

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,
BENCH AT AURANGABAD.

**1) O.A. NO. 1021/2023 WITH M.A. NOS. 514 AND 169
BOTH OF 2024**

DISTRICT :- AURANGABAD

Mrs. Priyanka Shriram Sanap,
Age-31 years, Occu: Service
as Junior Engineer,
R/o. Flat No. B-2, Plot No. 27,
Sukhkarta Apartment,
Sandesh Nagar, Garkheda Parisar,
Aurangabad.

-- **APPLICANT**

VER S U S

1. The State Of Maharashtra,
Through: Secretary,
Water Resources Department,
Mantralaya, Mumbai 32.
2. The Secretary,
Soil & Water Conservation Department,
Mantralaya, Mumbai 32.
3. The Superintending Engineer & Director,
Directorate of Irrigation
Research & Development,
Pune.
4. The Chief Engineer
Water Resources Department,
Amravati, Sinchan Seva Bhawan,
Shivaji Nagar, Amravati 444 603.
5. The Executive Engineer
Khadakpurna Project Division,
Deulgaonraja, Buldhana.
6. The Executive Engineer,
Irrigation Research Division,
Aurangabad.

-- **RESPONDENTS**

(2) **O.A. NO. 23/2024 WITH M.A. NOS. 515 AND 168 BOTH OF 2024**

DIST. NAGPUR

- 1) Mr. Sachin Vitthalrao Ingalkar,
Age: 34 years, Occu: Service as
Junior Engineer, R/o. At Post Salod (K)
Tq Nandgaon (Kh), Dist. Amravati.
- 2) Mr. Roshan Gurudas Meshram,
Age:- 35 years, Occu:- Service as
Junior Engineer,
R/o. At Jogana Post Murmri to Chamorshi
Dist. Gadchiroli.
- 3) Mr. Yogendra Kishor Shebe,
Age :- 38 years, Occu:- Service
as Junior Engineer,
R/o. At Post Paraswada
Tq. Tirora, Dist. Gondia.

-- **APPLICANTS**

V E R S U S

1. The State Of Maharashtra,
Through: Secretary,
Water Resources Department,
Mantralaya, Mumbai 32.
2. The Secretary,
Soil & Water Conservation Department,
Mantralaya, Mumbai 32
3. The Chief Engineer, **(For Applicant No. 1)**,
Special Project (SP)
Water Resource Department,
Amravati, Sinchan Seva Bhavan,
Shivaji Nagar, Amravati-444 603.

(For Applicant No. 2 & 3)

Gosikhurd Project Water Resources Department,
Nagpur Sinchan Seva Bhavan,
Civil Line, Nagpur- 440 001.

4. The Executive Engineer, **(For Applicant No. 1)**
Washim Irrigation Division, Washim,
Civil Line. Washim-444 505.

AND

(For Applicant No. 1)
Jalna Minor Irrigation Division,
Jalna Motibagh, Chaman, Jalna,
Tq & Dist. Jalna - 431 203.

(For Applicant No. 2)
Ambhora Lift Irrigation Division,
Bhiwapur, Tahsil - Bhiwapur,
Dist. Nagpur-441 201.

AND

(For Applicant No. 2)
Irrigation Project Investigation Division,
Akola, Dist. Akola- 444 001.

(For Applicant No. 3)
Asolamendha Project Renovation
Division No.2, Saoli Tahsil Saoli
Dist. Chandrapur-441 225.

AND

(For Applicant No. 3)
Jalna Minor Irrigation Division,
Jalna Motibagh, Chaman Jalna,
Tq. & Dist. Jalna 431 203.

-- **RESPONDENTS**

- (3) **O.A. NO. 24/2024 WITH M.A. NOS. 516 AND 170 BOTH OF 2024**

DIST. : THANE

01. Mrs. Vasundhara Narayan Wahtule,
Age: 26 years, Occu: Service as
Junior Engineer, R/o. Plot No. 58,
Gut No. 145, Alok Nagar,
Near Mahadev and Shriram Mandir,
Satara Parisar, Dist. Chhtrapati Sambhajinagar.

02. Mr. Chetan Govind Pandit,
Age: 31 years, Occu: Service as
Junior Engineer, R/o. 46,
Bahubali Nagar, Sakri Road,
Tq & Dist Dhule.
03. Mrs. Bhagyashri Bajrang Pawal,
Age: 29 years, Occu: Service
as Junior Engineer,
R/o. Lohagaon, Tq. Rahata,
Dist. Ahmednagar.
04. Mr. Pravin Karbhari Chatur,
Age:- 34 years, Occ:- Service as
Junior Engineer,
R/o. Hari Niwas Apartment,
A-104, Datta Mandir Road,
Behind Muktidham, Nashik Road.
05. Mr. Sandesh Barku Mengal
Age: 29 years, Occ:- Service as
Junior Engineer,
R/o. At Shirpur (Dhasaiwadi),
Post Dhasai, Tq. Murbad,
Dist. Thane - 421 402.

