

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION NO.385 OF 2017
WITH
ORIGINAL APPLICATION NO.695 OF 2017
(Subject : Pension and Pensionary Benefits)

O.A.No.385 of 2017

1. Shri Digambar Ramchandra Modak,)
Working as Surveyor, Class-III,)
Having office at Deputy Superintendent of Land)
Records, Mokhada, Tal. Mokhada, Dist. Palghar,)
R/o. Kasarhat, Opp. Gurudev Apts., Kalyan (W),)
Dist. Thane 421 301.)
2. Shri Maroti Sitaram Pagare,)
Working as Scutani Lipic, Deputy Superintendent)
Of Land Records, Chiplum, having office at Zumi)
Road, Behind Tahasheeldar office,)
Chiplun- 415 605. R/o. Room No.976, Panchsheel)
Nagar Rabale, Behind Rabale Police Station,)
Thane-Belapur Road, Navi Mumbai 400 701)
3. Shri Sunil Mahadev Anabhavane,)
Working as Surveyor, having office at Deputy)
Collector, (Encroachment), Boriwali -1,)
Rustamji Complex, Municipal Market, Dahisar (W))
Mumbai. R/o. Dahisar Sagar, 'B' Wing, 203,)
Dahisar (E), Sant Meerabai Road, Ghartan Pada)
No.2, Mumbai 66.)
4. Shri Rajaram Babu Kokate,)
Retired as Utara Lipik, Having office at Deputy)
Superintendent of Land Records, Thane Collector)
Office Compound, Thane Court Naka, Thane.)
R/o. A/5, Jay Mangal Murti, C.H.S. Indira Nagar,)
Kanjur Village Road, Kanjur Marg (E), Mumbai 42)

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5. Shri Rajendra Tukaram Paramsagar,)
Working as Record Keeper, having office at)
Deputy Superintendent of Land Records,)
Government Godown, Medha, Tal. Malvan,)
Dist. Sindhudurg, R/o. Paramsagar Rajendra,)
102, Pralhad Aashram, Sahyog Mandir Road,)
Naupada, Thane (W) 400 602.)
6. Shri Bhagvant Yadav Vispute,)
Working as Record Keeper, having office at)
Deputy Superintendent of Land Records, Jawhar,)
Dist. Palghar, R/o. A/63, Sainath Colony,)
Gajanan Nagar Ulhasnagar 421 004.)
Dist. Thane.)
7. Shri Rajesh Vishnu Dugaonkar,)
Working as Junior Clerk, City Survey Office,)
Chembur, having office at Topiwala College)
Bldg., Near Mulund College of Commerce,)
S.N. Road, Mulund(W), Mumbai 80.)
8. Shri Raghunath Harischandra Patil)
Working as Surveyor, having Office at Deputy)
Superintendent of Land Records, Shrivardhan,)
Dist. Raigad, R/o. F/102, Om Sai Height I,)
Yashwant Gaurav Nagar, Nalla Sopara [W],)
Tal. Vasai, Dist. Palghar.)
9. Shri Sunil Dashrath Mohire,)
Working as Clerk, Having Office at Deputy)
Superintendent of Land Records, Rajapur)
Dist. Ratnagiri, R/O. Tilak Chowk,)
Shree Ramprasad Society, Ramwadi, 'A' Wing,)
Ground Floor, Block No. 5, Kalyan [W],)
Dist: Thane.)
10. Shri Prashant Prabhakar Shivalkar,)
Working as Surveyor, Having Office at)
Deputy Superintendent of Land Records,)
Mundangad, Dist. Ratnagiri, R/O. A/P. Dapoli,)
Dist. Ratnagiri.)

