

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 430 OF 2020

**DISTRICT:- JALNA AND
AURANGABAD**

1. Shri. Ashok s/o Dattarao Talde,
Age : 38 Years, Occu. Service
(as Jr. Grade Clerk, PTC, Jalna),
R/o: Ahilyadevi Holkar, Chowk,
Jijamata Road, Parbhani.
2. Shri. Dnyaneshwar s/o Ramnath
Erande, Age : 38 Years,
Occu. Service (as Jr. Grade Clerk,
C.P. Office, A^hbad), R/o: Flat No. 8,
F-Sector, Kasliwal Tarangan,
Mitmita, Aurangabad.
3. Shri. Deepak s/o Namdeo Bhutekar,
Age: 37 years, Occu.: as above,
R/o : Plot No. 186, Gut No. 15,
Sai Nagar, Padegaon, A^hbad.
4. Shri. Anil s/o Ashok Patil,
Age: 35 years, Occu.: as above,
R/o : Plot No. 187, Gut No. 15,
Sai Nagar, Padegaon, Aurangabad.
5. Shri. Keshav s/o Dagduba Bhusare,
Age: 37 years, Occu.: Service
(as Jr. Grade Clerk, PTC, Jalna),
R/o : Room No. 6, Sinhagad Bldg.,
RPTS Quarters, J.E.S. College Road,
Jalna.
6. Shri. Babu s/o Doulat Sonkamble,
Age: 44 years, Occu.: Service
(as Jr. Grade Clerk, C.P.
Office, A^hbad), R/o : Naregaon,
MIDC Area, Chikalthana, Aurangabad.
7. Shri. Baldev s/o Shrichand Pawar,
Age: 40 years, Occu.: as above,
R/o : Plot No. 117, Gut No. 14,
Dwarka Nagar, Padegaon,
Aurangabad.

8. Shri. Sharad s/o Keshav Rathod,
Age: 33 years, Occu.: Service
(as Jr. Grade Clerk, PTC, Jalna),
R/o : Room No. 3, Sinhagad Bldg.,
RPTS Quarters, J.E.S. College Rd.,
Jalna.
9. Shri. Vijay s/o Uttamrao Dhawle,
Age: 36 years, Occu.: Service
(as Jr. Grade Clerk, C.P. Office,
A'bad), R/o : Plot No. 15,
Survey No. 192/06, Sujal Colony,
Harsul, Aurangabad.

... APPLICANTS

V E R S U S

1. The Director General of Police,
Maharashtra State Police HQ,
Old Council Hall, Shaheed
Bhagat Singh Marg,
Mumbai – 01.
2. The Special Inspector
General of Police, Aurangabad
Range, Near Baba Petrol Pump,
Besides Youth Hostel,
Aurangabad.
3. The Commissioner of Police,
Aurangabad City,
Mill Corner, Aurangabad.
4. The Principal,
Police Training Centre,
Near Jhansi Rani Putla,
J.E.S. College Road, Jalna.
5. Shri. Suryakant Madhukarrao
Acharya, Jr. Grade Clerk,
C/o : O/o The Commandant,
State Reserve Police Force,
Unit No. 3, Jalna.
6. Shri. Baliram s/o Motiram Rathod,
Junior Grade Clerk,
C/o : O/o The Commandant,
State Reserve Police Force,
Unit No. 3, Jalna.

7. Shri. Santosh s/o Achhyutrao Kulkarni,
Junior Grade Clerk,
C/o : Police Training Centre, Jalna.
8. Shri. Damodhar s/o Murlidhar Sadgure,
Junior Grade Clerk,
C/o : Police Training Centre, Jalna.
9. Shri. Umesh s/o Ramhari Shelke,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Osmanabad.
10. Shri. Ram s/o Pandurang Kadam,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Beed.
11. Shri. Pravin s/o Jagannath Rasal,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Beed.
12. Shri. Nitin s/o Rameshwar Ingale,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Beed.
13. Shri. Smt. Sheela Trimbak Jadhav,
Junior Grade Clerk,
C/o : O/o The Superintendent
of Police, Aurangabad [Rural],
Aurangabad.
14. Kum. Nikita Uttam Talekar,
Junior Grade Clerk,
C/o : O/o The Superintendent
of Police, Aurangabad [Rural],
Aurangabad.
15. Smt. Pallavi Prakash Baglane,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Beed.
16. Smt. Jyoti Parshuram Sangle,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Beed.

