

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 514 OF 2021  
(Subject – Deemed Date of Promotion)**

**DISTRICT : HINGOLI**

**Shri Gautam s/o Gyanbarao Dhule,** )  
Age : 60 years, Occu. : Retired as Circle Officer,) )  
R/o : House No. 2507/1, Near Shahu Nagar, )  
Jijamata Nagar, Hingoli. ) .... **APPLICANT**

**V E R S U S**

1. **The State of Maharashtra,** )  
Through : Secretary, )  
Revenue & Forest Department, )  
Mantralaya, Mumbai-32. )
2. **The Divisional Commissioner (Revenue),)**  
Aurangabad Division, Aurangabad. )
3. **The Collector,** )  
Collector Office, Hingoli. )... **RESPONDENTS**

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**APPEARANCE** : Shri K.B. Jadhav, Counsel for Applicant.

: Shri D.M. Hange, Presenting Officer for  
respondent authorities.

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**CORAM** : Hon'ble Justice Shri V.K. Jadhav, Member (J)

**RESERVED ON** : **28.06.2024**

**PRONOUNCED ON** : **19.09.2024**  
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**O R D E R**

1. Heard Shri K.B. Jadhav, learned counsel for the applicant and Shri D.M. Hange, learned Presenting Officer for respondent authorities.

2. The present Original Application is disposed of finally with the consent of both the sides at the admission stage itself.

3. By filing the present Original Application, the applicant is seeking directions to the respondents to grant him deemed dates of promotions for the post of Circle Officer w.e.f. 09.07.2002 and Naib Tahsildar cadre w.e.f. 13.05.2011 and also seeking direction to the respondents to grant the applicant deemed date of promotion for the post of Tahsildar w.e.f. 01.01.2019 with all consequential benefits in view of revised seniority lists published by the respondent No. 3 for the post of Talathi dated 23.02.2021 and Circle Officer dated 14.07.2021 respectively.

4. Brief facts as stated by the applicant giving rise to the Original Application are as follows :-

(i) The applicant was initially appointed on 04.01.1996 as Talathi with the respondents. By order dated 25.10.2012, the applicant was promoted on the post of Circle Officer. The applicant came to be retired from service on 31.08.2019 from the post of Circle Officer.

(ii) The applicant further contends that respondent No. 3 has published seniority list on 18.01.2002 for the post of

Talathi, but wrongly the name of the applicant was mentioned at Sr. No. 136, whereas the name of one Shri P.W. Kamble was mentioned at Sr. No. 27. The applicant had passed the Maharashtra Revenue Qualifying Examination (for short MRQE) in the month of October, 2000, whereas Shri P.W. Kamble had not passed the said examination and he was granted exemption from passing the said examination on 03.11.2001. The applicant was promoted on the post of Circle Officer by order dated 09.07.2002 by respondent No. 3 and he had joined on the said post on 11.07.2002. The said Shri P.W. Kamble had submitted applications on 04.09.2002 and 18.09.2002 to respondent Nos. 2 and 3 respectively requesting therein that he is senior to the applicant, as his seniority number is 27 and to promote him on the post of Circle Officer. The respondent No. 2 has issued letter dated 07.10.2002 to respondent No. 3 and sought clarification from him about the promotions given to the applicant and one another person. The respondent No. 3 has submitted detailed explanation by letter dated 24.10.2002 and submitted that the applicant and another person has passed the departmental examination on 20.10.2000 and Shri P.W.

Kamble has not passed the said examination and granted exemption from passing examination on 20.12.2001. On the basis of said information, the respondent No. 3 has rejected the application of Shri P.W. Kamble by letter dated 18.01.2003 informing therein that he was not eligible for promotion on the post of Circle Officer and the present applicant was eligible for promotion on the post of Circle Officer. However, on 12.03.2003, the respondent No. 2 has issued letter to respondent No. 3 directing him to revert the applicant from the post of Circle Officer and conduct the fresh departmental promotion committee meeting for the post of Circle Officer and consider all the persons for promotion, who are in the list. By order dated 28.04.2003 (Annexure A-9), the respondent No. 3 has issued reversion order of the applicant reverting him from the post of Circle Officer to Talathi.