11. Shri Pandharinath Shankar Chavan,)
Working as Surveyor, Having Office at Deputy)
Superintendent of Land Records, Kudal, Tal. Kudal)
Dist. Sindhudurg, R/o. A/P. Kudal Audumbar)
Nagar, C/O. Dipak Ramchandra Kudalkar)
A/P. Kudal, Dist. Sindhudurg.)
12. Shri Govind Harishchandra Jadhav,)
Working as Surveyor, Class-III, Having Office at)
City Survey Office, Malad, Tahasildar Office,)
5th Floor, Natakwalla Lane, Borivali [W],)
Mumbai-92.)
13. Shri Prashant Prabhakar Chorghe,)
Working as Junior Clerk, having office at Deputy)
Superintendent of Land Records, Murud,)
Dist. Raigad, R/o. A/p. Nandgaon, Tal. Murud,)
Dist. Raigad.)
14. Shri Deepak V. Keluskar,)
Working as Clerk having office at Deputy)
Superintendent of Land Records, Tahasildar)
Compound, Ambarnath, Dist. Thane.)
R/o. Panwelkar Nagari C.H.S., Behind Municipal)
Sub Market, Kulgaon, Badlapur, Tal. Ambarnath,)
Dist. Thane.)
15. Shri Tukaram Hirarlal Bhosale,)
Working as Abhilekhpal,)
having office at Upadhikshak Bhoomi Abhilekh,)
Mulshi, Dist. Pune, R/o. Hind Colony, Near Sonai)
New English School, Bhekrai Nagar, Fursungi,)
Tal. Haveli, Dist. Pune.)
16. Shri Yashwant Arjun More,)
Working as Surveyor, having office at)
Upadhikshak Bhoomi Abhilekh, Bhor,)
Dist. Pune R/o. Survey No.27/1/1, Rajas Hsg. Socy.)
Near Chinmay Heritage Society, Katraj, Pune.)
17. Shri Sanjay Shantilal Baphna,)
Working as Clerk having office at Deputy)
Superintendent of Land Records, Tal. Roha,)
Dist. Raigad, R/o. A-602, Amar C.H.S., 90")
X Road, Near Surabhi Hotel, Thakur Complex,)
Kandivali (E), Mumbai.)

Amr. Kumar

18. Shri Sanjay Bhalchandra Umbrajkar,)
Working as Correction Clerk, having office at)
Deputy Superintendent of Land Records, South)
Solapur Collector Compound, R/o. 11/C,)
Manjusha Housing Society, Near Vikas Nagar,)
Solapur 3)
19. Shri Arvind Anandrao Mithari,)
Working as Record Keeper, having office at)
Deputy Superintendent of Land Records, Shirala,)
Tal. Shirala, Dist. Sangli. R/o. Govindrao Sawant)
Grah Nirman Society, Plot No.6, Kolhapur 416 008.)
20. Shri Prashant Shankar Kamble,)
Working as Coping Clerk, having office at Nagar)
Buman, Ichalkaranji, Dist. Kolhapur. R/o. A/P.)
Apati, Tal. Panhala, Dist. Kolhapur.)
21. Vijay Radhesham Meshram,)
Since Deceased Smt. Pravita Vijay Meshram ,)
Vijay Meshram, R/o. Sanjivani Housing Society,)
Room No.106, Golibar Road, Indira Nagar Police)
Chowky, Santacruz, Mumbai.)
22. Smt. Sushila Ramchandra Phulpagar,)
Working as Upadhikshak Bhumi Abhilekh Mumbai)
Upnagar, having office at Bandra, Mumbai.)
R/o. B.I.T. Chawl No.3/76, K.K. Marg, Mumbai 11)
23. Smt. Sunanda Manohar Sarvankar,)
Working Surveyor, having office at the Deputy)
Superintendent of Land Records, Karjat,)
Dist. Raigad. R/o. Shree Shant Niwas, Room No.1,)
M.G. Road, Naupada, Thane (W).)
24. Smt. Priyanka Prashant Mokashi,)
Working as Surveyor, Deputy Superintendent of)
Land Records, having office at Deputy)
Superintendent of Land Records, Shahapur,)
Tal. Shahapur, Dist. Thane. R/o. 5/1st floor,)
Madona C.H.S., Near Mali Samaj Hall,)
Ramdaswadi, Kalyan (W), Dist. Thane.)