-- **APPLICANTS**

VERSUS

1. The State Of Maharashtra,
Through: Secretary,
Water Resources Department,
Mantralaya, Mumbai 32.
2. The Secretary,
Soil & Water Conservation Department,
Mantralaya, Mumbai-32
3. The Chief Engineer,
For Applicant No. 1, 3, 4 & 5
Water Resources Department,
Konkan Region,
Honkong Bank Building,
4th Floor, Hutatma Chowk,
Mumbai-400 001.

For Applicant No. 2

Tapi Irrigation Development Corporation,
Aksahwani Chowk, Jalgaon 425 001.

4. The Superintending Engineer ,
For Applicant No. 1, 4, 5
Thane Irrigation Circle,
Thane Sinchan Bhavan,
3rd Floor, Kopri Colony,
Thane - 400 603.

For Applicant No. 2

Jalgaon Irrigation Project Circle,
Jalgaon Akashwani Chowk,
Jalgaon- 425 001.

For Applicant No. 3.

South Kokan Irrigation Project Circle,
Oras- Sindudurg 416 812.

The Executive Engineer

For Applicant No. 1

Bhatsa Dam Management Division,
Bhatsa Prkalp Vasahat, Bhatsanagar,
Tq. Shahapur, Dist. Thane-421 603.

For Applicant No. 2

Jalgaon Medium Project,
Division No.2, Jalgaon Akashwani Chowk,
Jalgaon-425 001.

AND

Jalna Minor Irrigation Division
Jalna Motibagh, Chaman Jalna,
Tq. & Dist. Jalna.

For Applicant No. 3

Sindudurg Irrigation Project
Construction Division,
Charathe- Swantwadi,
Dist. Sindhudurg 416 510.

For Applicant No. 4

Minor Irrigation Division,
Nashik Sinchan Bhavan, Trimbak Road,
Nashik-422 002.

For Applicant No. 5

Raigad Irrigation Division,
Kolad, Tq. Roha, Dist. Raigad-402 304.

The Sub Divisional Engineer,

For Applicant No. 1

Vaitarna Dam Sub-Division,
Vaitarnanagar, Tq. Igatpuri,
Dist. Nashik - 422 402.

For Applicant No. 2

Varkhede Londhe Project, Sub Division,
Chalisgaon. Dist. Jalgaon.

For Applicant No. 3

Tillai Canal Sub Divisional No.4,
Charathe-Sawantwadi,
Dist. Sindhudurg 416 510.

For Applicant No. 4

Minor Irrigation Construction Sub-Division,
Trimbakeshwar.

For Applicant No. 5,

Irrigation Sub Division Karjat,
Tq. Karjat, Dist. Raigad - 410 210.

-- **RESPONDENTS**

(4) O.A. NO. 1372/2024 WITH M.A. NO. 598/2024

DIST. : PUNE

01. Mr. Rohan Vasudev Dhamale,
Age: 31 years, Occu: Service
as Junior Engineer,
R/o. F-801, Windsor County,
Katraj, Pune.

02. Mr. Mahendra Mahadev Gaikwad
Age: 37 years, Occu: Service as Junior Engineer,
R/o.. F-1001, Windsor County,
Katraj, Pune.

-- **APPLICANTS**

V E R S U S

1. The State Of Maharashtra,
Through: Secretary,
Water Resources Department,
Mantralaya, Mumbai 32.

2. The Secretary,
Soil & Water Conservation Department,
Mantralaya, Mumbai 32.
3. The Superintending Engineer,
Pune Irrigation Project Circle,
3rd floor. New Administrative Building
Pune 411 001.
4. The Executive Engineer,
Sinchan Bhavan, Mangalwar Peth,
Khadakwasla Irrigation Division,
Pune.

(For Applicant No.1)

Irrigation Projects Investigation Division
Bhima, Upkhare, Sinchan Bhaven
(Bhima Sub Basin), Pune.

(For Applicant No. 2)

-- RESPONDENTS

APPEARANCE :- Smt. Suchita Dhongde, learned counsel
for the applicants in all these matters,

: Shri V.R. Bhumkar, learned Presenting
Officer for respondent authorities in all
these matters.

: Shri Ajinkya Reddy, learned counsel for
respondent no. 04 in O.A. NO. 23/2024
and for respondent no. 05 in O.A. No.
24/2024.