17. Smt. Savita Harichand Yerme,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Beed.
18. Smt. Payal Naresh Marape,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Beed.
19. Shri. Avinash s/o Vishnu Warhade,
Junior Grade Clerk,
C/o : O/o Commissioner of Police,
Aurangabad [City], Aurangabad.
20. Shri. Sandeep s/o Raosaheb Gite,
Junior Grade Clerk,
C/o : O/o Commissioner of Police,
Aurangabad [City], Aurangabad.
21. Shri. Ramesh s/o Sheshnarayan
Aadhav, Junior Grade Clerk,
C/o : O/o Commissioner of Police,
Aurangabad [City], Aurangabad.
22. Smt. Surekha Kishanrao Aalse,
Junior Grade Clerk,
C/o : O/o The Superintendent
of Police, Jalna.
23. Shri. Bhausaheb s/o Chandrakant
Nigale, Junior Grade Clerk,
C/o : O/o Commissioner of Police,
Aurangabad [City], Aurangabad.
24. Smt. Nikita Namdeo Dandge,
Junior Grade Clerk,
C/o : O/o Commissioner of Police,
Aurangabad [City], Aurangabad.
25. Smt. Ujwala Balasaheb Pawar,
Junior Grade Clerk,
C/o : O/o Commissioner of Police,
Aurangabad [City], Aurangabad.
26. Shri. Ankush s/o Devidas Shinde,
Junior Grade Clerk, C/o : O/o
The Superintendent of Police, Jalna.

27. Shri. Rajesh s/o Ranjeet Gavhane,
Junior Grade Clerk, C/o : O/o
The Superintendent of Police, Beed.
28. Shri. Praveen s/o Vishwambhar Kapre,
Junior Grade Clerk, C/o : O/o
The Superintendent of Police,
Aurangabad (Rural), Aurangabad.
29. Shri. Nitesh s/o Sudhakar Raut,
Junior Grade Clerk, C/o : O/o
The Superintendent of Police, Beed.
30. Shri. Maruti s/o Vishnu Rathod,
Junior Grade Clerk, C/o : O/o
The Superintendent of Police, Jalna.
31. Smt. Deepali Dattrao Navghare,
Junior Grade Clerk, C/o : O/o
The Superintendent of Police, Jalna.
32. Shri. Nagsen s/o Dnyanoba Pawar,
Junior Grade Clerk, C/o : O/o
The Superintendent of Police, Jalna.
33. Kum. Reshma Sultna Shaikh
Naseem, Junior Grade Clerk,
C/o : O/o The Superintendent
of Police Aurangabad (Rural),
Aurangabad.
34. Shri. Bhimashankar s/o Tukaram
Bamane,
C/o : O/o The Superintendent of
Police, Jalna.
35. Smt. Varsha Babanappa Ghevare,
Junior Grade Clerk,
C/o : O/o The Superintendent of Police,
Aurangabad [Rural], Aurangabad.
36. Shri. Avinash s/o Motigir Giri,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Jalna.
37. Smt. Sheetal Ramesh Kapse,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Jalna.