25. Smt. Vandana Radheshyam Meshram,)
 Working as Clerk – Utara Lipik, having office at)
 City Survey office Andheri, Swami Samarth Nagar,)
 MHADA Colony Telephone Exchange, Andheri (W))
 Mumbai, R/o. Sanjivaji Housing Society,)
 Golibar Road, Jawahar Nagar, Santacruz (E))
 Mumbai 55.)
26. Kum. Shobha Pandharinath Rupawate,)
 Working as Surveyor, Class-III, having office at)
 Deputy Superintendent of Land Records, Alibaug,)
 Dist. Raigad, R/o. Mazgaon, Tadvadi, B.I.T. Bldg.,)
 Saint Mary Road, Room No.6/23, Mumbai 10)
27. Kum. Shaila Rajaram Mamlekar,)
 Working as Surveyor –Abhilekpal, having office at)
 Deputy Superintendent of Land Records, Mumbai)
 Suburban, Collector office Bldg., Fifth floor,)
 Bandra (W), Mumbai 54, R/o. Jotin D'souza Chawl)
 Western Express Highway, Vile-Parle (E), Post)
 Sahar, Mumbai 99)
28. Smt. Pradnya Pravin Bovane,)
 Working as Clerk, having office at City Survey)
 Office Ghatkopar, Near Topiwali College,)
 Mulund (W), Mumbai, R/o. Dosti M.M.R.D. Bldg.,)
 Korase Road, Room No.418/423, 4th floor,)
 Vartak Nagar, Thane (W).)
29. Smt. Meera Laxman Kurle,)
 Working as Correction Clerk, having office at)
 Deputy Superintendent of Land Records,)
 Bhiwandi, Near S.T. Stand, Behind Government)
 Rationing Godown, Bhiwandi, Dist. Thane.)
 R/o. Pandurang Niwas Sarvodaya Nagar, S.P.S.)
 Road, Bhandup (W), Mumbai 78.)
30. Smt. Nisha Vinod Ghag,)
 Working as Despatch Clerk, having office at City)
 Survey office, Tahasildar Compound, Thane.)
 R/o. 202/203, "Parsik Sayli", Parsik Nagar, Kalwa,)
 Thane – 400 605.)

See Annexure

31. Smt. Shahanaj Mohd. Ayub Shaikh,)
Working as Clerk, having office at Special DY.)
Superintendent of Land Records, Gaothan, Pune)
R/o. Bungalow No.14, Keroda, Pune Tal. Pune)
Dist. Pune.)
32. Smt. Malan Ramchandra Bhosale,)
Retired as Shipai, having office at Upadhikshak)
Bhoomi Abhilekh, Purandar (Saswad), Dist. Pune)
R/o. Survey No.311, Galli No.10, Sasane Nagar,)
Hadapsar, Pune 28.)
33. Smt. Aruna Gopanath Ghume,)
Working as Junior Clerk, having office at Navin)
Prashaskiya Emart Settlement Commissioner office,)
Opp. Counsil Hall, Pune, R/o. S.No.642/11,)
Dharmaveer Park, A4/2, Bibwewadi, Behind)
Damodar Society, Pune 37.)
34. Smt. Chaitali Shriniwas Deshpande,)
Working as Inward Outward Clerk, having office at)
Upadhikshak Bhoomi Abhilekh, Maval,)
Dist. Pune, R/o. 1/6, 102, Swapna Nagari,)
Near Indrayani College, Talegaon Dabhade,)
Dist. Pune 410 507.)
35. Smt. Netra Mahesh Punde,)
Working as Junior Clerk, having office at)
Upadhikshak Bhoomi Abhilekh, Khed, Dist. Pune)
R/o. 12, Kasba Peth, Near Kasba Ganpati Mandir,)
Pune 11.)
36. Smt. Dipika Deepak Sawant,)
Working as Junior Clerk, having office at City)
Survey office, Borivali, Natakwal Lane,)
Dr. Karodi Marg, Tahasildar Bldg., Borivali (W),)
Mumbai -92, R/o. 304, Coral Park, Peru Baug,)
Array Road, Goregaon (E), Mumbai 63)
37. Smt. Deepa Dinesh Rane,)
Working as Clerk having office at City Survey office,)
Goregaon, B.S.T. Office Quarters, Goregaon (W),)
Mumbai 104, R/o. Unnat nagar No.4, M.G. Road,)
Goregaon (W), Mumbai 104.)

