

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 597 OF 2022

DISTRICT:- AHMEDNAGAR

Babasaheb S/o Bhausahab Narwade
Age: 47 years, Occu. Talathi
R/o. C/o. Talathi Sajja Ambikhalsa,
Tq. Sangamner, Dist. Ahmednagar.

...APPLICANTS

V E R S U S

1] The State of Maharashtra,
Through: Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-32.

2] The Divisional Commissioner,
Nashik Division, Nashik.

3] The District Collector,
Ahmednagar, Dist. Ahmednagar.

...RESPONDENTS

APPEARANCE :Shri Rahul O. Awasarmol, Counsel for
Applicant.

:Shri M.B.Bharaswadkar, Chief Presenting
Officer for the respondent authorities.

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

DATE : 06-08-2024

O R D E R

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

1. Heard Shri Rahul O. Awasarmol, learned
Counsel for Applicant and Shri M.B. Bharaswadkar,

learned Chief Presenting Officer (CPO) for the respondent authorities.

2. By filing the present O.A. applicant is claiming following reliefs [paper book page 7 & 8 of O.A.]:

“A] This original application may kindly be allowed.

B] The seniority list dated 15.06.2022 prepared by respondent no.3 may kindly be quashed and set aside.

C] Respondent No. 3 may kindly be directed to fix the seniority of the applicant from the date of joining of service instead of the date of passing S.S.D. Examination.

D] Respondent no.3 may kindly be directed to correct the seniority list dated 15.06.2022 by incorporating the name of the applicant at suitable place in view of the G.R. dated 24.8.1976, 21st March 1979 and 16th November, 2006.

3. In the nutshell, it is the grievance of the applicant that, in the seniority list dated 15.06.2022, he is placed in the seniority list from the date of passing the Sub Services Departmental Examination (“SSD Examination” for short) instead of placing him from the date of joining the service. Applicant has accordingly prayed for allowing the O.A.

4. Learned CPO has submitted that the respondents have appropriately placed the applicant in the seniority list as he has not cleared the SSD Examination within the prescribed period and chances. Since the applicant has not passed the SSD Examination within the prescribed period and chances his seniority has been rightly reckoned from the date of passing the SSD Examination. Respondents have, therefore, prayed for dismissing the O.A.

5. 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 examinations rules for promotion to the higher posts applicable to the Government servants, both Gazetted 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 examination, than is permissible under the rules to other candidates.”

6. 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 judgment 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.”

7. As held by the Principal Seat of this Tribunal in OA No 480 & 481 of 2021, G. R. dated 24-08-1976 is applicable to SSD Examination and candidates belonging to backward class should be given one more chance and one more year to pass the departmental examination.

8. G.R. dated 21st March 1979 of General Administration Department also states that one more chance and a period of one more year should be given to candidates belonging to Schedules Castes, Scheduled Tribe, Denotified and Nomadic Tribes to pass the Departmental

Examination. Relevant part of G. R. dated 21 March 1979 is reproduced below:

“RESOLUTION : Government has decided that in the Departmental Examination Rules for promotion to higher posts applicable to Government Servants, both Gazetted 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) Schedules Tribes, and (iii) De-notified and Nomadic Tribes, should be given one more chance and one more year to pass the Departmental Examination than is permissible under the rules to other candidates.

2. In the subordinate revenue services the following departmental examinations have been prescribed for non-gazetted revenue subordinates: -

Bombay Collectorate :- Revenue Departmental Examination.

Bombay & Pune Division : Sub-Service Departmental Examination for Talathis

Sub-Service Departmental Examination for Clerks

Revenue Qualifying Examination for promotion in Upper Division i.e. Awal Karkun.

Aurangabad Division :- Revenue Clerks' Departmental Examination for Revenue Officers' Examination.

Nagpur Division :- Departmental Examination for
Revenue Officers.

3. In consonance with the Government decision referred to in para 1 above, Government is pleased to direct that the Government servants in Subordinate Revenue Services belonging to the (i) Scheduled Castes, (ii) Scheduled Tribes, and (iii) De-notified and Nomadic Tribes should be granted one more chance and a period of one more year to pass the Departmental Examination than that is prescribed in the relevant Departmental Examination Rules to other candidates.