38. Smt. Rupali Baburao Yamalwad,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Jalna.
39. Shri. Aejaaz s/o Azim Shaikh
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Jalna.
40. Shri. Pradeep s/o Shamrao Lathad,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Jalna.
41. Shri. Sanjay s/o Kondiram More,
Junior Grade Clerk,
C/o : O/o The Superintendent of Police,
Aurangabad [Rural], Aurangabad.
42. Shri. Mohan s/o Ramkrishan Chavan,
Junior Grade Clerk,
C/o : O/o The Superintendent of Police,
Aurangabad [Rural], Aurangabad.
43. Shri. Gajanan s/o Laxman Giri,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Beed.
44. Shri. Sainath s/o Tanaji Debde,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Beed.
45. Shri. Suresh s/o Rambhau Gaikwad,
Junior Grade Clerk,
C/o : O/o The Superintendent of Police,
Aurangabad [Rural], Aurangabad.
46. Shri. Vishwanath s/o Balaji Aadbe,
Junior Grade Clerk,
C/o : O/o The Superintendent of Police,
Aurangabad [Rural], Aurangabad.
47. Shri. Ankush s/o Shrihari Thakre,
Junior Grade Clerk,
C/o : O/o The Superintendent of Police,
Aurangabad [Rural], Aurangabad.

48. Shri. Vitthal s/o Vishwanath Wale,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Beed.
49. Shri. Prakash s/o Ambrushi Veer,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Beed.
50. Shri. Praful s/o Kisanrao Vasnik,
Junior Grade Clerk,
C/o : O/o Commissioner of Police,
Aurangabad [City], Aurangabad.
51. Smt. Varsha Babanrao Iname,
Junior Grade Clerk,
C/o : O/o Commissioner of Police,
Aurangabad [City], Aurangabad.
52. Smt. Poonam Dattatraya Dongre,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Osmanabad.
53. Shri. Vijay s/o Babarao Marewad,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Osmanabad.
54. Shri. Samadhan s/o Walmik Warule,
Junior Grade Clerk,
C/o : O/o The Superintendent of Police,
Aurangabad [Rural], Aurangabad.
55. Shri. Ashok s/o Sitaram Satav,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Osmanabad.
56. Shri. Sham s/o Vyankatrao Jagtap,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Jalna.
57. Shri. Gajanan s/o Pralhad Padghankar,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Osmanabad.

58. Shri. Pralhad s/o Ananda Ainwad,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Osmanabad.
59. Shri. Sudarshan s/o Shivajirao
Shirsat, Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Jalna.
60. Shri. Namdeo s/o Bhimrao Kendre,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Osmanabad.
61. Smt. Swapna Madhukar Khedekar,
Junior Grade Clerk,
C/o : O/o The Superintendent of Police,
Aurangabad [Rural], Aurangabad.
62. Shri. Prakash s/o Shankarrao Salwe,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Osmanabad.
63. Shri. Sagar s/o Anand Kare,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Osmanabad.
64. Shri. Amol s/o Kantilal Ghanchakkar,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Osmanabad.
65. Kum. Meenakshi Shivaji Surwase,
Junior Grade Clerk,
C/o : O/o The Superintendent of
Police, Osmanabad.
66. Shri. Pankaj s/o Dharmraj Tapre,
Junior Grade Clerk,
C/o : O/o The Commandant, State Reserve
Police Force, Unit No. 3, Jalna.
67. Shri. Randheer s/o Sogajirao Savte,
Junior Grade Clerk, C/o : O/o
The Commissioner of Police, Aurangabad.

68. Smt. Ranjana Bhikaji Sadashive,
Junior Grade Clerk, C/o : O/o
The Commandant, State Reserve
Police Force, Unit No. 14, Aurangabad.
69. Shri. Anil s/o Ragho Mhaske,
Junior Grade Clerk,
C/o : O/o The Superintendent of Police,
Aurangabad [Rural], Aurangabad.
70. Smt. Chhaya Ambadas Akse,
Junior Grade Clerk, C/o : O/o
PCMT, Aurangabad.
71. Shri. Gangadhar s/o Namdev Dahale,
Junior Grade Clerk, C/o : O/o
The Commissioner of Police,
Aurangabad [City],
Aurangabad.

