

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**ORIGINAL APPLICATION NOS 480 & 481 OF 2021**

**DISTRICT : PALGHAR**

**1) ORIGINAL APPLICATION NO 480 OF 2021**

Shri Yogesh Dattatraya Kanoja, )  
Working as Talathi of Village Boranda, )  
Tal-Vikramgad, Dist-Palghar, )  
A/P Sakhae, Tal-Vikramgad, )  
Dist-Palghar. )...**Applicant**

**Versus**

1. The District Collector, )  
Palghar, having office at Palghar. )  
2. Nitin D. Malgavi, )  
Occ : Talathi, Saza Wada, Tal-Wada,) )  
Dist-Palghar. )  
3. Anant S. Shedadh, )  
Occ : Talathi, )  
Saza Jamshet, Tal-Dahanu, )  
Dist-Palghar. )  
4. Yogesh B. Korde, )  
Occ : Talathi, Saza Medha, )  
Tal-Jawhar, Dist-Palghar. )  
5. Amit Ramesh Rabad, )  
Occ – Talathi, Saza, Tal-Vasai, )  
Dist-Palghar. )...**Respondents**

**2) ORIGINAL APPLICATION NO 481 OF 2021**

Shri Nilesh Harischandra Salunke, )  
 Working as Talathi of Village Boradi, )  
 Tal-Dahanu, Dist-Palghar, )  
 R/o: Flat No. 922, Shantinagar, )  
 Opp. Rajguru HMT High School, )  
 Safale, Tal-Palghar, Dist-Palghar. )...**Applicant**

**Versus**

1. The District Collector, )  
 Palghar, having office at Palghar. )  
 2. Gulabchand Harising Bhoi )  
 Occ-Talathi, Saza Umrade, )  
 Tal-Vasai, Dist-Palghar. )  
 3. Kumar Eknath Kudhare, )  
 Occ-Talathi, Saza Uplat, )  
 Tal-Talasari, Dist-Palghar )...**Respondents**

Shri B.A Bandiwadekar, learned advocate for the Applicants.

Smt K.S Gaikwad, learned Presenting Officer for the Respondents with Mrs Manisha Patil, Law Officer in the office of the Collector, Palghar..

**CORAM : Justice Mridula Bhatkar (Chairperson)**

**Mrs Medha Gadgil (Member) (A)**

**DATE : 10.12.2021**

**PER : Justice Mridula Bhatkar (Chairperson)**

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

1. All these Original Applications are heard together and disposed of by a common order as the issues involved are similar.

2. The applicants pray that the impugned order dated 29.6.2021 passed by Respondent no. 1 under which the applicants were held to having lost their seniority in the cadre of Talathi from the date of joining the post in view of having failed to pass the Revenue Qualifying Examination in 3 chances, (but passed in 4<sup>th</sup> chance) be quashed and set aside and the applicants be granted all the consequential service benefits including placement at appropriate place in the seniority list.

3. Learned counsel for the applicants submits that the issue involved in these Original Applications is very short and it can be disposed of in view of the affidavit in reply filed by the Respondent-State.

4. Learned counsel for the applicants submitted that the juniors of the applicants who are private Respondents should not have been shown above them as the applicants were rightly placed in the seniority list dated 3.9.2014 and they were pushed down erroneously in the seniority list dated 29.6.2021. Learned counsel for the applicants relied on the G.R dated 24.8.1976 which is regarding giving concession to the candidates from the reserved category for passing the Departmental Examination for qualifying for the promotion to higher posts. Learned counsel for the applicants submitted that he has filed affidavit of service on the private Respondents on 29.7.2021. However, none of them have appeared in the matter. Learned counsel further submitted that the applicant in O.A 480/2021 has passed the Departmental Examination in the year 2012 while applicant in O.A 481/2021 has passed the Departmental Examination in the year 2013. Learned counsel for the applicants submitted that the juniors to the applicants who have passed the Departmental Examination within three chances are shown above them disregarding the

conditions laid down in the G.R dated 24.8.1976, under which one extra chance and one extra year for passing the Departmental Examination is prescribed as per rules.

5. It is useful to reproduce the relevant extract of the G.R dated 24.8.1976.

“The Government has now decided that in the Departmental examination 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 examinations, than is permissible under the rules to other candidates.”

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.

6. Pursuant to order dated 8.12.2021, it is found that copy of Notification dated 7.7.1999 which is referred to and relied on the affidavit in reply dated 14.9.2021 filed by Respondent no. 1, through Mr Chandrasen R. Pawar, Tahsildar, Revenue, in the office of the Collector, Palghar is illegible and incomplete.

7. Learned P.O has drawn our attention to the Seniority List at page 92 of the Original Application, wherein the applicant in O.A 480/2021 is shown at Sr No. 128, while applicant in O.A 481/2021 is shown at Sr. No. 155. The said seniority list dated

3.9.2014 is of Thane Region. Now District Palghar is carved out of Thane District and the two applicants are serving at Collector Office, Palghar. In the seniority list dated 3.9.2014 the seniority of the applicants were shown as if they did not clear the Departmental Examination, though they have cleared the Departmental Examinations in the year 2012 and 2013 respectively, i.e. within the stipulated time and chances available to the reserved category candidates belonging to N.T and S.T, to which the applicants belong.

8. In view of the above, the Original Applications are allowed with following directions:-

- (a) The impugned order dated 29.6.2021 is hereby quashed and set aside under which the applicants have lost their seniority in the cadre of Talathi from the date of joining the post in view of having failed to pass the Revenue Qualifying Examination in 3 chances (but passed in 4<sup>th</sup> chance).
- (b) The necessary correction be carried out in the seniority list dated 1.1.2020 qua the applicants and the private Respondents who are before this Tribunal in the present Original Applications.
- (b) The necessary correction in the seniority list dated 1.1.2020 be carried out on or before 30.12.2021.

**Sd/=-**  
**(Medha Gadgil)**  
**Member (A)**

**Sd/-**  
**(Mridula Bhatkar, J.)**  
**Chairperson**

**Place : Mumbai**  
**Date : 10.12.2021**  
**Dictation taken by : A.K. Nair.**