(iii) The applicant further contends that being aggrieved by the order of reversion dated 28.04.2003 issued by respondent No. 3, the applicant has approached this Tribunal by filing Original Application No. 319/2003. This Tribunal has dismissed the Original Application filed by the applicant by judgment and order dated 26.09.2011 on the

ground that as per the seniority list, the applicant was junior to respondent No. 4 therein (Shri P.W. Kamble) was senior to the applicant.

(iv) The applicant further contends that after reversion of the applicant, the respondent No. 3 promoted Shri P.W. Kamble on the post of Circle Officer in the year 2003 and granted him deemed date of promotion for the post of Circle Officer as 09.07.2002 i.e. the date of promotion of the applicant for the post of Circle Officer. Therefore, the respondent No. 3 has issued promotion order dated 20.05.2011 to Shri P.W. Kamble thereby promoted him on the post of Naib Tahasildar.

(v) It is the further case of the applicant that he came to be promoted on the post of Circle Officer by order dated 25.10.2012 by respondent No. 3. The applicant joined on the services as Circle Officer. The respondent No. 1 has issued Notification / Rules on 29.10.1997, which is called as Maharashtra Sub-Services Departmental Examination (for the cadre of Talathi's) Rules, 1997. There were certain guidelines for passing of certain examination and placements in the seniority list. As per clause No. 4, the

period of four years is prescribed for passing the examination and three chances were given to pass the said examination. As per clause No. 4(2), the period of three years mentioned for passing the examination and two chances are given for passing the said examination. On 04.06.1996, the respondent No. 1 had also framed Rules for effecting the promotions on the post of Circle Officer from the cadre of Talathi's. The said rules are called as Maharashtra Revenue Qualifying Examination Rules, 1998 (hereinafter called as R.Q.E. Rules of 1998) for promotion on the post of Circle Officer from Talathi cadre. As per Rule 4 of R.Q.E. Rules of 1998, every Talathi shall be required to pass the said examination for being eligible for promotions as Circle Officer. The period is given in Rule 5 for passing the examination. As per Rule 6, if the candidate passed the said examination as per the provisions of the Rules, then he shall retain his original seniority. In the identical set of facts the Hon'ble High Court in W.P. No. 2521/2015 by judgment and order dated 19.01.2016 has interpreted the said Rule particularly Rule 6 about placement in the seniority list. Even the Larger Bench of this Tribunal by judgment and order dated 02.02.2017 has decided the

issue about eligibility of Talathi for promotions on the post of Circle Officer in view of the aforesaid R.Q.E. Rules of 1998. Para No. 35 of the said judgment is relating to the eligibility criteria for promotions on the post of Circle Officer and recruitment Rules for the post of Talathi.

(vi) It is the further case of the applicant that respondent No. 3 has published seniority list by issuing Circular dated 23.02.2021 as on 01.01.2019 for the post of Talathi in view of the provisions of R.Q.E. Rules of 1998 and S.S.D. Examination Rules and particularly in terms of directions issued by the Tribunal in O.A. No. 354/2015, so also, by the Hon'ble High Court. Accordingly, the respondent No. 3 has corrected the seniority list for the post of Talathi and published revised seniority list. The name of applicant is mentioned at Sr. No. 88 in the said seniority list and the name of Shri P.W. Kamble, who is shown junior to the applicant, is shown at Sr. No. 125 of the said list.

(vii) It is the further case of the applicant that respondent No. 3 has published the provisional seniority list on 28.05.2021 by including the date of promotion on the post of Circle officer. The name of applicant is mentioned at Sr. No. 62 in the said list and the date of passing of said

examination is shown as 31.01.2001 and the date of confirmation on the post of Circle Officer is shown as 02.09.2011, whereas the name of Shri P.W. Kamble is mentioned at Sr. No. 72 in the said seniority list and though he had not passed the Revenue Qualifying Examination and he was granted the exemption from passing the said examination on 03.11.2001, the date of promotion on the post of Circle Officer is mentioned as 15.07.2002 and the date of confirmation is shown as 25.10.2012. Admittedly, the applicant is shown senior to Shri P.W. Kamble, but he was granted the promotion for the post of Circle Officer before the applicant.

