unrelated to the original application. Such a claim requires a fresh challenge or application, as it involves different facts and legal considerations. It cannot be addressed in review proceedings.

15. This review petition raises a new and unrelated issue concerning vacant posts, which was never part of the original application. The issue of the preparation of the merit list based on total marks vis-à-vis individual subject marks has already been conclusively decided on merit. No error apparent on the face of the record has been demonstrated. The review petition, therefore, lacks merit and is dismissed summarily. There shall be no order as to costs.

(VINAY KARGAONKAR)
MEMBER (A)

(V. K. JADHAV)
MEMBER (J)

Place : Aurangabad
Date : 26-11-2024.