CORAM : **Hon'ble Shri Justice V.K. Jadhav,**
Vice Chariman
AND
Hon'ble Shri Vinay Kargaonkar,
Member (A)

RESERVED ON : **22.04.2025**
PRONOUNCED ON : **29.04.2025**

COMMON - ORDER

(Per : Justice V.K. Jadhav, Vice Chairman)

1. Smt. Suchita Dhongde, learned counsel for the applicants in all these matters, Shri V.R. Bhumkar, learned Presenting Officer for respondent authorities in all these matters and Shri Ajinkya Reddy, learned counsel for respondent no. 04 in O.A. NO. 23/2024 and for respondent no. 05 in O.A. No. 24/2024.

2. All these Original Applications are taken up together for discussion and decided by this common judgment and order since the issue raised in these applications is identical on same cause of action and all the applicants have claimed the similar relief.

3. All these matters are finally heard with consent of both the sides at the admission stage.

4. By filing these Original Applications, the applicants are seeking direction to the respondents to retain the name of the applicants in the list of employees working with the Water Resources Department as Junior Engineers and exclude the name of the applicants from the list of option for absorption in Soil and Water Conservation Department. The applicants are

also seeking directions to the respondents to include their names in the seniority list prepared by the Water Resources Department from the date of their appointment.

5. Brief facts giving rise to this Original Application are as follows:-

(A) All the applicants came to be selected for the post of Jr. Engineer (Civil) Group-B (Non-Gazetted) in the examination of the year 2016. Accordingly, appointment orders came to be issued to them in the Water Resources Department. All the applicants have joined the post at the respective places as per the appointment orders. The details of the applicants' appointment order, place of joining, date of filing option for absorption in Soil and Water Conservation Department and date of withdrawal of such options etc. are mentioned in the tabular format below:-

O.A. No.	Name of applicant	Date of initial appointment in Water Resources department	Place of Posting	Date of filing option for absorption in Soil and Water Conservation Department	Date of withdrawal of option
1021/2023	Mrs. Priyanka Shriram Sanap	25.01.2017	Directorate of Irrigation Research and Development Pune. Irrigation Research Division Chhatrapati Sambhajanagar, Nandur Madhameshwar canal Sub-Division No. 06 Bordahegaon, Chhatrapati Sambhajanagar.	02.07.2017	28.09.2018
23/2024	1. Sachin Vitthalrao Ingalkar	25.01.2017	Chief Engineer, (SP) water Resources Department. Amravati. Buldhana Irrigation Project Circle, Buldhana Washim Irrigation Division, Washim (Construction) Irrigation Sub Division Karanja Lad.	05.07.2017	11.06.2018

	2.Roshan Gurudas Meshram	25.01.2017	Chief Engineer, Gosikhurd Project (WRD) Nagpur. Gosikhurd Lift Irrigation Circle Ambadi (Bhandara) Ambhora Lift Irrigation Division, Bhiwapur Ambhora Lift Irrigation Sub Division No-1, Bhiwapur.	04.07.2017	17.05.2023 01.09.2023
	3. Yogendra Kishor Shebe	25.01.2017	Chief Engineer, Gosikhurd Project (WRD) Nagpur. Gosikhurd Lift Irrigation Circle Ambadi (Bhandara) Lift Irrigation Project Division, Torora Lift Irrigation Project Sub Division No.1, Torora.	07.06.2017	22.02.2023 17.05.2023
24/2024	1. Mrs. Vasundhar a Narayan Wahtule	25.01.2017	Water Resources Department ,Konkan Region Mumbai. Thane Irrigation Circle, Thane Bhatsa Dam Management Division, Bhatsanagar. Vaitarna Dam Sub-Division, Vaitarnanagar.	15.06.2017	10.04.2023
	2. Chetan Govind Pandit	25.01.2017	Chief Engineer, Tapi Irrigation Development Corporation, Jalgaon. Jalgaon Irrigation Project Circle, Jalgaon Jalgaon Medium Project Division No.2, Jalgaon Varkhede Londhe Project Sub-Division, Chalisgaon	11.07.2017	11.06.2018
	3.Mrs. Bhagyashri Bajrang Pawal	25.01.2017	Chief Engineer, North Maharashtra region Nashik. Superintending Engineer and Administrator, CADA Nashik. Executive Engineer Ahilyanagar Irrigation Division, Ahilyanagar.	15.07.2017	20.09.2023
	4. Pravin Karbhari Chatur	25.01.2017	Chief Engineer, Konkan Region, Mumbai Thane Irrigation Circle, Thane Minor Irrigation Division, Nashik Minor Irrigation Construction Sub-Division, Trimbakeshwar	27.09.2017	22.09.2023
	5. Sandesh Barku Mengal	25.01.2017	Chief Engineer, Konkan Region, Mumbai Thane Irrigation Circle, Thane Raigad Irrigation Division, Roha Irrigation Sub-Division, Karjat	05.02.2018	20.09.2023
1372/2024	1.Rohan Vasudev Dhamale	25.01.2017	Water Resources Department, Pune Pune irrigation Circle, Pune Khadakwasla Irrigation Division, Pune Mutha Canal Irrigation Sub-Division, Swargate, Pune	10.07.2017	28.05.2021 26.09.2023
	2. Mahendra Mahadev Gaikwad	25.01.2017	Water Resources Department, Pune Pune irrigation Project Circle, Pune Irrigation Project Investigation Division, (BSB)Pune	10.07.2017	28.05.2021