.. RESPONDENTS

APPEARANCE : Shri Avinash S. Deshmukh, learned
counsel for the applicants.

: Shri V.G. Pingle, learned Presenting
Officer for the respondent authorities.

: Shri R.O. Awsarmal, learned counsel for
respondent Nos. 13, 14, 19, 21, 24, 28,
42 & 61.

: Shri D.S. Pagare, learned counsel for
respondent Nos. 26, 30, 32, 37, 56 & 59.

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

RESERVED ON : 19.03.2024
PRONOUNCED ON : 22.04.2024

ORDER

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

Heard Shri Avinash S. Deshmukh, learned counsel for the applicants, Shri V.G. Pingle, learned Presenting Officer for the respondent authorities, Shri R.O. Awsarmal, learned counsel for respondent Nos. 13, 14, 19, 21, 24, 28, 42 & 61 and Shri D.S. Pagare, learned counsel for respondent Nos. 26, 30, 32, 37, 56 & 59.

2. The applicants have filed this Original Application being aggrieved by the action of respondent No. 2 of rejecting their request for awarding of 7.8.2014 as deemed date of their promotion in the cadre of Junior Grade Clerks.

SUBMISSIONS BY THE APPLICANTS

(i) All applicants had entered service in the year 2009 in Group-D/Class IV category in Police/Home Department of the Government of Maharashtra. While all these applicants were working in SRPF Group No. 14 at Aurangabad, a meeting of Departmental Promotion Committee (DPC) was held on 17.07.2014 by respondent No. 2 for recommending names of eligible candidates for promotion to the cadre of Junior Grade Clerks by preparing a select list therefor.

(ii) Respondent No. 2 published a select list of 22 candidates on 21.07.2014, who were held fit for promotion by the DPC. Names of all applicants were included in the

said select list. All applicants along with 13 other candidates were selected and recommended by DPC for promotion as Junior Grade Clerks. Name of respondent No. 5 was also included in the said select list, but names of all applicants were placed above the name of respondent No. 5. Promotion orders of 22 candidates recommended by DPC as Junior Grade Clerks were issued on 01.08.2014.

(iii) Name of all applicants, who were working under the Commandant, SRPF Gr. No. 14 at Aurangabad were included in the promotion order at the same serial numbers at which their names were placed in the select list. In the promotion order respondent No. 2 had issued specific directions to Unit Heads under whom the promotees (including applicants) were working to relieve them forthwith for joining on the promotional posts.

(iv) At the time of issuance of promotion order dated 01.08.2014 none of the applicants was facing any departmental or preliminary enquiry, none of them were under suspension and none of applicants was facing any prosecution or undergoing any punishment. Therefore, it was essential and obligatory on the part of Unit Head i.e. Commandant, SRPF Gr. No. 14, Aurangabad to have immediately relieved each of the applicants for joining on the promotional post of Junior Grade Clerks. However, applicants were not immediately relieved for joining on the promotional post and there was no fault on the part of the applicants. Though none of the applicants were relieved by the Commandant, SRPF, Group 14, Aurangabad in

pursuance of the promotion order dated 01.08.2014, however, respondent No. 5 who was working under the immediate control of the Commandant, SRPF, Group 3 at Jalna, was immediately relieved from his Class-IV post and resultantly he could immediately join on the promotional post of Junior Grade Clerks on 07.08.2014.

(v) Ultimately, on 29.10.2014 Commandant, SRPF, Group No. 14, Aurangabad issued an order relieving the applicants from their Group D posts w.e.f. 31.10.2014 afternoon for joining on the promotional post of Junior Grade Clerks.

