

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No.550 of 2014 (D.B.)**

Suresh Uttamrao Rathod,  
Aged about 45 years, Occ: Service,  
Resident of Tayade Colony, Khamgaon,  
Tahsil Khamgaon, District Buldana.

**Applicant.**

**Versus**

1. State of Maharashtra,  
through its Secretary, Revenue Department,  
Mantralaya, Mumbai-32.
2. The Divisional Commissioner,  
Amravati Division, Amravati.
3. The Collector, Buldana, District Buldana.
4. G.N.Mahajan,  
Tahsil Office, Mehkar, District Buldana.
5. V.P.Mahajan,  
Tahsil Office, Khamgaon, District Buldana.
6. P.L.Misal,  
Tahsil Office, Buldana, District Buldana.
7. G.T.Raut,  
Tahsil Office, Buldana, District Buldana.
8. J.M.Yeul,  
Tahsil Office, Mehkar, District Buldana.
9. D.L.Paighan,  
Spl. Land Acquisition Office, District Buldana.
10. P.P. Wankhade,  
Tahsil Office, Chikhli, District Buldana.
11. S.G.Satpute,  
Tahsil Office, Khamgaon, District Buldana.

- 12.P.R.Khokale,  
Tahsil Office Mehkar, District Buldana.
13. R.G.Baghele,  
Tahsil Office Malkapur, District Buldana.
14. P.L.Rathod,  
Tahsil Office, Nandura, District Buldana.
15. A.B.Chavhan,  
Tahsil Office, District Buldana.
16. A.R.Joshi,  
Tahsil Office, Nandura, District Buldana.
17. G.T. Thakare,  
Tahsil Office,Nandura, District Buldana.
- 18.R.G.Chankhore,  
Tahsil Office, Mehkar, District Buldana.
19. M.D.Joshi,  
Tahsil Office, Nandura, District Buldana.
20. S.T.Dhamal,  
Tahsil Office, Shegaon, District Buldana.
- 21.R.P.Rahate,  
Tahsil Office, Mehkar, District Buldana.
- 22.A.T.Shelke,  
Tahsil Office, Chikhli, District Buldana.
- 23.A.N.Shelke,  
Tahsil Office, Buldana, District Buldana.
- 24.N.V.Deshmukh,  
Tahsil Office, Khamgaon, District Buldana.
- 25.R.G.Jadhav,  
Tahsil Office, Lonar, District Buldana.
26. I.M.Babhale,  
Tahsil Office, Buldana, District Buldana.

**Respondents.**

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**S/Shri D.M. Kakani, G.K. Bhusari, Advs. for the applicant.**  
**Shri M.I. Khan, learned P.O. for respondent nos.1 to 3.**  
**None for respondent nos.4 to 26.**

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**Coram :- Hon'ble Shri Justice M.G. Giratkar, Vice Chairman**  
**and**  
**Hon'ble Shri Nitin Gadre, Member (A).**

**Dated :- 13/11/2024.**

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### **J U D G M E N T**

Heard Shri G.K. Bhusari, learned counsel for the applicant and Shri M.I. Khan, learned P.O. for respondent nos.1 to 3. None for respondent nos. 4 to 26.

2. The case of the applicant in short is as under –

The applicant was appointed on the post of Talathi on 16/07/1991. Thereafter by an order dated 01/11/1996 he has been confirmed in the said service. The applicant has been granted benefits of Time Bound Promotion to the post of Circle Officer w.e.f. 01/02/2006 as per the G.R. dated 08/06/1995.

3. The applicant is claiming the promotion on the post of Circle Officer. The applicant is not actually promoted on the post of Circle Officer, only benefit of Time Bound Promotion is granted of the post of Circle Officer. The applicant had made representation, but it was rejected on the ground that as per the Rules of 1997, the applicant has not passed the departmental examination and

therefore, he is not entitled for promotion on the post of Circle Officer. Therefore, the applicant has approached to this Tribunal by filing the present O.A. for the following reliefs –

*“ (7) (i) Quash and set aside the impugned Order passed by the Collector, Buldana dated 7<sup>th</sup> May 2014 (Annexure A-1), by which the Representation made by the Applicant has been rejected and hold that the Applicant has been declared a confirmed on the post of Talathi in the year 1996 and therefore, he is not required to pass the Departmental Examination in accordance with the Rules of 1997;*

*(ii) Direct the Respondent Nos. 1 to 3 to consider case of the Applicant for promotion on the post of Circle Officer and give him a promotion to the post of Circle Officer over and above his juniors have been given promotion from the date on which he became eligible for promotion to the post of Circle Officer along with all consequential benefits;*

*(iii) Direct the Respondent Nos.1 to 3 to correct the Seniority List of each and every year including the Seniority List of 1/1/2013 and show the proper placement of the Applicant in the said seniority list of the post of Talathi.”*

4. The O.A. is strongly opposed by the respondent nos.2 and 3. It is submitted that the applicant was appointed as Talathi. As per Rules of 1997 he has to pass the departmental examination. The respondents have submitted that as per the Rules of 1997, the applicant should have passed the departmental examination within time limit given in the Rules. The applicant has not passed the departmental examination, therefore, he is not entitled for promotion of the post of Circle Officer. Hence, the O.A. is liable to be dismissed.