(B) Thereafter, the Village Development and Water Conservation Department of Maharashtra State issued a Government Resolution dated 31.05.2017, whereby the State Government has created a new Department viz. Soil and Water Conservation Department. Accordingly, divisional project machinery was reshuffled in between Soil and Water Conservation Department and Water Resources Department.

(C) The Soil and Water Conservation Department of the State Government thereafter issued a G.R. dated 22.06.2018, whereby the options were called from the employees working under both the Departments i.e. Soil and Water Conservation Department and Water Resources Department to the effect that in which Department, the Officer or the employee wants to work. As mentioned in the aforesaid tabular format, the applicants have accordingly given their options to get them absorbed in the Soil and Water Conservation Department. Thus, the name of the applicants appeared in Annexure-A of the said G.R. It is observed in connection with the said list that only after verification of SEVARTH ID, the applicants will be absorbed. The applicants were working at that time as Jr. Engineers at various places in Water Resources Department as detailed in foregoing paragraph. In view of the same, if the Water Resources Department relieves the applicants, they were to be posted as Water Conservation Officer in the office of Sub-Divisional Water Conservation Office as per Annexure A-3.

(D) The applicants thereafter till date rendering the service in Water Resources Department and they were not absorbed in the Soil and Water Conservation Department at any point of time. The salary and other ancillary payments are being paid to them by Water Resources Department.

(E) The Soil and Water Conservation Department of the Maharashtra State issued further G.R. dated 28.08.2019, whereby some of the employees made a request to the State Government to cancel their options and retain them in their parent Department i.e. Water Resources Department. Accordingly, the State Government considered the requests of such employees and issued a G.R. dated 28.08.2019 (Annexure A-5).

(F) In terms of the G.R. dated 04.09.2019, the State Government has cancelled the scheme of porting from the Soil and Water Conservation Department and Water Resources Department either way.

(G) In the year 2023, the Water Resources Department issued a G.R. dated 20.09.2023, whereby the seniority of the officers from the cadre of Jr. Engineers working with Water Resources Department was published. However, the applicants' names were not mentioned in the said list (Annexure A-7).

(H) The names of the applicants appeared in the seniority list prepared by the Soil and Water Conservation Department.

(I) The applicants have made the representations to the respondents from time to time, however, nothing has happened.

(J) One of the similarly situated employee namely Vaishali Raju Barhate preferred the Original Application No. 581/2018 with Misc. Application No. 572/2018 and by order dated 21.02.2022 this Tribunal has retained the service of the applicant therein and awarded all seniority benefits to the applicant as prayed in her parent Department (Annexure A-10). Thus, for similar relief these Original Applications have been filed by the applicants.

6. The learned counsel for the applicants submits that in view of G.R. dated 22.06.2018 the Soil and Water Conservation Department had called the options from the Officers/employees from both the Departments i.e. Soil and Water Conservation Department and Water Resources Department about their choice to the effect that in which Department they want to work. Consequently, the applicants have also opted to work with the Soil and Water Conservation Department. However, their options were not considered for various reasons mainly for the reason that those options were not submitted through Head of the Department or Administrative Department. The applicants, therefore,

remained in their parent Department i.e. Water Resources Department. The applicants are also drawing salary from the Water Resources Department, since their respective dates of appointment. The respondents ought to have considered the entire service of the applicants in the Water Resources Department and award them the seniority as per their merit numbers in the select list of Jr. Engineers in Water Resources Department. The learned counsel submits that these Original Applications deserve to be allowed.

7. The learned Presenting Officer on the basis of the affidavit in reply filed on behalf of respondent no. 02 submits that the Soil and Water Conservation Department came to be established vide G.R. dated 31.05.2017 and accordingly options for permanent absorption in the newly established Department were called from the officers vide Circular dated 31.05.2017. Accordingly, options were exercised by the Officers who were already working in both the Departments. The officers who gave options of Soil and Water Conservation Department have been permanently absorbed in said Department as per G.Rs. dated 07.06.2018, 18.06.2018, 22.06.2018 and 25.09.2018. In view of the same, names of the applicants came to be included in the said G.R. dated 22.06.2018. There is a condition mentioned in

the Circular dated 31.05.2017 that the option once exercised, shall not be withdrawn under any circumstances.