(vi) The applicants submitted that immediately after being relieved from their post in Group D category w.e.f. 31.10.2014 they all reported/joined on their respective promotional post of Junior Grade Clerks on the establishment of respondent No. 3 or respondent No. 4 on 01.11.2014. All the applicants had joined on their respective promotional post immediately on the next day after being relieved from their lower post on 31.10.2014. The applicants have submitted that they are absolutely not at fault for not immediately joining on the promotional post and on the contrary it was due to the administrative lapse in relieving them, they could not join on the promotional post. In other words the reason for the applicants' failure to immediately join on the promotional post was beyond their control and hence they could not be blamed or punished in any manner whatsoever for their delayed joining on the promotional post.

(vii) Applicants further submitted that on the backdrop of above mentioned facts and circumstances, the provision of rule 4 (2) (b) and 5 (3) of the Maharashtra Civil Services (Regulation and Seniority) Rules, 1982 (hereinafter referred to “Regulation of Seniority Rules”) were attracted in their case. By taking into consideration those provisions it was not only essential and incumbent, but was obligatory on the part of respondent No. 2 to have assigned proper placements to all the applicants and other Junior Grade Clerks like respondent No. 5 in the seniority list of the cadre of Junior Grade Clerks in the same order in which their names had appeared in the Select List prepared by the DPC, if necessary by assigning them deemed dates of appointment in the cadre of Junior Grade Clerks.

(viii) In the light of these two provisions of law i.e. Rule 4(2)(b) and Rule 5(3) of the Regulation of Seniority Rules, it was obligatory on the part of respondent No. 2 to have assigned ‘7.8.2014’ as deemed date of appointment in the cadre of Junior Grade Clerks to all the applicants and then to have given respective placements to the applicants and respondent No. 5 in the same chronological order in which their names appear in the select list dated 21.07.2014 prepared by the DPC.

(ix) Applicants further submitted that due to failure of respondent No. 2 in assigning them 7.8.2014 as deemed date of their entry in the cadre of Junior Grade Clerks, large number of clerks i.e. respondent Nos. 6 to 71 all became senior to the applicants as their names are placed

over and above the names of the applicants causing serious grievance and injustice to the applicants. Seven applicants had submitted applications to respondent No. 2 on 12.02.2019 urging that they be assigned the date of seniority of respondent No. 5 in the cadre of Junior Grade Clerks i.e. 7.8.2014 as deemed date of their promotion in the cadre of Clerks. These 7 applicants again submitted fresh applications to respondent No. 2 on 20.11.2019 reiterating their request for assignment of deemed date on the basis of provisions of the Regulation and Seniority Rules. Respondent No. 2 rejected the request for awarding of 7.8.2014 as the deemed date of entry in the cadre of Junior Grade Clerks.

(x) Applicants submitted that their request for assignment of 7.8.2014 as a deemed date of entry in the cadre of Junior Grade Clerks was rejected by respondent No. 2 only on the ground that they all had joined promotional post later in point of time than respondent No. 5. In other words, while rejecting applicants' request respondent No. 2 clearly and apparently failed to take into consideration the provisions of Regulation of Seniority Rules on the basis of which applicants had prayed for assignment of 7.8.2014 as a deemed date. Applicants further submitted that while on the one hand respondent No. 2 rejected their request for assignment of deemed date on the ground of their belated joining on the promotional posts, on the other hand as far as the Gadchiroli Range is concerned, the competent authority of that range i.e. the Deputy Inspector General of Police, Gadchiroli Range, while preparing seniority list of the cadre of Junior Grade

Clerks did not commit such mistake and the persons like the applicants were assigned proper deemed dates by taking into consideration provisions of Regulation of Seniority Rules. The applicants, therefore, on the afore stated backdrop submitted that the action of respondent No. 2 of rejecting the request for assignment of 7.8.2014 as the deemed date of entry in the cadre of Junior Grade Clerks is not only contrary to and in violation of the statutory provisions contained in Regulation of Seniority Rules but it is also contrary to the proper and legal practice being followed in other Ranges of the Department.