38. Smt. Nutan Dattatraya Khedkar,)
Working as Junior Clerk, having office at Special)
Deputy Superintendent of Land Records (Gaathan))
Pune Bungalow No.14, Airport Road, Yerawada,)
Dist. Pune 411 006. R/o. "Pratik Nagar, Kothrud,)
Pune 411 029.)
39. Shri Gopal Raghunath Varade,)
Working as Surveyor, having office at Deputy)
Superintendent of Land Records, Murud,)
Dist. Raigad, R/o. Shiv-Shakti Apt., 'A' Block,)
467/933, Ground Floor, G-2, Subhash Tekdi,)
Ulhasnagar No.4, Dist. Thane.)
40. Smt. Kavita Prakash Dugal,)
Working as Junior Clerk, having office at Deputy)
Superintendent of Land Records, Khed, Rajguru)
Nagar, Pune. R/o. Shivam Apts. Flat No.5, Anand)
Nagar, Sanghvi, Pune 27.)
41. Shri Ravindra Raghunath Salavkar,)
Working as Land Surveyor, having office at Deputy)
Superintendent of Land Records, Mahade, Alibaug,)
Dist. Raigad. R/o. A- Wagheshwar Nagar, Navdar)
Belli, Post – Kurul, Tal – Alibaug, Dist. Raigad.)
42. Shri Subhas Laxman Raut,)
Retired as Office Peon, having office at Deputy)
Superintendent of Land Records, Mokhada,)
Tal. Mokhada, Dist. Palghar, R/at, Sogaon, Post)
Mabgaon, Tal. Alibaug, Dist. Raigad.)
43. Shri Laxman Vasant Mhatre,)
Working as Land Surveyor, having office at)
Deputy Superintendent of Land Records,)
Kacheri Road, Tal- Mangaon, Dist. Raigad,)
A/P – Bhule – Bamnoli, Tal. Alibaug, Dist. Raigad.)
44. Smt. Sneha Sawant,)
R/o. Nanij, Tal. & Dist. Ratnagiri, in the office of)
Dy. Superintendent of Land Records, Ratnagiri)
Collector Compound, Ratnagiri.)

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45. Smt. Pramila G. Pawar,)
 Vidya Nagar, S.No.67. Plot No.13, Janiv Bungalow)
 Pune in the office of Dy. Superintendent of Land)
 Records, Behind Tehsil office, Tal – Khed)
 Dist. Pune)
46. Smt. Shaila R. Chavan,)
 Nayadaur C.H.S. Ground Floor, Room 44,)
 Keunipada, S.V. Road, Jogeshwari (W), Mumbai)
 In the office of Dy. Superintendent of Land Records)
 Tehsil Compound, Tal-Pen, Dist. Raigad.)

..... Applicants

Versus

1. The State of Maharashtra,)
 Through Principal Secretary (Revenue),)
 Revenue & Forest Department,)
 Having office at Mantralaya, Mumbai 400 032)
2. The Settlement Commissioner and the Director of)
 Land Records, (M.S.) Pune, having office at)
 Second Floor, New Administrative Bldg.,)
 Opp. Vidhan Bhavan, Pune 1.)
3. The Deputy Director of Land Records,)
 Pune Division, Pune, having office at First Floor,)
 New Administrative Bldg., Opp. Vidhan Bhavan,)
 Pune 1.)
4. The Deputy Director of Land Records,)
 Konkan Division, Mumbai, having office at Old)
 Custom House, Fort, Mumbai 23.)

..... Respondents

O.A.No.695 of 2017

1. Shri Harishchandra Rajaram Mamlekar,)
 Retired as Surveyor from the office of the District)
 Superintendent of Land Records, Sindhudurg,)
 R/o. John D'Souza Chawl, Vile Parle (E),)
 Mumbai 99)

2. Shri Gopal Laxman Kubal,)
 Retired as Surveyor from the office of the Deputy)
 Superintendent of Land Records, Vengurla,)
 R/o. A/p. Bibavane (Palsewadi) Tal. Kudal,)
 Dist. Sindhudurg.)Applicants.

Versus

1. The State of Maharashtra,)
 Through Principal Secretary (Revenue),)
 Revenue & Forest Department,)
 Having office at Mantralaya, Mumbai 400 032)
2. The Settlement Commissioner and the Director of)
 Land Records, (M.S.) Pune, having office at)
 Second Floor, New Administrative Bldg.,)
 Opp. Vidhan Bhavan, Pune 1.)
3. The Deputy Director of Land Records,)
 Konkan Division, Mumbai, having office at Old)
 Custom House, Fort, Mumbai 23.)Respondents.

Shri A.V. Bandiwadekar, the learned Advocate for the Applicants.

Smt. K.S. Gaikwad, the learned Presenting Officer for the Respondents.

CORAM : SHRI A.P. KURHEKAR, MEMBER (J)

DATE : 17.05.2019

J U D G M E N T

1. Heard Shri A.V. Bandiwadekar, the learned Advocate for the Applicants and Smt. K.S. Gaikwad, the learned Presenting Officer for the Respondents.

2. In these Original Applications the Applicants are seeking directions to the Respondents for grant of service benefits at par with the benefits granted to their colleagues, who were similarly situated persons in view of the decision rendered by this Tribunal in terms of Government Resolution passed by the Government invoking Section 19 of the Administrative Tribunals Act 1985.

