

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

ORIGINAL APPLICATION NO. 897 OF 2023

DIST. : LATUR

Dhanraj s/o Bhagwan Gaikwad,)
Age 37 years, Occu. Service as Talathi,)
R/o Talathi Sajja, Wasangaon,)
Tq. Dist. Latur.)..

APPLICANT

V E R S U S

- 1) **The State of Maharashtra,**)
Through its Secretary,)
Revenue & Forest Department,)
Mantralaya, Mumbai – 32.)
- 2) **The District Collector,**)
Latur, Dist. Latur.)
- 3) **A.S. Somwanshi,**)
Talathi, Tahsil Office, Nilanga,)
Dist. Latur.)
- 4) **Bhusnar Darling Baliram,**)
Talathi, Tahsil Office, Ausa,)
Dist. Latur.)
- 5) **S.R. Suryawanshi,**)
Talathi, Near Tahsil Office,)
Ahmedpur, Dist. Latur.)
- 6) **Puri A.S.,**)
Talathi, Tahsil Office, Nilanga,)
Dist. Latur.)
- 7) **Kulkarni Suresh Sandeshrao,**)
Talathi, Tahsil Office, Ausa,)
Dist. Latur.)

- 8) **Renuka Shivaji Puri,**)
Talathi, Tahsil Office, Latur,)
Dist. Latur.)
- 9) **Gore Madhav Arjun,**)
Talathi, Tahsil Office, Latur,)
Dist. Latur.)
- 10) **Sainath Nivrutti Suryawanshi,**)
Talathi, Tahsil Office, Latur,)
Dist. Latur.)
- 11) **Tanhaji Pandhari Bhandare,**)
Talathi, Tahsil Office, Udgir,)
Dist. Latur.).. **RESPONDENTS**

APPEARANCE :- Shri H.P. Jadhav, Advocate for the
applicant.

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

: Shri D.T. Devane, learned counsel for
respondent nos. 05, 10 & 11.

: None appears for remaining respondents,
though duly served.

CORAM : **Hon'ble Shri Justice P.R. Bora,**
Vice Chairman
and
Hon'ble Shri Vinay Kargaonkar,
Member (A)

DATE : **16.07.2024**

ORDER

[Per :- Justice P.R. Bora, V.C.]

1. Heard Shri H.P. Jadhav, learned counsel for the
applicant, Shri V.R. Bhumkar, learned Presenting Officer for

respondent authorities and Shri D.T. Devane, learned counsel for respondent nos. 05, 10 and 11.

Though other private respondents have been duly served, they have not caused appearance in the present matter. The affidavit in reply is submitted only by respondent no. 02.

2. Applicant was appointed as Talathi by respondent No. 2 i.e. the District Collector, Latur vide appointment order dated 27.08.2012. The applicant passed the Sub-service Departmental Examination (for short 'SSD Examination') on 28.12.2016. Applicant passed the Revenue Qualifying Examination (for short 'RQ Examination') in the year 2018. In the seniority list of the cadre of Talathis as on 01.01.2023 published on 12.07.2023 the name of the applicant was shown at Sr. No. 345 and for the purposes of promotion the seniority of the applicant was shown to have been reckoned from 27.08.2012. At the relevant time 12 posts were vacant in the cadre of Circle Inspectors and the eligible Talathis were to be promoted to the said posts, according to their seniority. In respect of the seniority list published on 12.07.2023 objection was raised by one Shri A.S. Puri in the cadre of Talathis as about the seniority of the applicant. It was alleged by said objector that since the applicant did not pass the SSD

Examination within 03 chances, his seniority in the cadre of Talathis was liable to be considered from the date of his passing the SSD Examination i.e. from 28.12.2016. The objection so raised was accepted by the Committee constituted for deciding the said objections and in the revised seniority list published on 05.10.2023, the applicant was placed in the seniority at sr. no. 445 and the date for reckoning in the seniority in the cadre of Talathis was shown as 29.12.2016. Aggrieved by the order so passed the applicant has approached this Tribunal by filing the present Original Application.