8. The learned Presenting Officer submits that in terms of G.R. dated 22.06.2018, the concerned officers/employees absorbed in the Soil and Water Conservation Department were required to be relieved immediately by the concerned Head of the Office of the Water Resources Department. However, since the Water Resources Department did not relieve the applicants, they have approached this Tribunal seeking cancellation of their absorption in Soil and Water Conservation Department.

9. The learned Presenting Officer submits that in view of absorption of the applicants in Soil and Water Conservation Department in terms of G.R. dated 22.06.2018, they have been declared as an employees of the Soil and Water Conservation Department. Accordingly, names of the applicants have been included in the seniority list of the cadre of Water Conservation Officers (Construction), Group-B (Non-Gazetted) of Soil and Water Conservation Department.

10. The learned Presenting Officer submits that as per paragraph 8(ii) of G.R. dated 31.05.2017, the Water Resources Department is expected to relieve the officers/employees

included in the Soil and Water Conservation Department under G.R. dated 22.06.2018. However, these applicants have not yet been relieved by the respondent no. 01.

11. The learned Presenting Officer submits that so far the absorption, which has been cancelled by G.R. dated 28.08.2019 is concerned, it is Soil and Water Conservation Department's employees, who were supposed to be absorbed from Agriculture Department. In terms of G.R. dated 04.09.2019, all the absorption process in respect of the employees of Water Resources Department has been closed, however, it does not mean that the absorptions of these applicants have been cancelled.

12. The learned Presenting Officer submits that in view of the aforesaid facts and legal position, these applicants have been included in the seniority list of the Soil and Water Conservation Department.

13. The learned Presenting Officer submits that as regards to the order passed in **Original Application No. 581/2018 with Misc. Application No. 572/2018 (Vaishali Raju Barhate Vs. the State of Maharashtra & Ors.)** is concerned, this Tribunal by order dated 21.02.2022 has cancelled absorption of

the applicant therein, Smt. Vaishali Raju Barhate, in the Soil and Water Conservation Department. Even the learned Chief Presenting Officer of this Tribunal has given opinion in the said matter that this case is not suitable for appeal. In view of the same, the respondent no. 01 has requested the Soil and Water Conservation Department to cancel the absorption. Accordingly, absorption of Smt. Vaishali Raju Barhate was cancelled from the Soil and Water Conservation Department.

14. The learned Presenting Officer submits that all the applicants have submitted the options for permanent absorption in the Soil and Water Conservation Department and accordingly they were absorbed in the said Department. Thus, their names have been included in the seniority list of the cadre of Water Conservation Officers, Group-B (Non-Gazetted). At present, the said posts of Water Conservation Officer, Group-B (Non-Gazetted) cadre under Soil and Water Conservation Department are largely vacant. The said officers are required to join the said Department. The options exercised by the applicants for inclusion in Soil and Water Conservation Department were as per their choice and now cancellation is sought by them solely for the reason that they have not been relieved by the Water Resources Department.

13. The learned Presenting Officer on the basis of the affidavit in reply filed for respondent no. 01 in some of the Original Applications submits that the applicants were not relieved from the Water Resources Department due to shortage of technical staff in the Water Resources Department. There are ongoing projects to be completed within a stipulated time period and, therefore, Water Resources Department was unable to relieve the applicants. Meanwhile, from last 02 years Water Resources Department has started the recruitment process to fill up the posts of Jr. Engineers and, therefore, now the respondent no. 01 would be able to relieve the applicants to join in the Soil and Water Conservation Department as per G.R. dated 22.06.2018. There is no substance in these Original Applications and the same are liable to be dismissed.

14. We have carefully gone through the pleadings and perused the annexures particularly the G.Rs. as referred in these Original Applications. We have also heard at length the learned counsel for the applicants, learned Presenting Officer for respondent authorities and learned counsel appearing for respondent no. 04 in O.A. No. 23/2024 and respondent no. 05 in O.A. No. 24/2024.