Lawyer's

3. The Applicants were appointed as Unpaid Copyist / Unpaid Clerk way back in between 1973 to 1992. They were appointed for making available Certified Copies of property cards and other documents which were required to be supplied under Maharashtra Land Revenue (Inspection, Search and Supply of Copies of Land Records) Rules, 1970. They are not paid Salary by the Government but were paid 70% of the amount collected from those who applied for Certified Copies and balance 30% was to be deposited in the Government Treasury.

4. In these two Original Applications there are in all 48 Applicants. Out of them 17 Applicants have joined before 12.02.1987 and 31 Applicants have joined after 12.02.1987. This date i.e. 12.02.1987 is of significance as will be seen from further discussion. As of now, some of them have already retired and remaining are in service.

5. This litigation has a chequered history. However, now the controversy is narrowed down in view of earlier decisions rendered by this Tribunal, confirmed by the Hon'ble High Court as well as by the Hon'ble Supreme Court. The practice of appointing Unpaid Copyist relate back even earlier to 1991. The Government of Maharashtra in Revenue Department had appointed hundreds of Unpaid Copyist / Unpaid Clerk for proving Certified Copies of documents to the litigants or public in general and they were exploited. Initially several such Unpaid Copyist had filed O.A.No.153 of 1991 Madan V. Desai Vs. Settlement Commissioner, Pune and 2 others before this Tribunal for direction to absorb the Applicants. O.A. was allowed with certain directions by judgment dated 20.10.1992. The said judgment was challenged before the Hon'ble Supreme Court and the judgment of this Tribunal was maintained.

6. In pursuance of judgment delivered in O.A.No.153 of 1991, the Government of Maharashtra issued Government Resolutions dated 21.10.1995 and 22.10.1996. Accordingly, benefits of services were given to these Unpaid Copyist / Unpaid Clerk who were appointed prior to 1987. The Applicants were also similarly situated persons claiming that they were entitled for service benefits at par with their colleagues. The Applicants who are now before this Tribunal have filed bunch of Writ Petitions before the Hon'ble High Court. There were in all 32 Writ Petitions claiming the same relief. Here for convenience the **Writ Petition No.1944 of 1998 Shrishankar G. Jawanjal and one another Vs. The State of Maharashtra and other Writ Petitions**, is referred (for brevity hereinafter it is referred as **Jawanjal's matter**).

7. In the meantime, the State Government had issued Government Resolution dated 22.10.1996 for absorption of Unpaid Copyist / Unpaid Clerk who have worked for more than 10 years on cut-off date i.e. 30.11.1995. In so far as Unpaid Copyist / Unpaid Clerk who have not completed 10 years service on cut-off date, it was directed that those who have worked for more than 3 years their names having regard to their educational qualification be recommended to the State Selection Board, so that by relaxing age limit further orders can be issued.

8. Later on, the Government of Maharashtra by Government Resolution dated 10.03.2005 issued fresh instructions that those who have completed 10 years or above be absorbed in Government Service on Class-III posts.

9. The Hon'ble High Court disposed of these 32 Writ Petitions by judgment dated 19.01.2007. The operative order passed in the judgment is as follows :-

*"21. In the premises, we allow these petitions partly and hold that :
(a) All those Unpaid Candidates appointed till 12/2/1987 cannot be termed as backdoor entrants and they are eligible for the scheme formulated under the G.Rs. dated 21/10/1995 and 22/10/1996.*

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(b) *The Unpaid Candidates who have been appointed from 13/12/1987 onwards are not entitled for the benefit of any of the G.Rs. viz. the G.Rs. dated 21/10/1995, 22/10/1996 and 10/3/2005.*

(c) *The 150 posts directed to be kept vacant in Class III by the order of this Court dated 18th December 2003 passed in Writ Petition No.2151 of 1998, shall be filled in by the concerned Departments from amongst those Unpaid Candidates who fall in Category (a) above and are presently in the employment in any of these Departments.*

(d) *We also hold that the regularised Unpaid Candidates will be entitled for consequential benefits on par with similarly placed but already absorbed Unpaid Workers by the State Government Consequent to the Resolutions dated 21/10/1995 and 22/10/1996."*