(viii) It is the further case of the applicant that respondent No. 3 has published final seniority list on 14.07.2021 for the post of Circle Officers cadre. The same position is shown. However, the respondent No. 3 has corrected the said mistake and correct placement is given to the applicant in view of decision of the Larger Bench.

(ix) The applicant further contends that in view of the placement given to the applicant in the seniority list for the posts of Talathi and Circle Officer, the applicant has



submitted an application dated 23.08.2021 to respondent No. 3 requested therein to grant him deemed date of promotion for the post of Circle Officer w.e.f. 09.07.2002. It is also requested to grant the deemed dates of Naib Tahsildar w.e.f. 13.05.2011 and Tahasildar w.e.f. 01.01.2009. The applicant is further requested to grant all pay and allowances with all consequential benefits. The applicant however came to be retired on attaining the age of superannuation on 31.08.2019 on the post of Circle Officer, whereas Shri P.W. Kamble came to be retired on 30.11.2014 from the post of Naib Tahsildar, though he was junior to the applicant. Hence, the present Original Application.

5. Learned counsel for the applicant submits that the respondent authorities have wrongly reverted the applicant by order dated 28.04.2023 and promoted Shri P.W. Kamble on the post of Circle Officer w.e.f. 09.07.2002. Learned counsel submits that due to mistake of the respondents, the applicant is deprived of his legal rights to consider the applicant for promotion on the post of Circle Officer, Naib Tahsildar and Tahsildar respectively. Learned counsel submits that admittedly though Shri P.W. Kamble was junior to the applicant, however, he was wrongly

promoted on the post of Circle Officer and Naib Tahasildar. Learned counsel submits that the applicant was promoted on the post of Circle Officer and not promoted on the post of Naib Tahsildar, whereas Shri P.W. Kamble was promoted on the post of Naib Tahsildar, though he was junior to the applicant. Learned counsel therefore submits that the deemed dates of promotions for the post of Circle Officer and Naib Tahsildar may be given to the applicant from the dates of promotions of Shri P.W. Kamble and the applicant is also entitled for deemed date of promotion for the post of Tahsildar.

6. Learned counsel for the applicant submits that the applicant came to be retired on 31.08.2019 from the post of Circle Officer and his juniors were promoted on the post of Naib Tahasildar cadre and they are retired from the said posts. Learned counsel submits that respondents have corrected and revised the seniority list for the posts of Circle Officer and Naib Tahsildar in the year 2021 in view of the directions given by the Hon'ble High Court, so also, by this Tribunal in O.A. No. 354/2015. Learned counsel submits that the proper placement is given to the applicant in the said list above Shri P.W. Kamble and the applicant is shown senior to him. Learned counsel thus

submits that the present Original Application deserves to be allowed.

7. Learned counsel for the applicant in order to substantiate his contentions place his reliance on following cases:-

- (i) O.A. No. 318/2019 (Shri Bhagwan Nivrutti Kharke Vs. The State of Maharashtra and Anr.), decided on 17.08.2021 (Mumbai).
- (ii) Ramesh Kumar Vs. Union of India & Ors., AIR 2015 SC 2904.

8. Learned Presenting Officer on the basis of affidavit in reply filed on behalf of respondent Nos. 2 and 3 submits that in terms of the directives issued in O.A. No. 354/2015 vide order dated 02.02.2017 by this Tribunal, the office of respondent No. 3 has published final seniority lists of Talathi vide office Circular dated 23.02.2021 and Circle Office vide Circular dated 14.07.2021 after deciding the objections and applications as per the law.

9. Learned Presenting Officer submits that in the meeting of Departmental Promotion Committee held on 20.03.2002, the applicant was promoted on the post of Circle

Officer vide order dated 09.07.2002. However, being aggrieved by the same, one Shri P.W. Kamble has filed an application to respondent Nos. 2 and 3 requested therein that name of the present applicant is mentioned at Sr. No. 136, whereas his name is shown at Sr. No. 27 and requested to promote him on the post of Circle Officer. Learned P.O. submits that in terms of the directions issued by respondent No. 2 vide letter dated 12.03.2003, the respondent No. 3 has passed reversion order dated 28.04.2003, thereby reverting the applicant from the post of Circle Officer to Talathi. Being aggrieved by the same, the applicant has filed O.A. No. 319/2003 before this Tribunal. By order dated 26.09.2011, this Tribunal has confirmed the view taken by respondent No. 2 and dismissed the said O.A. No. 319/2003.