15. In terms of G.R. dated 31.05.2017 the State Government has created a new Department namely Soil and Water Conservation Department. Accordingly, a decision was taken to reshuffle the present machinery between Soil and Water Conservation Department and Water Resources Department. Clause 8 of the said G.R., which is relevant for the present discussion, is reproduced herein below:-

“८) कृषी व जलसंपदा विभागाकडील पदे कार्यरत अधिकारी/कर्मचा-यांसह मृद व जलसंधारण विभागाकडे कायमस्वरूपी वर्ग करताना खालील तत्वांचे पालन करण्यात यावे:-

(i) मृद व जलसंधारण विभागातील आकृतिबंधानुसार मंजूर असलेल्या पदांची भरती करताना सर्वप्रथम जलसंपदा विभाग व कृषी विभाग यांच्याकडील सर्व अधिकारी/कर्मचा-यांमार्फत विकल्प घेण्याची कार्यवाही करून त्या प्रशासकीय विभागांमार्फत मृद व जलसंधारण विभागास विकल्प सादर करण्यासाठी व त्याची प्रत मृद व जलसंधारण विभागास थेट सादर करण्यासाठी १५ जुलै, २०१७ ही मुदत ठेवण्यात येईल. त्यानुसार मुदतीत विकल्प दर्शविलेल्या अधिकारी/कर्मचा-यांना मृद व जलसंधारण विभागामध्ये सामावून घेण्यात येईल. या कार्यवाहीस प्रसिध्दी माध्यमातून व संकेतस्थळावरून प्रसिध्दी देण्यात येईल.

(ii) मृद व जलसंधारण विभागाकडे थेटपणे प्राप्त झालेल्या विकल्पानुसार संबंधीत अधिकारी व कर्मचा-यांना या विभागाद्वारे नेमणूका देण्यात येतील व त्या अनुषंगाने त्यांना पूर्वीच्या विभागातील पदावरून तात्काळ कार्यमुक्त करून सेवाभिलेख या विभागाकडे पाठविणे जलसंपदा व कृषी विभागास बंधनकारक राहील.

(iii) जलसंपदा विभागाची स्थानिक स्तर यंत्रणेकडील ३१५६ पदे व जिल्हा परिषद यंत्रणेतील वर्ग - १ व वर्ग - २ ची २२० पदे व नव्याने वर्ग करावयाची ३८१ पदे, ही सर्व पदे कार्यरत अधिकारी/कर्मचा-यांसह मृद व जलसंधारण विभागाकडे कायमस्वरूपी वर्ग करण्यासाठी मंत्रीमंडळाने मान्यता दिलेली आहे. त्यामुळे जलसंपदा विभागाच्या आकृतिबंधातून वरील पदे कमी करण्यात यावीत.

iv) मृद व जलसंधारण विभागाच्या आस्थापनेवर वरील परिच्छेद ८(iii) मध्ये नमूद केलेल्या पदांवर जलसंपदा विभागाचे अधिकारी/कर्मचारी सन १९९२ पासून तात्पुरत्या प्रतिनियुक्तीवर कार्यरत आहेत. सध्या कार्यरत असलेल्या जलसंपदा विभागाच्या या सर्व अधिकारी / कर्मचा-यांकडून, ते त्यांच्या मूळ जलसंपदा विभागाकडे परत जाणार आहेत अथवा मृद व जलसंधारण विभागात समायोजित होणार आहेत याबाबतचे विकल्प दि.१५ जुलै, २०१७ पर्यंत भरून घेण्यात येतील. त्यानुसार जे अधिकारी/कर्मचारी हे मृद व जलसंधारण विभागाकडे समायोजित होण्याचा विकल्प देतील त्यांना या विभागाच्या आस्थापनेवर समायोजित करण्यात येईल.

परंतु, जे अधिकारी/कर्मचारी त्यांच्या मूळ जलसंपदा विभागाकडे परत जाण्याचा विकल्प देतील असे सर्व अधिकारी/कर्मचारी त्यांच्या मूळ जलसंपदा विभागाकडे परत जाण्यासाठी पात्र ठरतील. परंतु, अशा सर्व अधिकारी/कर्मचा-यांना या शासन निर्णयाच्या दिनांकापासून यापुढील ४ वर्षांपर्यंतच्या कालावधीकरिता मृद व जलसंधारण विभागाच्या आस्थापनेवर कार्यरत ठेवण्यात येईल. या विभागाच्या आस्थापनेवरील पदे जसजशी भरण्यात येतील तसतसे या विभागाकडे न राहण्याचा विकल्प दिलेल्या जलसंपदा विभागाच्या अधिकारी/कर्मचा-यांना पुढील ४ वर्षांमध्ये टप्प्याटप्प्याने त्यांच्या विभागाकडे परत पाठविण्यात येईल.

मात्र, या दरम्यान जलसंपदा विभागाचे जे अधिकारी/कर्मचारी पदोन्नत होतील व पदोन्नतीनंतर त्यांना मृद व जलसंधारण विभागात पद उपलब्ध नसल्यामुळे अथवा पदोन्नतीनंतर त्यांना जलसंपदा विभाग दर्शविला गेल्यास अशा अधिकारी/कर्मचा-यांना पदोन्नतीनंतरच्या पदावर रुजू होण्यासाठी या विभागाकडून कार्यमुक्त करण्यात येईल.