5. During the course of submission, the learned counsel for applicant has pointed out the Certificate of permanency issued by the Sub Divisional Officer, Khamgaon dated 01/11/1996. As per this Certificate, the applicant is treated permanent in service. He has pointed out the Certificate issued by the Sub Divisional Officer, Khamgaon dated 06/10/2004. It also shows that the applicant is exempted from passing departmental examination as per the rule 7 (1) (a) of the Rules of 1997, as he was already made permanent as per the order dated 01/11/2006. The learned counsel for applicant has submitted that the Rule of 1997 is not applicable to the applicant in view of the rule 7 (1) (a). Hence, the action of the respondents not promoting the applicant on the post of Circle Officer is not proper.

6. The learned P.O. has submitted that the applicant was appointed as Talathi. He has not passed the departmental examination as per rules, therefore, he is not entitled for promotion as claimed.

7. The documents filed on record clearly show that the applicant was exempted from passing the departmental examination. The applicant was already confirmed before the Rules of 1997. The Rule 7 of the Rules of 1997 is reproduced below -

*“(7) **Exemption**- A Talathi appointed before the appointed date shall be exempted from passing the Examination if,-*

(a) he is already confirmed in the cadre of Talathi on or before appointed date 29/10/1997.

(b) he has already passed the Examination under the existing rules; OR

(c) he is exempted from passing the Examination under the existing rules;

(2) A Talathi who has attained the age of forty-five years on the appointed date or attains that age thereafter shall be exempted from passing the Examination-

*Provided that, the seniority lost by him in accordance with the provisions of clause (b) of rule 5 shall not be restored to him on account of such exemption."*

8. As per the rule 7 (a) of Rules of 1997 it is clear that the Talathi who is already confirmed in the cadre of Talathi on or before the appointed date i.e. 29/10/1997, he is exempted from passing the examination as per the rules. The applicant was already confirmed before the Rules of 1997. Therefore, there was no necessity for him to pass the departmental examination. The Sub Divisional Officer, Khamgaon has passed the order. The said order is very material. It is reproduced below –

“क्रमांक: कावि/तलाठी/आस्था/४१९/२००४

उपविभागीय अधिकारी, खामगांव हयांचे कार्यालय.

दिनांक :- ६.१०.२००४.

-आदेश-

ज्याअर्थी श्री एस.यु.राठोड, तलाठी, चिंचपूर, भाग-१, तहसिल कार्यालय, आमगांव हयांचे अर्जानुसार तहसिलदार, खामगांव हयांनी त्यांचे पत्र क्रं. आस्था/तलाठी/१६७/०४, दिनांक १६.०३.२००४ अन्वये त्यांना विभागीय दुय्यम परिक्षेमधुन सुट देण्याचे प्रस्तावित केले आहे व श्री एस.यु.राठोड तलाठी हयांना दिनांक १.११.२००६ चे आदेशान्वये स्थाई शासकीय कर्मचारी म्हणुन समजले जाण्यास पात्र असल्याचे प्रमाणपत्र देण्यात आलेले आहे.

त्याअर्थी श्री एस.यु.राठोड, तलाठी, हयांनी महाराष्ट्र दुय्यम सेवा विभागीय परिक्षा (तलाठी संवर्गाकरिता) नियम, १९९७ मधील नियम (७) (१) (अ) नुसार नियम दिनांकापूर्वी स्थाईत्व लाभाचे प्रमाणपत्र देण्यात आल्यामुळे त्यांना विभागीय दुय्यम सेवा परिक्षेतुन सुट देण्यात येत आहे.

सही/-

उपविभागीय अधिकारी, खामगांव. ”

9. From the rule 7 (a) of the Rules of 1997 and the Certificate mentioned above clearly shows that the applicant was already made permanent before the Rules of 1997 and therefore there was no necessity for him to pass the departmental examination. Moreover, the respondents have already granted time bound promotion of the post of Circle Officer to the applicant. The applicant is claiming the post of Circle Officer. The applicant is not given the actual promotion, but the financial benefit is already given by the respondents of the post of Circle Officer. Therefore, there is no any hurdle for the respondents to promote the applicant on the post of Circle Officer. The respondents are already paying the salary of the post of Circle Officer to the applicant. Hence, we proceed to pass the following order—

### **ORDER**

(i) The O.A. is allowed.

(ii) The impugned order dated 07/05/2014 is hereby quashed and set aside.

(iii) The respondent nos.1 to 3 are directed to consider the applicant for the post of Circle Officer. If the post is vacant, then he shall be promoted as per the eligibility and availability of the post within a period of three months from the date of receipt of this order.

(iv) The respondents are directed to correct the seniority list from the date of promotion of the applicant on the post of Circle Officer.

(v) No order as to costs.

**(Nitin Gadre)**  
**Member(A).**

**(Justice M.G.Giratkar)**  
**Vice Chairman.**

**Dated** :- 13/11/2024.

dnk.



I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman and  
Member (A).

Judgment signed on : 13/11/2024.