

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.477/2018**

**DISTRICTS:- AHMEDNAGAR**

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1. Santosh Uttamrao Mandage,  
Age: 39 years, Occu. Service as Talathi,  
R/o. Pimpri Gavali, Tq. Parner, Dist. Ahmednagar.
  2. Smt. Sunanda Sahebrao Markad,  
Age: 39 years, Occu. Service as Talathi,  
R/o. Saurav Nagar, Bhingar, Ahmednagar,  
Dist. Ahmednagar.
  3. Smt. Vrushali Pandurang Kadam,  
Age: 38 years, Occu. Service as Talathi,  
R/o. Takali Dhokeshwar, Tq. Parner, Dist. Ahmednagar.
  4. Smt. Kavita Vasant Shrimandilkar,  
Age: 30 years, Occu. Service as Talathi,  
R/o. Shankar Nagar, Pathardi, Dist. Ahmednagar.
  5. Vishnu Babasaheb Khedkar,  
Age: 32 years, Occu. Service as Talathi,  
R/o. Changadpuri, Tq. Paithan,  
District Aurangabad.

**...APPLICANTS**

**V E R S U S**

1. The Divisional Commissioner,  
Nasik Region, Nasik.
2. The District Collector, Ahmednagar,  
Dist. Ahmednagar.

**...RESPONDENTS**

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APPEARANCE : Shri V.B.Wagh, Counsel for  
Applicants.  
: Shri V.G.Pingle, Presenting Officer  
for the respondents.

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

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**Date : 23-04-2024**

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## **ORAL ORDER**

1. Heard Shri V.B.Wagh, learned Counsel for Applicants and Shri V.G.Pingle, learned Presenting Officer for the respondent authorities.

2. All these applicants are working as Talathis in Ahmednagar District. The particulars as about their initial appointment, dates of their passing Sub Services Departmental Examination (SSDE) as well as the Revenue Qualifying Examination (RQE) and their positions in the seniority list are provided in the tabular format hereinbelow (reproduced from paper book page 3 of O.A.):

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Applicant No.	Initial Appoint-ment	SSD	RQT	Sr.No. in District wise Seniority List	Sr. No. In Eligibility List
1)	17.10.11	15.11.14	22.11.15	742	174
2)	21.10.10.	15.11.14	22.11.15	731	152
3)	09.02.11	15.11.11	22.11.15	691	115
4)	31.11.07	17.09.11	24.05.14	675	99
5)	30.11.07	12.09.09	15.11.11	685	109

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3. All these applicants after having worked for a particular period in a Tahsil or Sub Division in which they were initially appointed sought request transfer to another

Sub Division or another Tahsil. The request so made by the applicants was accepted by the competent authority and accordingly all these applicants resumed duties at their transferred place. It is the grievance of the applicants that after their inter-Sub Division transfer, Rule of zero seniority has been applied in their matters and in the seniority list of Talathis maintained of the Sub Division or Tahsil to which they were transferred, they have been given placement at the bottom of Talathis which were working in the said Sub Division or Tahsil on the date of their transfer. Learned Counsel for the applicants submitted that in the final seniority list published on 13-12-2017 the applicants have been shown at the lowest position in the cadre of Talathis. Learned Counsel for the applicants submitted that though the applicants were transferred on their request to another Tahsil or Sub Division, services rendered by them in the erstwhile Tahsil or Sub Division could not have been made redundant and for the purposes of reckoning their seniority in the cadre of Talathis, said services also need to be considered. Learned Counsel submitted that since the requests made in that regard have not been considered by the respondents, the applicants are constrained to

approach this Tribunal. The applicants have sought following relief in the present O.A.:

*“B) To direct the respondent authorities to correct the date as per their initial appointments as per their respective initial entry in service in the seniority list published on 13.12.2017 by the respondent no.2 in column no.6 and 9.”*

4. Respondent nos.1 and 2 have filed their joint affidavit in reply and thereby opposed the contentions raised and prayers made in the O.A. It is contended that seniority list has been published by respondents as per G.R. dated 03-06-2011 in consonance with the earlier G.R. dated 18-09-1986. Learned P.O. pointed out that since the respondents have adhered to the rules of seniority and the guidelines laid down in the G.Rs. referred to hereinabove, no error has been committed by them in giving placement to the applicants in the seniority list. They have, therefore, prayed for dismissing the O.A.