10. Learned Presenting Officer submits that from the year 2003 to 2008, the applicant was not within the zone of consideration. The claim of the applicant was considered in the meeting of DPC dated 27.10.2009, as he was first time brought within the zone of consideration. But the applicant has not submitted the caste validity certificate and therefore, his claim was not considered and rejected (Annexure R-1).

11. Learned Presenting Officer submits that Maharashtra Sub-Services Departmental Examination Rules, 1997 and Maharashtra Revenue Qualifying Examination Rules, 1998 and the decision rendered by the Hon'ble High Court in W.P. No. 2521/2015 are the matter of record and not disputed. In view of the same, the Divisional Commissioner, Aurangabad has directed the respondent authorities to take necessary action in the matter of Talathi promotions vide its communication dated 08.03.2019. Accordingly, following the aforesaid observations and following the aforesaid Notifications and Rules, the office of respondent No. 3 has prepared and declared an integrated seniority list of Talathi Cadre vide its Circular dated 23.02.2021. In the said seniority list, name of the applicant is at Sr. No. 88 and one Shri P.W. Kambel at Sr. No. 125. The order passed by this Tribunal in O.A. No. 319/2003 dated 26.09.2011 was based on the seniority list dated 18.01.2002, wherein the applicant was placed at Sr. No. 136, whereas the name of said Shri P.W. Kamble was at Sr. No. 27. Thereafter, the seniority list of Talathi is revised as per the order passed in O.A. No. 354/2015 and also in consonance with the provisions of the Maharashtra Civil Services (Seniority Regulations) Rules, 1982. Therefore, there was no erroneous reversion.

12. Learned Presenting Officer submits that the contention in respect of provisional and revised seniority list of Circle Officer and placement of the applicant in the said seniority list is not disputed. Learned P.O. submits that the validity committee has verified the claim of the applicant on 10.08.2011. The respondent has reconsidered the claim of the applicant by constituting the DPC meeting dated 25.08.2011 and placed him at Sr. No. 62 and granted him promotion for the post of Circle Officer w.e.f. 02.09.2011 in revised seniority list dated 14.07.2021.

13. Learned Presenting Officer submits that as the applicant was within the zone of consideration; his claim was considered in the DPC meetings dated 27.10.2009, 07.07.2010 and 25.08.2011 respectively. It reveals from the minutes of the said DPC meeting that the applicant has not submitted the caste validity certificate and therefore, the DPC rejected his claim for promotion on the post of Circle Officer. The Government Corrigendum dated 28.05.2001 and G.R. dated 05.03.2005 mandates that it is responsibility of the backward class officer / employees to submit the caste validity certificate. In absence of that, they should not be promoted.

14. Learned Presenting Officer submits that case of the applicant was considered in the DPC meeting dated 18.09.2012 and it was found that he has submitted the caste validity certificate and eligible for promotion for the post of Circle Officer. Accordingly, the applicant was promoted on the post of Circle Officer vide order dated 25.10.2012. The applicant is not entitled for granting deemed date of promotion to the post of Naib-Tahsildar and Tahsildar. Learned P.O. submits that there is no substance in the present Original Application and the same is liable to be dismissed.

15. Learned counsel for the applicant on the basis of rejoinder affidavit submits that the respondents have contended that the validity committee has verified the caste claim of the applicant on 10.08.2011 and thereafter, his case was considered and he was promoted. It is an admitted fact that the applicant had passed RQE in the month of October, 2000 and Shri P.W. Kamble had granted exemption thereafter. In fact, the applicant was promoted on the post of Circle Officer by order dated 09.07.2002 rightly by the respondent No. 3 and at that time, there was no requirement of submission of Caste validity certificate. But due to wrong interpretation of respondent No. 2, the applicant was reverted. The affidavit in reply is silent about

the reversion of the applicant was right or wrong. The said Shri P.W. Kamble had also not submitted the caste validity certificate at the time of his promotion, because at that time there was no such requirement to submit the caste validity certificate for promotion. In fact, the reversion of the applicant was wrong. The Circular dated 28.05.2001 annexed by the respondents cannot be applicable to the case of the applicant and it is related to ST reserved category and the applicant is belonging to SC reserved category.