10. The State Government as well as the Applicants, challenged the decision of Hon'ble High Court before the Hon'ble Supreme Court in **Civil Appeal No.3090 of 2007** filed by the **State of Maharashtra & Ors. Versus Sanjay Bhalchandra Umbrajkar & Anr.** and **Civil Appeal No.4633 of 2007** filed by **Yashwant Arjun More and others Versus State of Maharashtra and Others**. The Hon'ble Supreme Court by judgment dated 12.07.2011 dismissed the Civil Appeal No.3090 of 2007 whereas Civil Appeal No.4633 of 2007 was allowed by the judgment dated 11.08.2011. By the said judgment, the benefit was extended to these Unpaid Copyist / Unpaid Clerk who have completed more than 10 years on the date of issuance of Government Resolution dated 10.03.2005. It would be appropriate to reproduce the operative order of the judgment dated 11.08.2011, which is as follows :-

"We have heard learned counsel for the parties and carefully perused the record. It is not in dispute that as on 10.3.2005, all the appellants had completed more than 10 years engagement. It is also not in dispute that due to non-constitution of the Staff Selection Board and non-holding of examination, the appellants could not apply for regular selection. As on date, the appellants have completed 19 to 24 years service. Therefore, the ratio of the judgment in Secretary, State of Karnataka v. Umadevi (supra) cannot be invoked for denying them the benefit of policy contained in G.R. dated 10.3.2005.

In the result, the appeals are allowed, the impugned order is set aside insofar as it relates to the appellants.

The respondents are directed to take action for regularization of the services of the appellants in accordance with G.R. dated 10.3.2005 and pass appropriate orders within a period of four months from the date of receipt/ production of the copy of this order. The monetary benefits payable to the appellants shall be paid to them within next three months."

11. As such in so far as present Applicants are concerned, the judgment of **Jawanjal's matter** was set aside by the Hon'ble Supreme Court and directions were given to regularize the services of those Applicants in the light of Government Resolution dated 10.03.2005 and to pass further appropriate orders within four months. Suffice to say, all the Unpaid Copyist / Unpaid Clerk who have completed more than 10 years service, on the issuance of Government Resolution dated 10.03.2005 were held entitled to absorption.
12. It is on the above background, the Respondents had issued appointment orders of the Applicants in 2012, thereby appointing them on various posts in the office of Land Records. The Applicants have also annexed the chart which is at page 62 and 66 in O.A.No.385 of 2017, showing the date of birth, qualification, date of joining and date of retirement. Since initial joining they are in continuous service except those who retired from service on attaining the age of superannuation.
13. The problem arose when pension papers of one of the Applicant namely Smt. Shaila Ramchandra Pathak was forwarded to the office of Accountant General for grant of pension. The office of Accountant General raised objection that the said employee had not completed 10 years qualified service from the date of appointment order of 2012 as required in Maharashtra Civil Services (Pension) Rules 1982, and therefore pension cannot be granted.

Amritha

14. Applicants, therefore, have filed the present Original Applications for directions so that in terms of Government Resolution dated 21.10.1995, 22.10.1996 and 10.03.2005 their services are regularized for retiral benefits.

15. Apart from these O.A.No.385 of 2017 and O.A.No.695 of 2017, another group of Unpaid Copyist / Unpaid Clerk have filed O.A.No.1134 of 2016 in this Tribunal which was allowed on 09.08.2017 and directions were given to extend the service benefits in terms of G.R. dated 21.10.1995 and 22.10.1996. Paragraph 15 and 16 of the judgment of the Tribunal in O.A.NO.1134 of 2016 is as follows :-

"15. The above discussion must, therefore, have made it very clear and this bears repetition that the Clause (d) of the final order of the Hon'ble Bombay High Court, in Jawanjal's matter has not at all been disturbed by the Hon'ble Supreme Court, and therefore, that particular Clause will have to be given effect to its entirety, and therefore, as I Indicated above, though both the sides at the Bar made extensive references to the various GRs and tried to canvass their respective cases, it bears repetition that no GR can deviate from the mandate of the Hon'ble Constitutional Courts and that is more so because they claimed that they thereby wanted to effectuate the said direction. I am very clearly of the opinion that this controversy is capable of being resolved with the guidance of the Judgment of the Hon'ble Bombay High Court and the Hon'ble Supreme Court. Consequently, therefore, the Applicants would be entitled to the service benefits with effect from 01/06/1996 including retiral benefits and the benefits of Time Bound Promotion exactly in the same way as per Clause (d) of the order of the Hon'ble Bombay High Court in Jawanjal's matter. The final order herein will be in the same line."

16. It is held and declared that the Applicants would be entitled for consequential benefits on par with similarly placed and already absorbed unpaid workers by the State Government in accordance with the GRs of 21.10.1995 and 22.10.1996. The Applicants would be entitled to all the consequential benefits which their counter parts earlier were entitled to including the retiral benefits and the benefits of Time Bound Promotion. It is recorded that the pay, increments have already been given to them. The Respondents are directed to comply herewith within a period of four months from today. The Original Application is allowed in these terms with no order as to costs."