4. These orders should take the retrospective effect from 24th August 1976 i.e. the date of issue of G.A.D. orders.

5. Necessary amendment to the respective Departmental Examination Rules will be issued separately.

By order and in the name of the Governor of Maharashtra.

(S.V. Wadekar)
Desk Officer,
Revenue and Forests Department.”

8. The G.R. dated 16th November, 2006 also reiterates that one more chance and one more year should be given to candidates from Backward Class (SC/ST/NT/VJNT/SBC) to pass the departmental examinations, than is permissible under the rules to other candidates. Relevant part of G.R. dated 16th November, 2006 is reproduced below [paper book page 81/82 of O.A.]:

“शासन निर्णय

विविध विभागातील /कार्यालयातील वरिष्ठ पदावर पदोन्नती
देण्यासाठी ज्या विभागीय परीक्षा उत्तीर्ण होणे आवश्यक ठरविले आहे,

त्या विभागीय परीक्षा उत्तीर्ण होण्याकरीता अनुसूचित जाती, अनुसूचित जमाती, भटक्या व विमुक्त जमातीच्या उमेदवारांना, सर्वसाधारण (खुल्या) उमेदवारांपेक्षा एक अतिरिक्त संधी व एका जादा वर्ष देण्याची तरतूद शासन निर्णय, सामान्य प्रशासन विभाग, क्र.ईएक्सएम-१०७५/१६८१/१७, दि.२४ ऑगस्ट, १९७६ च्या आदेशान्वये केलेली आहे. सदर सवलत आता "विशेष मागास प्रवर्गातील" उमेदवारांनाही लागू करण्यात येत आहे.

२. सर्व मंत्रालयीन विभागांना विनंती करण्यात येते की, त्यांच्या अखत्यारीतील विविध पदावर पदोन्नतीसाठी अनिवार्य म्हणून विहित केलेल्या विभागीय परीक्षा नियमामध्ये "विशेष मागास प्रवर्गातील" उमेदवारांना देखील एक अतिरिक्त संधी व एक अतिरिक्त वर्षाचा कालावधी परीक्षा उत्तीर्ण होण्याबाबत अनुज्ञेय करण्याबाबत आवश्यक त्या सुधारणा करण्यात याव्यात. उचित कार्य पद्धतीचा अवलंब करून अशा सुधारणा नियमात होईपर्यंत या आदेशातील तरतुदीनुसार "विशेष मागास प्रवर्गातील" उमेदवारांना पदोन्नतीसाठी विहित विभागीय पदोन्नती परीक्षामध्ये एक जादा संधी व एक अतिरिक्त वर्ष देण्यात यावे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

(प्र.कृ. लोखंडे)

उप सचिव, महाराष्ट्र शासन"

9. Applicant belongs to reserved category (Scheduled Castes). Applicant has passed SSD Examination as per the chart given below: -

Babasaheb Bhausahab Narwade, Date of Joining: 18.07.2012

Sr.No.	Year of SSD Examination	Attempt	Remarks
1	14.11.2014	1 st	Failed
2	05.10.2015	2 nd	Failed
3	21.10.2016	3 rd	Failed

4	29.09.2017	4 th	Passed Examination	SSD
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10. 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 belong to Scheduled Caste Category and as per the Government Resolution dated 24.07.1976, GR dated 21st March 2079 and GR dated 16.11.2006, he should be given 01 more chance and 01 more year to pass the departmental examination. It means that if applicant passes his SSDE in Five years and 4 chances then he will be construed to have passed the examination within the prescribed chances and period. Applicant has passed SSD Examination in 2017 in fourth attempt but had taken 5 year, 2 months and 11 days to pass the examination.

11. Since the applicant has not passed the SSDE within prescribed chances and period, therefore, he will lose his seniority and will be pushed down in seniority list published on 15.06.2022. Since the applicant has not passed the departmental examination within the prescribed period and chances, therefore, his seniority will be reckoned from the date of passing SSDE.

12. In view of the above, we pass the following order:

ORDER

OA is dismissed without any order as to costs.

(VINAY KARGAONKAR)
MEMBER (A)

(Justice P.R.BORA)
VICE CHAIRMAN

Place : Aurangabad
Date : ____-07-2024.

O.A.NO. 597-2022-HDD-VK