16. Learned counsel for the applicant submits that Shri P.W. Kamble was retired from the cadre of Naib Tahasildar and therefore, request of the applicant to grant him deemed dates as per Shri P.W. Kamble is just and proper. Learned counsel submits that the applicant has denied the rights of promotions due to mistake of respondent No. 2. Learned counsel submits that now the respondents have revised the seniority list and proper placements are given to the applicant and the applicant is shown senior to Shri P.W. Kamble, who was promoted up to Naib Tahsildar Cadre and retired from the said post in the year 2014. Therefore, his deemed dates for the posts of Circle Officer and Naib Tahsildar required to be given to the applicant. The



applicant cannot be denied the benefits of deemed dates, which were granted to his junior person.

17. Learned Presenting Officer on the basis of short affidavit filed on behalf of respondent No. 3, which is filed as per the order of the Tribunal dated 29.01.2024 submits that in para No. 4 of the said order passed by this Tribunal on 29.01.2024, the information is sought as to whether the G.R. dated 28.05.2001 is applicable to the Scheduled Tribe employee only not to the Scheduled Caste employees and for that reason when the said Shri P.W. Kamble was promoted on the post of Circle Officer, he was not asked to produce Caste Validity Certificate, as Shri P.W. Kamble and the applicant both are belonging to Scheduled Caste category. Learned P.O. submits that it is not in dispute that the Government Corrigendum dated 28.05.2001 issued by the Tribal Development Department is applicable to the Scheduled Tribe employees only.

18. Learned Presenting Officer submits that in the DPC meeting dated 20.03.2002, the applicant had been promoted on the post of Circle Officer vide order dated 09.07.2002. Being aggrieved by the said order, Shri P.W. Kamble has filed an application before the Divisional Commissioner, Aurangabad and

the Divisional Commissioner vide letter dated 12.03.2003 directed to revise the selection list and to insert the name of Shri P.W. Kamble. Accordingly, respondent No. 3 constituted DPC meeting on 23.04.2003 and placed the applicant at Sr. No. 136 and Shri P.W. Kamble at Sr. No. 27 in the said seniority list. At the time of said promotion, there were no any guidelines about the acceptance of caste validity certificate and the respondents also did not ask the applicant and Shri P.W. Kamble about the caste validity certificate in the DPC meeting dated 23.04.2003. On perusal of the minutes of DPC meeting dated 23.04.2003, it reveals that the applicant was eligible for promotion on the post of Circle Officer, but he was on waiting list because his seniority number was 136 and Shri P.W. Kambel's seniority number was 27.

19. Learned Presenting Officer submits that in terms of Government Circular dated 05.03.2005, it is responsibility of the Scheduled Caste, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category employees to submit their caste validity certificate. The officers/employees, who are within the zone of consideration and not submitted caste validity certificate were not required to be considered for promotion.

20. Learned Presenting Officer submits that in view of the directions issued by this Tribunal in O.A. No. 354/2015 vide order dated 02.02.2017 and order passed in O.A. Nos. 208/2021 and 281/2021, the office of respondent No. 3 has revised the seniority list of Talathi and finalized the same vide Circular dated 26.07.2022. Learned P.O. submits that after considering the provision mentioned in the G.Rs. issued from time to time and as per the placement of final revised seniority list of Talathi, the respondent has convened the D.P.C. meeting on 26.07.2022 to revise the seniority list of Circle Officers. On perusal of the minutes of DPC meeting dated 26.07.2022, it reveals that after considering the caste validity and relevant documents, primary seniority list of Circle Officer has been published vide Circular dated 27.07.2022 after calling an objection on it and thereafter published final seniority list vide Circular dated 12.08.2022.

21. Learned Presenting Officer submits that after considering the relevant documents and as per the seniority list of Talathi dated 26.07.2022, the applicant has been placed at Sr. No. 30 and Shri P.W. Kambel placed at Sr. No. 109 in the said seniority list. Learned P.O. submits that after considering the caste validity certificate and as per the final seniority list of Circle

Officer dated 12.08.2022, the applicant has been placed at Sr. No. 62 and Shri P.W. Kambel placed at Sr. No. 71.