(xi) In view of the specific provisions in Rule 4(2)(b) when inter se seniority of Government servants promoted from select list is mandatorily required to be maintained in the same order in which their names appear in such select list that it was not open, legal and permissible for respondent No. 2 to tinker with the order in which names of applicants and respondent No. 5 were appearing in the select list prepared by the DPC.

SUBMISSIONS BY RESPONDENT NOS. 1 & 2

(i) Out of the 70 sanctioned posts of Class-IV, 52 employees were actually working, leaving 18 posts vacant in the office of Commandant, S.R.P.F. Group-14, Aurangabad. If all 22 selected candidates out of the 52 were to be relieved to join their promotional posts, it would have led to administrative issues. Additionally, due to the Ganpati and Navratri festivals, a delay of two months occurred in relieving the applicants to join their

promotional posts. The Commandant, SRPF Group-14, Aurangabad issued an order relieving all the applicants from their Group-D post w.e.f. 31.10.2014 afternoon for joining on the promotional post of Junior Grade Clerk.

(ii) After relieving the applicants, they all joined their promotional post of Junior Grade Clerk on 01.11.2014. The seniority is to be fixed as per the principles laid down in the Regulation of Seniority Rules. Rule 4 and Rule 5 is for assignment of deemed date of appointment. Both rules are not applicable in the present case as the applicants were aware about respondent No. 5, who was junior to the applicants but had reported earlier in point of time to join the promotional post. The applicants did not raise any objection at that time. Due to administrative reasons the applicants were not relieved for joining on the promotional post. Respondent No. 5 was relieved earlier in point of time and, therefore, he had joined on the promotional post on 7.8.2014.

SUBMISSIONS OF RESPONDENT NOS. 26, 30, 32, 37, 56 & 59

(i) The Commandant, S.R.P.F. Group-14, Aurangabad is the best judge, who can explain the reasons of non-relieving the applicant Nos. 1 to 9 after receipt of order dated 01.08.2014 from the office of Special Inspector General of Police, Aurangabad Range. Other unit in-charge have relieved Group-D/Class-IV employees working under them and the said employees joined on the respective promotional post of Junior Grade Clerks much prior to joining of applicant Nos. 1 to 9. Surprisingly the

present applicants have not impleaded the Commandant, S.R.P.F. Group No. 14, Aurangabad as necessary party respondent in the present O.A. for the reasons best known to them. In fact, the Commandant, SRPF, Group 14 should have been made party respondent in the present O.A., but the applicants have failed to do so.

(ii) The respondents further submitted that they have been selected through direct sector recruitment to the post of Junior Grade Clerk. They have joined on the said post much earlier than the present applicant Nos. 1 to 9. The respondents are senior to the present applicant Nos. 1 to 9 and their seniority is fixed as per the date of their joining as mentioned in the Maharashtra Civil Services Rules.

(iii) The applicant Nos. 1 to 9 can never be placed over and above the respondents in final select list published on 1.10.2019 and 1.1.2020 by the office of Special Inspector General of Police, Aurangabad Range. The present applicants are Class-IV/Group-D departmental employees, who belatedly joined the post of Junior Grade Clerk on 1.11.2014. The Rules of Fixation of seniority of departmental and the direct sector recruitment candidates are different and the rules are laid down in Maharashtra Civil Services Rules. The respondents further submitted that the applicants are claiming the deemed date of joining as 7.8.2014. In fact, the applicants were required to join the promotional post of Junior Grade Clerk within a period of one month as per the M.C.S. Rules and order dated 1.8.2014.

(iv) In order to claim the deemed date as 7.8.2014, the applicant Nos. 1 to 9 should have sought extension of time from the Commandant, S.R.P.F. Group 14 to facilitate them to join after 2-3 months on promotion. No such extension seems to have been sought by the present applicants and they have not produced on record any application made in that respect. No extension of time was granted by the Commandant, S.R.P.F. Group 14, Aurangabad in favour of the present applicants.