The said judgment of this Tribunal was challenged by the State Government before the Hon'ble High Court in Writ Petition No.6261 of 2018 . The Hon'ble High Court dismissed the said Writ Petition on 25.02.2019. Paragraph 9 of the judgment is useful which is as follows :-

9] *On examination, we have found that the Applicants who were unpaid workers, were appointed as far back as in 1986. This position is rather indisputable. Once it is found that the applicants were appointed prior to 12th February 1987, they deserve the ground of the same benefits which were granted to the unpaid copyists in **Shivshankar G. Jawanjal** (cited supra), in all respect. Moreover, even if they were assumed to have been appointed after 12th February 1987, in view of the order of the Supreme Court in the case of **Yashwant Arjun More & Ors.** (Civil Appeal No.4633 of 2007 and connected matters), they are entitled to similar benefits. Thus, from the material placed on record, we do not find that there is any dissimilarity between the Applicants and their counter-parts who were covered by the Judgment of the High Court in the case of **Shivshankar G. Jawanjal** (cited supra). In this view of the matter, there does not seem to be any justifiable reason not to give same dispensation which was given to the counter-parts of the Applicants in pursuance of the earlier order passed by this Court which was upheld by the Hon'ble Supreme Court.*

10] *We are, therefore, not inclined to interfere with the impugned order passed by the Tribunal. We find that the Writ Petition is unworthy of being entertained. Hence, the Petition stands dismissed. Rule is discharged."*

16. As such, the decision rendered by this Tribunal in O.A.No.1134/2016 has been confirmed by the Hon'ble High Court and now little is left with the Respondents to contest the claim of the present Applicants who are similarly situated persons. In O.A.No.1134/2016 also formal appointment orders were issued in the year 2012. However, this Tribunal held that the Applicants would be entitled for all the consequential benefits at par with similarly situated and already absorbed Unpaid Copyist / Unpaid Clerk by the State Government in accordance with Government Resolution dated 21.10.1995 and 22.10.1996 and the Applicants were held entitled to all consequential benefits including retiral benefits. This being the position, now the Applicants in the present Original Applications are also entitled to the same dispensation.

but

17. True, in Government Resolution dated 10.03.2005 issued by the Government (Clause No.3), it is stated that after absorption of Unpaid Copyist / Unpaid Clerk in the Government employment the period of service of such candidate as Unpaid employee shall not be computed for leave, salary and retrial benefits. Whereas paragraph No.4 of the Government Resolution specifically states that the said decision would be operative from the date of decision of Government Resolution. Here it may be noted that in these two Original Applications there are in all 48 Applicants who are appointed for the work of Unpaid Copyist / Unpaid Clerk during the period from 1974 to 1992 on different dates. They have completed more than 10 years on the cut off dates of relevant G.R. dated 22.10.1996 and 10.03.2005.

18. Material to note that as per Government Resolution dated 22.10.1996, Unpaid Copyist / Unpaid Clerk who have worked for more than 10 years on cut-off date i.e. 30.11.1995 were held entitled for absorption. In so far as Unpaid Copyist / Unpaid Clerk who have not completed 10 years service on cut-off date i.e. 30.11.1995 it was directed that those who have worked for more than 3 years their names, having regard to their educational qualification, be recommended to State Selection Board so that by relaxing age limit further orders can be issued. This being so, the date of absorption should relate back to the date of issuance of G.R. and not from the date of issuance of formal order of appointments which were issued in 2012 in so far as the present Applicants are concerned. Suffice to say the period of service for retrial benefits etc. needs to be considered from the date of issuance of G.R. and not from the date of issuance of formal appointment orders. There is no fault on the part of the Applicants, but the fault lies with the Respondents in issuance of formal orders of appointment belatedly. Therefore, the Respondents cannot take advantage of their own lethargy and inaction in issuance of formal appointment orders.