22. Learned P.O. submits that the Government Corrigendum dated 28.05.2001 issued by the Tribal Development Department is applicable to the Scheduled Tribe employees only. Learned P.O. submits that placement of the applicant and Shri P.W. Kamble in the seniority list as per the Rules and Government guidelines issued from time to time. Learned P.O. thus submits that there is no substance in the present Original Application and the same deserves to be dismissed with costs.

23. The applicant is seeking directions to the respondents to grant him deemed dates of promotions for the post of Circle Officer w.e.f. 09.07.2002 and Naib Tahsildar cadre w.e.f. 13.05.2011 so also for the post of Tahsildar w.e.f. 01.01.2019 with all the consequential benefits.

24. It is not disputed that the applicant was promoted on the post of Circle Officer by order dated 09.07.2002 by respondent No. 3 and one employee Shri P.W. Kamble had submitted objections on 04.09.2002 and 18.09.2002 to respondent Nos. 2 and 3 respectively requesting therein that since he is senior to the applicant as his seniority number is 27

and seniority number of the applicant is 136, he is entitled to be promoted on the post of Circle Officer. It further appears that on 12.03.2003, the respondent No. 2 has issued letter to respondent No. 3 thereby directed to revert the applicant from the post of Circle Officer and to conduct the fresh Departmental Promotion Committee Meeting for the post of Circle Officer and consider all the persons for promotion, who are in the list. By order dated 28.04.2003 (Annexure A-9), the respondent No. 3 has issued order, thereby reverted the applicant from the post of Circle Officer to Talathi.

25. It is not disputed that the applicant was appointed on 04.01.1996 as Talathi with the respondents, whereas said employee Shri P.W. Kamble was appointed on 11.01.1982 as Talathi.

26. In the backdrop of these undisputed facts, it is important to look on the judgment delivered by this Tribunal in O.A. No. 319/2003 preferred by the present applicant against his reversion order. This Tribunal by giving reference to Maharashtra Sub Service Departmental Examination (for the cadre of Talathi) Rules, 1997 particularly Rules 3 & 4 has observed that the applicant herein and the said Shri P.W.

Kamble, who was also arrayed as respondent No. 4 in the said O.A. both were appointed prior to 29.10.1997 and therefore, were ordinarily required to pass the examination prescribed by Rule 1997 unless exempted by Rule 7. In terms of Rule 7(1)(a) of the said Rules, a Talathi, who is already confirmed in the cadre of Talathi on or before appointed date, is exempted from passing the examination prescribed by the said Rules. The said Shri P.W. Kamble was confirmed in the year 1986. By referring those rules, it is further observed by this Tribunal that once the said examination is passed an individual is eligible for promotion to the post of Circle Officer, but disagreeing with the extent that one who does not pass was not at all eligible for promotion. A person who is exempted from passing the examination under Rule 8 would also be eligible for promotion from the date he is so exempted.

In the said Original Application, this Tribunal has also considered that there was one vacancy for S.C. candidate. The zone of consideration was considered when the applicant herein was promoted and whereas when the revised DPC meeting was held on 23.04.2003, the zone of consideration consisted of Sr. Nos. 17, 18, 19, 26, 27 and 31 and the applicant being at Sr. No. 136 was not within the zone of consideration. Thus by

considering each aspect of the matter, this Tribunal has dismissed the said O.A. No. 319/2003 by order dated 26.09.2011.

27. In a case of **Narayan Haribhau Sonune Vs. State of Maharashtra and Ors in W.P. No. 2521/2015**, the Division Bench of Hon'ble High Court of Bombay, Nagpur Bench has dealt with the similar issue. The petitioner in the said W.P. was appointed as Talathi on 15.02.1991 and passed the Revenue Qualifying Examination in April-2002 in more than the permissible attempts. The respondent No. 4 in the said W.P. was appointed as a Talathi on 12.11.1999 and he had passed the Revenue Qualifying Examination in April-2005 in permissible attempts. The petitioner, as well as, the respondent no. 4 in the said W.P. claimed promotion on the post of Circle Officer (Mandal Adhikari). The Nagpur Bench of this Tribunal by order dated 09.04.2014 dismissed the Original Application filed by the applicant seeking promotion. Being aggrieved by the same, the petitioner therein has filed the said W.P. No. 2512/2015. The Division Bench of the Hon'ble High Court of Bombay at Nagpur Bench has observed that respondent No. 4 in the said W.P. was admittedly junior to the petitioner as per the date of appointment and none of the contingencies mentioned in Rule 6 of the