SUBMISSIONS OF REPS. NOS. 13, 14, 19, 21, 24, 28, 42 & 61

(i) These respondents submitted reply similar to the reply submitted by the respondents as mentioned above.

CONCLUSIONS AND REASONING:

3. Here the main issue is of deciding the seniority of the applicants who were promoted from Group D/Class 4 posts to the post of Junior Grade Clerks (Group C) but the actual dates on which the promoted employees reported for duty on promotional posts are not chronologically in conformity with their seniority in the select list.

4. Rule 4(2) (b) and 5(3) of the Maharashtra Civil Services (Regulation of Seniority) Rules, 1982 are as follows:

“4. General principles of seniority.

(2) Notwithstanding anything contained in sub-rule (1)

(b) the inter se seniority of Government servants promoted from a Select List shall be in the same order in which their names appear in such Select List. If the Select List is prepared in two parts, the first part containing the names of those selected unconditionally and the second part containing the names of those selected provisionally. All persons included in the first part shall rank above those included in the second part:

Provided that, if the order in which the names are arranged in the Select List is changed following a subsequent review of it, seniority of the Government servants involved shall be re-arranged and determined afresh in conformity with their revised ranks.

5. Assignment of deemed dates of appointment.

(3) Where two or more Government servants, who are eligible for promotion to any higher posts, cadre or service according to any Select List are promoted to such higher posts, cadre or service and the actual dates on which such Government servants report for duty in such higher posts, cadre or service are not chronologically in conformity with their inter se seniority as provided in clause (b) of sub-rules (2) of rule 4, the senior person, who reports for duty later than his junior, shall be assigned, as deemed date of appointment, the date on which the junior reports for duty.

“[Provided that, in a case where a Government servant himself is deemed responsible for delay in assuming charge of the promotional post, his inter se seniority shall be fixed with reference to the date he actually assumes charge of such post.]”

5. All applicants were promoted on 1/08/2014 by the respondent no 2. In the promotion order directions were given to respective unit heads to relieve the promoted employees forthwith for joining on the promotional posts. Respondent no 5 who was working under Commandant, SRPF Group No 3 at Jalna was immediately relieved from his Class IV post and he immediately joined on the promotional post of Junior Grade Clerk on 7/08/2014. Applicants were working under Commandant, SRPF Group No 14, at Aurangabad and they were not relieved to join the promotional post of Junior Grade Clerk for about three months. Applicants were ultimately relieved on 31/10/2014 afternoon to join the promotional post of Junior Grade Clerks. Respondents have admitted in their affidavit in reply that applicants were not relieved by the Commandant Group 14 due to administrative reasons. Immediately after the applicants were relieved, they all joined the promotional post of Junior Grade Clerk on 1/11/2014. The responsibility for the approximately three-months delay in the

applicants' joining of their promotional posts rests with the controlling authority, i.e. Commandant Group 14. Here all the applicants are not responsible for delay in assuming charge of the promotional posts and therefore rule 5(3) of the Maharashtra Civil Services (Regulation of Seniority) Rules, 1982 will be applicable to them. As per rule 5(3) of MCS (Regulation of Seniority Rules 1982) all applicants who are senior to respondent no 5 shall be assigned the deemed date of appointment on which respondent no 5, who is junior to the applicants has reported on duty i. e. 7/08/2014. Applicants will be placed in the same chronological order in which their names appear in the select list dated 21/07/2014 prepared by the Departmental Promotion Committee. Hence following order

ORDER

- (i) OA is allowed. Respondents shall assign the deemed date of 7/08/2014 to all the applicants and revise the seniority list and place all the applicants and the respondent no 5 in the same chronological order in which their names appear in the select list dated 21/07/2014 prepared by the Departmental Promotion Committee.

(ii) Consequential service benefits shall be allowed to the applicants.

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

MEMBER (A)

VICE CHAIRMAN

O.A.NO.430-2020(DB)-2024-HDD-deemed date