5. It is also contended that, applicant no.2 Smt. Sunanda Sahebrao Markad did not pass SSDE within the period of 4 years from the date her appointment and as such she may not maintain the seniority from the date of her appointment and it will be considered only on the basis

of the date on which the said applicant has passed the said examination i.e. 15-11-2014.

6. We have duly considered the submissions made on behalf of the applicants as well as the respondent authorities. We have also gone through the documents placed on record. The factual aspects are not in serious dispute. Applicants were admittedly transferred on their requests to another Sub Division from their original Sub Division. It appears that in the transferred Sub Division they have been placed in the cadre of Talathi below all the Talathis working in the concerned Sub Division on the date of their transfer in the said Sub Division. Said decision apparently appears to be unsustainable. The period of service rendered by the applicants in the erstwhile Sub Division cannot be completely sacrificed by them.

7. Present issue is in fact no more *res-integra*. It has been dealt with in several O.As. decided by this Tribunal in the past. Learned Counsel for the applicants has placed on record the order passed by this Tribunal in O.A.No.445/2021. We have gone through the said order. Perusal of the said order reveals that, same facts which exist in the present O.A. existed in the aforesaid O.A.No.445/2021.

The judgment delivered by this Tribunal in the said matter would thus squarely apply to the facts of the present case. As observed by this Tribunal in the said judgment, law is well settled that, even if any employee is transferred on his own request from one Sub Division to another or from one establishment to another, no such condition can be imposed on him to forego the total period of service rendered by him in the erstwhile division. Moreover, having regard to the Circular dated 20-11-2017 issued in concurrence with the General Administration Department, there remains no doubt that the seniority of such transferred employees is to be reckoned in the same batch, however, the transferred employee will be placed at the bottom of the employees who are recruited in the same year in terms of Clause 1(A) of the said Circular.

8. After having considered the facts and legal position as aforesaid, we are convinced that respondents have committed error in placing the applicants at lower level in seniority list of the cadre of Talathis. In view of the settled legal position and the Circular dated 20-11-2017 respondents must have placed the applicants at the bottom of the Talathis who are recruited and appointed in the respective years when the respective applicants have been

recruited and appointed. Final seniority list published by respondent no.2 on 13-12-2017, therefore, deserves to be modified to the extent of present applicants. Applicants need to be placed in the said seniority list at the bottom of Talathis having recruited and appointed in the same year of their recruitment.

9. We, therefore, direct the respondents to modify the seniority list/s accordingly. Needless to state that the seniority list finalized on 13-12-2017 stands set aside to that extent only. Exercise of revising seniority list to be completed within 8 weeks from the date of this order. After modification of the seniority list, applicants shall be entitled for all consequential benefits.

10. One more objection has been raised as about passing of SSDE examination by applicant no.2. Applicant no.2 was appointed on 21-10-2010. She passed the SSDE examination on 15-11-2014 within 3 chances. Apparently, 4 years period has elapsed from the date of appointment till passing the SSDE examination by the said applicant. However, it has come on record that in the year 2014, the SSDE examination did not take place in September, 2014 and took place in November, 2014. In the circumstances,

applicant no.2 must be held to have passed the said examination within the period of 4 years and within the given chances. Said objection, therefore, deserves to be rejected.

11. The Original Application stands allowed in the aforesaid terms, however, without any order as to costs.

**(VINAY KARGAONKAR)**  
**MEMBER (A)**

**(P.R.BORA)**  
**VICE CHAIRMAN**

**Place : Aurangabad**  
**Date : 23-04-2024.**