Maharashtra Revenue Qualifying Examination Rules would have the effect of placing the petitioner in the said W.P. below the respondent No. 4 in the seniority list maintained for the purpose of promotion to the post of Mandal Adhikari. The respondent No.4 in the said W.P. was admittedly appointed after the appointment of the petitioner and has not passed the Revenue Qualifying Examination in permissible attempts before the petitioner passed the said examination in more than the permissible attempts, in the year 2002. Also, the respondent No.4 in the said W.P. has not been exempted from passing the Revenue Qualifying Examination before April-2002.

28. In the backdrop of these two judgments one is by this Tribunal in O.A. No. 319/2003 and the Hon'ble High Court of Bombay, Bench at Nagpur in W.P. No. 2521/2015 respectively, the judgment and order passed in **O.A. No. 354/2015 (Shri Mahesh Mukund Sapre & 4 Ors. Vs. The State of Maharashtra and Ors.)** by the Full Bench of Principal Seat of this Tribunal at Mumbai is important, since the said judgment is instrumental in reshuffling the seniority list pertaining to the present applicant's cadre. The Full Bench has dealt with main issue relating to the retention or loss of seniority, etc. of the Clerks which in turn depends upon passing the Sub-Service Departmental



Examination (SSD), which is governed by the SSD Examination Rules, 1988 as amended by SSD Examination Rules, 1993. The said SSD examination is held for confirmation in Clerical cadre and the Clerks, who successfully cleared the said examination within the prescribed time limit and number of attempts, get their seniority related back to their dates of initial appointment. In this context, the Full Bench of Principal Seat of this Tribunal at Mumbai has referred the judgment of Division Bench of Hon'ble High Court of Bombay, Nagpur Bench in the above referred **W.P. No. 2521/2015 (Narayan Sonune Vs. State of Maharashtra and Ors.)**. It is observed by the Full Bench that the said judgment passed by the Hon'ble High Court of Bombay, Bench at Nagpur in the said W.P. was carried to the Hon'ble Supreme Court by way of Special Leave Petition to Appeal (Civil) No.9821/2016 and the Hon'ble Supreme Court has dismissed it.

29. The Full Bench of Principal Seat of this Tribunal at Mumbai had an occasion to consider O.A. No. 288/2013 (Pravin Mahadu Varande and 20 others Vs. District Collector, District Raigad and 21 others) dated 16.12.2014 and another Judgment in O.A. No. 587/2008 (Shri Shriram Gurav Vs. The Collector, Dist : Satara and 5 others) dated 23.6.2009. In para 24, the Full Bench of Principal Seat of this Tribunal at Mumbai has dealt

with the Maharashtra Revenue Qualifying Examination for promotion to the post of Awal Karkun from the cadre of Clerk Typist Rules, 1999 in detail by quoting in verbatim Rules 7 and 15 of the 1999 Rules, which prescribes the effect of passing Examination on seniority and Determination of seniority respectively. In para No. 35, the Full Bench has distinguished the Recruitment Rules for Talathis in the form of Maharashtra Sub-Service Departmental Examination (for the cadre of Talathi) Rules, 1997 and Rules meant for Revenue Clerks in detail. In para No. 36 it is observed by Full Bench that both the Rules are separate for the two cadres notwithstanding, the close similarity at places more than one.