परंतु आणखी असेही की, जलसंपदा विभागाकडील एकूण मंजूर, भरलेल्या व रिक्त या पदांचे जे प्रमाण आहे तेच प्रमाण या विभागाकडील कार्यरत व रिक्त पदांच्या बाबतीत कायम राखण्यात येईल.

(v) उच्चाधिकार समितीकडील आढाव्या दरम्यान कृषी विभाग व जलसंपदा विभागातील जी पदे अतिरिक्त ठरतील त्या पदांवरील अधिकारी/कर्मचा-यांना मृद व जलसंधारण विभागात प्रतिनियुक्तीने घेण्यात येईल व जसजशी कृषी व जलसंपदा विभागामध्ये ज्या संवर्गात पदे रिक्त होतील तसतसे त्या संवर्गातील अधिकारी/कर्मचा-यांना कृषी व जलसंपदा विभागाकडे परत पाठविण्यात येईल. तद्वंतर उर्वरीत पदांची भरती मृद व जलसंधारण विभागामार्फत करण्यात येईल. प्रतिनियुक्तीवर येणा-या सर्व अधिकारी व कर्मचारी यांना प्रतिनियुक्तीच्या संदर्भातील सर्व नियम लागू राहतील.

(vi) मृद व जलसंधारण विभागाकडे समायोजनाद्वारे कायमस्वरूपी वर्ग होण्याचा विकल्प देणा-या सर्व अधिकारी व कर्मचारी यांची त्यांच्या मूळ विभागाकडील त्या त्या संवर्गातील परस्पर सेवाज्येष्ठता कायम ठेवण्यात येईल. तथापि, जे अधिकारी व कर्मचारी दि. १५ जुलै, २०१७ नंतर मृद व जलसंधारण विभागाकडे येण्याचा विकल्प देतील किंवा इच्छुकता दर्शवतील ते त्यांची परस्पर सेवाज्येष्ठता गमावतील व त्यांना सेवाज्येष्ठतेमध्ये मृद व जलसंधारण विभागामध्ये वरीलप्रमाणे विहीत केलेल्या दि. १५ जुलै, २०१७ या दिनांकापर्यंत आलेल्या अधिकारी व कर्मचा-यांच्या नंतरचे स्थान देण्यात येईल. ही बाब विचारात घेता मृद व जलसंधारण विभागाकडे विकल्पाद्वारे कायमस्वरूपी वर्ग होवू इच्छिणा-या सर्व संबंधीत अधिकारी व कर्मचारी यांनी विहीत केलेल्या दिनांकापूर्वी विकल्प सादर करून **त्याची प्रत मृद व जलसंधारण विभागास थेटपणे ई-मेलद्वारे पाठवावी अथवा टपालाद्वारे किंवा व्यक्तिशः दि.१५ जुलै, २०१७ पूर्वी पोहोच करावी. याबाबतच्या सविस्तर सूचना विकल्प मागविण्याकरिता प्रसिध्द करण्यात येत असलेल्या प्रसिध्दीपत्रकात पहाव्यात.**

(vii) कृषी व जलसंपदा विभागाकडील जे अधिकारी/कर्मचारी मृद व जलसंधारण विभागाकडे विकल्पाद्वारे कायमस्वरूपी समायोजित होतील त्या सर्व अधिकारी/कर्मचा-यांना भविष्यात मृद व जलसंधारण विभागाचे सेवाप्रवेश नियम व सेवा शर्ती लागू राहतील."

16. In terms of above clause 08 of the G.R. dated 31.05.2017, the administrative Department of the Water

Resources Department and the Agriculture Department were supposed to collect the options exercised by the officers/employees on or before 15.07.2017 and forward the copy of the same directly to the Soil and Water Conservation Department. It is further stated in the said clause 08 particularly clause 8(2) that, if option so exercised within the given time, then it would be incumbent upon the Water Resources Department and the Agriculture Department to relieve the said employees.

17. It further appears that thereafter Soil and Water Conservation Department of the State issued a G.R. dated 22.06.2018, wherein reference has been given about option for permanent absorption in the Soil and Water Conservation Department as exercised by the officers/employees working in the Water Resources Department and Agriculture Department on or before 15.07.2017 and it is stated that they will be governed according to G.R. dated 31.05.2017. It is also stated in the said G.R. dated 22.06.2018 that their parent Departments i.e. either the Water Resources Department or Agriculture Department as the case may be, particularly Head of Department, shall relieve such officers/employees immediately and after their relieving order, the concerned

officers/employees shall join the post as per their absorption in Soil and Water Conservation Department. However, it seems that there is no compliance of the G.R. dated 22.06.2018 so far the applicants are concerned.