19. Smt. K.S. Gaikwad, Presenting Officer for the Respondents made feeble attempt to oppose the application placing reliance on the judgment of M.A.T Bench Aurangabad in O.A.No.218/2014, (Mr. Shaikh Ismail Shaikh Ibrahim Versus State of Maharashtra decided on 10.12.2014). In that O.A., the Applicant claimed seniority from the date of issuance of Government Resolution and prayed to compute service from G.R. dated 10.03.2005. The O.A. was rejected and the decision of the Tribunal was also confirmed by the Hon'ble High Court in Writ Petition No.7428 of 2016 decided on 06.01.2017. In that matter issue was pertaining to counting of service for Seniority and it is in that context the claim of Seniority in absence of any such stipulation in G.R. dated 10.03.2005 has been rejected. This judgment is obviously distinguishable and of little assistance to the Respondents in the present situation.

20. As stated earlier, the litigation relating to the absorption of Unpaid Copyist / Unpaid Clerk has a chequered history. But now in view of latest decision rendered by this Tribunal in O.A.No.1134 of 2016 which has been confirmed by the Hon'ble High Court in Writ Petition No.6261 of 2018 hardly anything is left with the Respondents to oppose the claim of the Applicants who are similarly situated persons and at par with the Applicants in O.A.No.1134 of 2016. The present Original Applications, therefore, deserve to be allowed.

21. It is thus obvious that the objection raised by the office of Accountant General in the matter of grant of pension relating to one of the Applicant, Smt. Shaila Ramchandra Pathak on the ground that she has not completed 10 years of service from the date of issuance of order as required in Maharashtra Civil Services (Pension) Rules 1982 is unsustainable in law. The services of the Applicants are required to be considered from the cut-off date as mentioned in the G.R. dated 14.10.1996 or 10.03.2005, as the case may be, having regard to the completion of 10 years period of each Applicant on the cut-off date. Here it may be noted that in similar question was in issue in O.A.No.236 of 2017 before M.A.T Bench Aurangabad (Smt. Yamuna Lakshymanrao Bhosale Versus The State of Maharashtra & Ors.) decided on 21.12.2018. In that O.A. also the Applicant

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was appointed by order dated 31.07.2012 in pursuance of G.R. dated 10.03.2015. She retired on 30.11.2016 on attaining the age of superannuation. After retirement the office of Deputy Superintendent of Land Records rejected her application for grant of pension on the ground that she has not rendered continuous 10 years service for getting the pension as her appointment is of the year 2012. The Tribunal, having considered entire controversy, in the light of judgment of Hon'ble Supreme Court in **Jawanjal's matter** and G.R. dated 10.03.2005 held that the services of the Applicant in case of Smt. Yamuna Lakshymanrao Bhosale needs to be considered from the date of issuance of G.R. dated 10.03.2005 and not from the date of issuance of belated appointment order.

22. Consequently, communication dated 20.09.2016 issued by the Deputy Secretary, Land Records, rejecting claim of the Applicant for pension was set aside and directions were issued to consider the claim of the Applicant for pensionary benefits afresh. Worth to mention here that this judgment was passed on 31.12.2018 i.e. during the pendency of Writ Petition No.6261 of 2018 wherein challenge was to the order passed by this Tribunal in O.A.No.1134 of 2016. Subsequent development is that Writ Petition No.6061/2018 has been decided on 25.02.2019 and the judgment of this Tribunal in O.A.No.1134 of 2016 has been confirmed.

23. Now turning to the facts of present matter, suffice to say that the stand taken by the Accountant General in the matter of grant of pension to one of the Applicant namely, Smt. Shaila Ramchandra Pathak is not sustainable in law. The services of the Applicants are required to be considered from the date of issuance of appropriate G.R. and not from the issuance of formal orders of appointment which are issued quite belatedly for which applicants cannot be blamed.

24. The necessary corollary of the aforesaid discussion leads me to sum up that Applicants are entitled to the service benefits at par with similarly placed and already absorbed Unpaid Copyist / Unpaid Clerk by the State Government in accordance with G.R. dated 21.10.1995, 22.10.1996 and 10.03.2005 in view of completion of the 10 years service on respective cut-off dates. Original Applications, therefore, deserves to be allowed.

ORDER

- (a) O.A.No.385 of 2017 and O.A.No.695 of 2017 are allowed.
- (b) It is hereby declared that the Applicants are entitled to the service benefits including retiral benefits in terms of G.R. dated 21.10.1995, 22.10.1996 and 10.03.2005 as the case may be, having regard to the completion of 10 years services on cut-off dates mentioned in these Government Resolutions.
- (c) As some of the Applicants are already retired from the Government service it is directed that the service benefits as per their entitlement having regard to their services on cut-off dates, be considered and retirement benefits be extended to them within three months from today.
- (d) No order as to costs.

Sd/-
(A.P.^v Kurhekar)
Member(J)

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