

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 445 OF 2023**

**DISTRICT:- DHULE**

**Hemant Madhukar Londhe,**  
Age-38 years, Occu. Service as  
Talathi, Tahsil Office, Shindkheda  
Tq. Shindkheda, District Dhule.  
R/o. M.J. Phule Nagar, Moglai,  
Sakri Road, Dhule,  
District Dhule.

.. **APPLICANT**

**V E R S U S**

**1) The District Collector, Dhule,**  
New Administrative Building,  
Garud Baugh, Navnath Nagar,  
Dhule, District Dhule (M.S.)-424001.

**2) The Sub Divisional Officer,**  
**Shirpur Division,** Shirpur,  
Ganesh Colony, Shirpur,  
Tq. Shirpur, Dist. Dhule-425405. .. **RESPONDENTS**

-----  
APPEARANCE : Shri V.B. Wagh, learned counsel for  
the applicant.

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

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

-----

**RESERVED ON : 25.06.2024**

**PRONOUNCED ON : 11.07.2024**  
-----

**ORDER**

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

Heard Shri V.B. Wagh, learned counsel for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondent authorities.

2. The applicant was appointed as Talathi on 30.05.2015 from SC Category. The applicant has passed Sub-Service Departmental Examination (SSD Examination for short) on 09.03.2020 in four chances. Applicant has also passed Revenue Qualifying Examination (RQ Examination for short) within two chances. Respondent No. 2 has published provisional seniority list on 27.02.2023 and the applicant was shown at Sr. No. 27. The applicant had taken objection to the provisional seniority list and stated that his seniority should be reckoned from the date of appointment. Respondent No. 2 rejected the objection of the applicant stating that the applicant has not passed SSD Examination within the stipulated time and attempts. Hence, the applicant has filed this Original Application to correct his position in the seniority list.

3. **Pleadings and arguments by the applicant: -**

(i) The applicant was appointed as Talathi vide order dated 30.05.2015 from SC Category and was posted at

Sajja Khalane, Taluka Shindkheda, District Dhule. The applicant joined his duty as Talathi on 30.06.2015. The applicant passed his SSD Examination on 09.03.2020 in 4<sup>th</sup> attempt and was confirmed in the services. The applicant also passed RQ Examination within two chances on 20.07.2022. The provisional seniority list was published by respondent No. 2 on 27.02.2023, wherein name of the applicant was at Sr. No. 27. The applicant had objected to the provisional seniority list and stated that his date of initial appointment should be considered for promotion. The respondent authorities had considered objection and had corrected the seniority list of the applicant and the applicant was shown in the seniority list at Sr. No. 27 and his seniority was reckoned for promotion from 07.09.2019.

(ii) Respondent authorities had prepared the District-wise seniority list for the cadre of Talathi as on 01.01.2023, which was published on 17.04.2023. The applicant was placed at Sr. No. 62 in the said seniority list and deemed date of seniority was shown as 07.09.2019, which should have been shown as the initial date of appointment in the Sub-division i.e. 08.06.2015. The applicant objected to the provisional seniority list and submitted that as per Rule 4 of the Maharashtra Sub-Services Examination (Talathi) Rules, 1997, the initial date should be considered as the date of seniority for promotion, as if he had passed SSD Examination within 4 years and 3 chances. The objection of the applicant was rejected and the final seniority list was published, wherein

the applicant was placed at Sr. No. 62 showing his date of seniority as on 07.09.2019.

(iii) Divisional Commissioner, Nashik had issued a direction to all the Collectors in Nasik Division, wherein directions were given to prepare the fresh seniority list without considering the Government Resolutions dated 24.08.1976 and 21.03.1979.

(iv) The applicant submitted that the Hon'ble Bombay High Court Bench at Aurangabad in W.P. No. 7735/2013 has upheld the Government Resolution dated 24.08.1976, wherein additional chance was considered for the candidates belonging to backward classes. This issue is also decided in O.A. Nos. 480/2021, 481/2021 & 576/2018 by the Principal Bench at Mumbai and Aurangabad Bench of this Tribunal.