3. It is the case of the applicant that being belonging to Scheduled Caste and having been selected as a member of S.C. was provided one more year and one more chance to pass the Departmental Examination than as permissible under the rules for other candidates. It is the case of the applicant that the applicant has duly passed the said examination within the extended chances. According to the applicant, as per the concession provided to the S.C. candidates, the period for passing SSD Examination was 05 years and 04 chances. According to the applicant he did pass the Departmental Examination within the said period. In the circumstances, the applicant has prayed for setting aside the seniority list

published on 05.10.2023 insofar as the placement given to the applicant in the said seniority list from the date of his passing the SSD Examination. The applicant has further sought for directions against respondent no. 02 to reckon his seniority from the date of his appointment.

4. The respondent no. 02 in her affidavit in reply has contended that the concession of one more year and one more chance to pass the examination by the S.C. candidates is for the R.Q. Examination and not for the SSD Examination. Respondent no. 02 on the said count has prayed for dismissal of the application.

5. Shri H.P. Jadhav, learned counsel appearing for the applicant has placed reliance on the order passed by this Tribunal in **O.A. No. 576/2018 (Smt. Smita Uttam Dandi & Ors. Vs. The State of Maharashtra & Ors.)** on 09.01.2019. In the said matter also the applicants therein had passed the SSD Examination by exhausting the concession of the extended period for passing the said Examination i.e. one more year and one more chance than the other candidates not belonging to S.C. Learned counsel submitted that in view of the earlier judgment of this Tribunal the present Original Application be allowed.

6. Shri V.R. Bhumkar, learned Presenting Officer reiterated the contentions raised in the affidavit in reply filed on behalf of respondent no. 02 and submitted that the period has been extended for passing the RQ Examination and not the SSD Examination. He, therefore, prayed for dismissal of the Original Application.

7. In the Original Application No. 576/2018 decided by the then Division Bench of this Tribunal on 09.01.2019 similar facts existed as are existing in the present matter. In the said matter the Tribunal has directed to reckon the seniority of the candidates, who have passed the SSD Examination within the extended period and chances from the date of joining the service. We deem it appropriate to reproduce herein below paragraph nos. 06 and 07 of the said order, which read thus:-

“6. In the present case the concerned respondents failed to consider that the present applicants are from S.C. category and, therefore, in view of Resolutions of the State Government dtd. 24.8.1976 (Annex. A.3 collectively, page 51) and dtd. 16.11.2006 (page 57) so far as the S.C., S.T., N.T. etc. categories candidates’ are concerned, one more chance and one more year is required to be given as concession for passing the prescribed departmental examination.

7. In the present case the applicants claim to have passed the S.S.D. examination within the extended concessional period and chances and, therefore, they cannot be termed as defaulting clerks. In the present case, this additional factor appears to have not been considered

by the concerned respondents while determining the seniority of the present applicants. In the circumstances, we pass the following order:-

ORDER

(i) The present Original Application is allowed and disposed of without any order as to costs.

(ii) The res. no. 3 – the Dist. Collector, Jalgaon – is hereby directed to consider above fact and to examine as to whether the present applicants have passed the S.S.D. examination within the extended period and chances.

(iii) Upon examination of the cases of the present applicants if it is found that they or some of them have passed the S.S.D. examination within the extended period and chance, then the respondent no. 3 shall fix the seniority of the concerned applicant/s from the date of joining of service. Accordingly the seniority list shall be revised and this exercise shall be carried within the period of 3 months from the date of this order.”

8. In view of the aforesaid judgment according to us, the present applicant had made out a case for allowing his Original Application. It is not in dispute that the applicant belongs to S.C. category. It is further not in dispute that the applicant passed the SSD Examination within 04 years and by availing 04 chances. For unreserved category candidates the period for passing the SSD Examination is of 04 years and 03 chances. It is thus evident that the applicant being belonging to SC was entitled to avail the benefit of extended period i.e. within the period of 05 years and 04 chances. The applicant has admittedly passed the said Examination within 04 years and 04 chances. In the circumstances, the seniority of the applicant in

the cadre of Talathis is liable to be reckoned from the date of his appointment. For the reasons stated above, the following order is passed:-

ORDER

(i) The seniority list published on 05.10.2023 insofar as the placement given to the applicant in the said seniority list at sr. no. 445 is quashed and set aside to that extent.

(ii) Respondent no. 02 is directed to reckon the seniority of the applicant from the date of his appointment i.e. 27.08.2012.

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

MEMBER (A)

VICE CHAIRMAN

Place : Aurangabad

Date : 16.07.2024