18. It is the contention raised on behalf of respondent no. 01 that the applicants were not relieved from the Water Resources Department due to shortage of technical staff and as many ongoing projects were to be completed within the stipulated time period and, as such, the Water Resources Department was unable to relieve the applicants at that time. In view of above specific contentions raised by the respondent no. 01 on affidavit, we have no hesitation to add that the applicants are not at all fault. Further, as long as the applicants are not relieved from their parent Department i.e. Water Resources Department, there is no compliance of G.Rs. dated 31.05.2017 and 22.06.2018. It is also the case of respondent no. 01 in connection with some of the applicants that the options were not exercised by the said applicants through proper channel. In view of all these facts, we are of the considered opinion that the so called options exercised by the applicants would be nullity and not complying with the G.Rs. dated 31.05.2017 and 22.06.2018 for not taking timely action

by the respondent no. 01. The applicants now cannot be compelled to stick-up to their so called options, which were not given effect to or acted upon. It is not disputed that all the applicants are still working in the Water Resources Department and they were not absorbed in the Soil and Water Conservation Department at any point of time. The salary and other ancillary payments are being paid to the applicants by the Water Resources Department.

19. It is also the fact that even in the year 2019, the Government has accepted the requests made by some of the employees to cancel their options and retain them in their parent Department. The Government order came to be issued in that regard on 28.08.2019 (Annexure A-5). There may be cancellation of the absorption of the Officers/employees on request in connection with Agriculture Department, however, it cannot be ignored that the first G.R. dated 31.05.2017, whereby the State Government has created a new Department namely Soil and Water Conservation Department and accordingly for reshuffling of machinery options were called by the G.R. dated 22.06.2018 from Water Resources Department, as well as, Agriculture Department.

20. In connection with similarly situated employee approached to this Tribunal by filing **Original Application No. 581/2018 with Misc. Application No. 572/2018**, the Division Bench of this Tribunal has reiterated the few facts, which are relevant for the present discussion, in paragraph no. 07 of the order dated 21.02.2022, which are as follows:-

“7. We have considered the submissions advanced by the learned Counsel for the applicant and the learned C.P.O. for the respondents. Few facts are relevant to be reiterated herein below :-

(i) The applicant was not relieved from her parent Department i.e. Irrigation Department and the said fact has not been denied or disputed by the said Department.

(ii) Before publication of the seniority list on 24.9.2018, the applicant had in writing communicated to her parent Department that she is withdrawing the option given by her. In the said letter she has stated that she was not knowing that she would fall in the zone of consideration in per parent Department for promotion to Class-III post and under wrong belief she has exercised the option on which she never acted upon.

(iii) In view of the G.R. dated 4.9.2019 now there is no scope for the absorption of the applicant in the Soil & Water Conservation Department from her parent Department i.e. Irrigation Department.”

Consequently in paragraph no. 09 of the said order this Tribunal has specifically observed that while considering that case and more particularly while going through the documents placed on record, it is noticed that the applicant in that matter is not the only candidate claiming the relief for her retention in the parent Department, but there are certain other employees

also claiming the relief for their retention in the parent Department and, as such, the relief granted in that matter shall apply to all those employees, obviously as per their seniority in the cadre in the parent Department.

Even in clause (iv) of the operative part of the said order it is stated by This Tribunal that the relief granted to the said applicant shall be held to have granted to all other similarly situated employees and they need not to file any separate application and the said employees also shall be considered for their promotion, obviously as per their seniority in the cadre in the parent Department.

21. In the present cases, all the applicants, may be on some different dates, have submitted their representations for cancellation of their so called options, however, it was never considered by the Government. It is also brought on record that in some of the cases before us that the Government has expressed opinion that the applicants are fit to be retained in their parent Department i.e. Water Resources Department.

22. In view of above discussion, we are inclined to allow all these Original Applications. Hence, the following order:-

ORDER

- (i) The O.A. no. 1021/2023, O.A. no. 23/2024, O.A. no. 24/2024 and O.A. no. 1372/2024 are hereby allowed.
- (ii) The options exercised by the applicants as detailed in the table mentioned in paragraph no. 5(A) for absorption in Soil & Water Conservation Department shall be deemed to have been cancelled and the applicants shall remain on the establishment of Water Resources Department as Jr. Engineers and their names shall be deleted from the list of options for absorption in Soil and Water Conservation Department.
- (iii) The respondents are directed to include the name of the applicants in the seniority list prepared by the Water Resources Department from the date of their respective appointments in the Water Resources Department.
- (iv) All the pending Misc. Applications are disposed of.
- (v) In the circumstances, there shall be no order as to costs.
- (vi) All the Original Applications are accordingly disposed of.

MEMBER (A)**VICE CHAIRMAN****Place : Aurangabad**
Date : 29.04.2025