4. **Pleadings and arguments by the respondents: -**

(i) Respondent has decided objection dated 25.04.2023 raised by the present applicant to the seniority list as per Rule 4 of Maharashtra Secondary Services Examination (for Talathi cadre) Rules, 1947. As per this rule it is mandatory to pass the examination within 04 years and 03 chances from the date of appointment. The present applicant has not passed the SSD Examination in accordance with rules and, therefore, he has lost his seniority.

(ii) As per the directions given by the Divisional Commissioner, Nashik on 23.12.2021, the respondent had prepared revised seniority list dated 24.01.2022 as per the Maharashtra Civil and Amended Rules, 1988. The seniority list for promotion has been prepared as per the Rules and Regulations and in accordance with available Government Resolutions and records.

5. **Analysis of facts and conclusions: -**

(i) Main issue in this matter is whether or not G. R. dated 24-08-1976 is applicable for SSDE. Relevant extract of G. R. dated 24-08-1976 is as follows:

“The Government has now decided that in the Departmental examination rules for promotion to the higher posts and Non-Gazetted, in all the Government offices, a provision should be made therein to the effect, that the candidates from (i) Scheduled Castes, (ii) Scheduled Tribes, and (iii) Denotified Tribes and Nomadic Tribes, should be given one more chance and one more year to pass the Departmental examinations, than is permissible under the rules to other candidates.”

(ii) Principal Seat of this Tribunal at Mumbai had decided similar issue of seniority in O.A.No.480 & 481 of 2021. Relevant extract of the said judgement is as follows:

“The G.R. dated 24.8.1976 is very clear and thus the applicants who have passed the Departmental examinations in the year 2012 within four years and four chances should not be pushed down in

the seniority list published on 29.6.2021. The concerned authority should have understood the spirit of the G.R. dated 24.8.1976 properly and should have treated that the fourth chance is equivalent to the third chance.”

(iii) As held by the Principal Seat of this Tribunal in OA No 480 & 481, G. R. dated 24-08-1976 is applicable to SSDE and candidates belonging to backward class should be given one more chance and one more year to pass the Departmental examination.

(iv) Applicant has passed SSD Examination as per the chart given below: -

Sr.No.	Year of Examination	Attempt	Remarks
1	2016	1 <sup>st</sup>	Exemption in 3 subjects
2	2017	2 <sup>nd</sup>	Exemption in 1 subject
3	2018	3 <sup>rd</sup>	Did not pass
4	2019	4 <sup>th</sup>	Passed SSDE

(v) Rule 4 of the SSD Examination states that Every Talathi appointed to the post after the appointed date shall be required to pass the Examination within a period of four years from the date of appointment and within three years. Applicant belongs to Scheduled Caste Category and as per the Government Resolution dated 24.07.1976 he should be given 01 more chance and 01 more year to pass departmental examination. Applicant passed SSD Examination in 2019 in fourth attempt.

(vi) Since the applicant has passed the SSDE in the 4th chance, he is construed to have passed the examination within prescribed chances, and therefore, he need not be pushed down in seniority list published on 25.04.2023.

Since the applicant has passed the departmental examination within the prescribed period and chances, therefore, he is entitled for seniority as per date of appointment and the merit list in the appointment order.

6. In view of the above, the Original Application is allowed in the following terms:

[i] The seniority of the applicant is restored back to the date of appointment i.e. 08.06.2015.

[ii] Necessary corrections be carried out in the seniority list.

[iii] Thereafter, applicant be considered for promotion as Mandal Adhikari (Circle Officer) as per his seniority and other applicable criteria as per rules.

[iv] O.A. stands allowed, however, without any order as to costs

**MEMBER (A)**

**VICE CHAIRMAN**

O.A.NO.445-2023(DB)-2024-HDD-seniority-promotion