30. In the backdrop of the above observations, the Full Bench has elaborately discussed the observations made by the Hon'ble High Court of Bombay, Bench at Nagpur in a case of **Narayan Sonune** (Supra). In para No. 44, the Full Bench of Principal Seat of this Tribunal at Mumbai has made the following observations:-

*“44. Mr. Bandiwadekar maintained that there was no difference between the Rules governing Talathis and Clerks. Now, this submission was obviously based on the Rule of Narayan Sonune (supra). Now, if the Rule maker did not want to have two separate set of Rules, he could as well have got one composite Rule for both*

*the cadres. In so far as Narayan Sonune (supra) is concerned, we have already indicated quite clearly that, factually, it was entirely distinct with the facts that obtain herein.”*

In the backdrop of the observations made in para No. 44, the Full Bench in para No. 45 has discussed in detail the principles emerge and while preparing the seniority list and the course of action is required to be adopted and accordingly answered three issues raised in the referral order. The said para No. 45 is reproduced herein below :-

*“45. The upshot is that, from the above discussion, the following principles emerge and while preparing the seniority list, the observations herein made may be followed and the course of action as hereinbelow be adopted.*

- “(a) The seniority in the Clerical cadre shall be fixed as per the date of passing the SSD Examination;*
- (b) In Clerical cadre if the SSD Examination was passed within the time and number of chances, the seniority shall be counted from the date of initial appointment as Clerks and that date in that cadre shall remain forever;*
- (c) The Clerks who fail to pass SSD Examination within the time and number of chances will lose their seniority as hereinabove discussed. Their seniority shall be counted from the date of passing SSD Examination or from the date, they would get exemption;*
- (d) But they will not disturb those Clerks who were already confirmed after passing SSD within the time and chances or were senior to them.*

*a-i) Now, only those Clerk Typists who have passed SSD Examination after completing three*

*years as such Clerks, would be eligible to appear for RQE.*

*a-ii) A Clerk Typist confirmed in that cadre in order to pass RQE will have to do so within three chances and within nine years of his continuous service as such Clerk Typist to be able to retain his original seniority.*

*a-iii) In the event, he were to fail to do so, then there will be a loss of seniority in exactly the same way as in case of Clerk Typist discussed above and he will then become entitled for consideration for seniority only after clearing the said Examination and he will be governed in all respects by (a) to (b) above.*

*It, therefore, follows that we would answer the three issues raised by the referral order as follows :*

*(a-i) No.*

*(a-ii) No.*

*(a-iii) No.”*

31. In the backdrop of these observations, in para No. 46 the Full Bench of this Tribunal at Mumbai has directed the respondents therein to prepare the seniority list afresh in accordance with the directions hereinabove and as a consequence, allowed the said O.A. No. 354/2015.

32. It appears that the Establishment Department of various District Collector offices by giving reference of said judgment and order passed in O.A. No. 354/2015 has reshuffled the entire seniority list for various cadres including the cadre of Talathi. In the said reshuffling, the applicant is shown senior to said employee Shri P.W. Kamble. Consequently, the applicant

has got cause of action to file representation to consider him for deemed date of promotion.

33. As discussed above, in O.A. No. 319/2003 this Tribunal has elaborately discussed all the aspects and considered the issue of reversion of the applicant in its proper perspective and ultimately dismissed the said O.A. filed by the applicant challenging his reversion order. This Tribunal has unequivocally upheld the seniority of said employee Shri P.W. Kamble as per the seniority list as on 18.01.2002. Further reshuffling of said seniority list in the year 2021 does not give any right to the applicant to claim deemed date of promotion for the reason that the Full Bench of the Principal Seat of this Tribunal at Mumbai has distinguished the Rules meant for the cadre of Talathi and Rules meant for Revenue Clerks. Thus in my considered opinion, the applicant is not entitled for deemed date of promotion in terms of reshuffling of said seniority list after a long gap of 18-19 years. Further this Tribunal cannot entertain the present Original Application, when O.A. No. 319/2003 was already decided by this Tribunal filed by the present applicant challenging the same issue in the different form on its merits.

34. Thus considering the entire aspect of the case, I do not find merit in the present Original Application and the same is liable to be dismissed. Hence, the following order :-

**O R D E R**

- (i) The Original Application is hereby dismissed.
- (ii) In the circumstance there shall be no order as to costs.
- (iii) The Original Application is accordingly disposed of.

**PLACE : Aurangabad.**  
**DATE : 19.09.2024**

**(Justice V.K. Jadhav)**  
**Member (J)**

**KPB** S.B. O.A. No. 514 of 2021 VKJ Deemed Date of Promotion