

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

**COMMON ORDER IN O.A. NOS. 488 AND 489 BOTH OF 2016**

**(1) Original Application No. 488/2016**

**Dist. : Dhule**

1. Sukhdev Shravan Chitte,  
Age. Major years, Occu. Service,  
Plot no. 99, Indraprastha Colony,  
Opp. State Bank, Kondur Road,  
Devpur, Dhule.
2. Shrikant Namdev Desle,  
Age. Major years, Occu. Service,  
Plot no. 18, Madhav Colony,  
Parola Road, Dhule.
3. Kiran Baburao Kamle,  
Age. Major years, Occu. Service,  
27-A, Bijlee Nagar, Wadibhokar Road,  
Devpur, Dhule.

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**APPLICANTS**

**V E R S U S**

1. The State of Maharashtra,  
Through Secretary,  
Revenue Department, Mantralaya,  
Mumbai – 32.  
(copy to be served on the CPO,  
MAT, Aurangabad)
2. The Collector, Dhule.

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**RESPONDENTS**

**WITH**

**(2) ORIGINAL APPLICATION NO.489 OF 2016**

**DISTRICT: NANDURBAR**

1. Shri AbajiShivdasJadhav,  
Age:Major, Occu. : SERVICE,  
As AwalKarkoon  
Office of the Collector, Nandurbar.
2. Shri NareshRamdasSaindane,  
Age : Major, Occu. : SERVICE,  
As clerk in the office of Tahsildar,  
Shahada, Nandurbar.

3. Shri DilipPundlikKulkarni,  
Age : Major, Occu. : SERVICE,  
As AwalKarkoon  
Office of the Collector, Nandurbar.
4. Shri Sunil NimbaKhairnar,  
Age : Major, Occu. : SERVICE,  
As clerk in the office of Tahsildar,  
Taloda, Nandurbar.

.. **APPLICANTS**

**V E R S U S**

- 1) The State of Maharashtra,  
Through : Secretary,  
Revenue Department,  
Mantralaya, Mumbai 32.
- 2) The Collector,  
Nandurbar.

.. **RESPONDENTS**

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**APPEARANCE** : Shri S.D. Dhongde, learned Advocate for  
the applicants in both the matters.  
: Shri M.P. Gude, learned Presenting Officer  
for the respondents in both the matters.  
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**CORAM** : **J.D. KULKARNI, VICE CHAIRMAN**  
**AND**  
**ATUL RAJ CHADHA, MEMBER (A)**

**DATE** : **24<sup>th</sup> AUGUST, 2018**  
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**J U D G E M E N T**

*(Per : J.D. KULKARNI, VICE CHAIRMAN)*

1. Heard Shri S.D. Dhongde, learned Advocate for the  
applicants in both the matters and Shri M.P. Gude, learned  
Presenting Officer for the respondents in both the matters.

2. Both these Original Applications are being disposed of by this common judgment since the issue involved therein is same.

3. The applicants were appointed as Clerk in Class-III cadre. Initially they were appointed for a period of 6 months and the said appointment was continued from time to time. Initial appointment was vide orders dtd. 1.12.1994, 25.2.1993 etc. in the cases of respective applicants. The said appointment continued till 1996.

4. In the year 1996 some of the applicants have filed O.A. before this Tribunal. Vide order dtd. 21.3.2002, the said O.A. was allowed and it was observed that appointment of the applicants was through regular process and therefore, they were rightly expecting regular appointment. In view of the judgment dtd. 21.3.2002, the respondents regularized the services of the applicants, but from the date of passing of order by the Tribunal.

5. The applicants preferred number of representations and requested that they be regularized from the date of their initial appointment. However, their said request has not been granted. According to the applicants, Hon'ble High Court, Bench at Aurangabad in writ petition no. 10513/2015 [Abaji Shivdas Jadhav & Ors. Vs. the State of Maharashtra & Ors.] with writ petition no. 10517/2015 [Sukhdev Shravan Chite & Ors. Vs. the

State of Maharashtra & Ors.] vide judgment dtd. 18.4.2016 has granted relief of reckoning the seniority of the similarly situated employees from the date of their initial appointment.

6. Similar relief was also granted by the respondents to Smt. Kokani Sunita Tejrao and Smt. Yashoda Deoji Vasave vide order dtd. 19.8.1995. The present applicants were appointed along with said Kum. Yashoda Deoji Vasave & Smt. Kokani Sunita Tejrao and in the said order the names of the applicants were also included and therefore, the respondents should not discriminate the applicants and they should have been granted same relief, which has been granted to Kum. Vasave Yashoda Devji & Smt. Kokani Sunita Tejram. O.A. nos. 746/2001 & 269/2001 filed by Kum. Yashoda Devaji Vasave & Smt. Kokani Sunita Tejaram have been allowed by the Tribunal vide order dtd. 8.10.2001.

7. Learned Advocate for the applicants has submitted that identically situated employees should not be discriminated in the matter of grant of service benefits and similar view has taken by Hon'ble High Court in writ petition no. 2334/2001 [Nandkumar Suresh Mayekar Vs. Union of India & Ors.] decided on 18.6.2009. The said judgment has been reported at 2009 (5) Mah. L.J. 296. The applicants are, therefore, claiming directions against the respondents to treat the applicants' services regularized from the

date of their initial appointments along with consequential benefits.

8. In the affidavit in reply filed by the res. no. 2 the respondents have fairly admitted that the order passed by this Tribunal in O.A. nos. 269 & 746/2001 by the Aurangabad Bench. The res. no. 2 has also referred to para 5 of the judgment which reads as under :-

*“In view of the facts stated above and also in view of the orders consistently passed in all similar matters, we have to allow both these petitions by directing respondent authorities to reinstate / reappoint the petitioners on the posts for which they were duly selected and also had been appointed. We expect respondent authorities to comply with this order within a period of eight weeks from the date of receipt of this order. It is made clear that petitioner will retain their earlier seniority even though they would not be entitled to any back wages. With the above observations and directions, both the petitions are disposed of. No orders as to costs.”*

9. The respondents have also admitted that the applicants were appointed by the order of Collector, Nandurbar and were given regular promotion. This Tribunal vide order dtd. 4.8.2017 was pleased to observe as under :-

*“2. Present Applicants are seeking regularization of service from the date of their appointment as Clerks. They are relying on the earlier judgment of this Tribunal dated 21-03-2002 in a group of O.A.Nos.2160/1999 & Ors. and O.A.No.949/2000 and also O.A.No.269/2001 & 746/2001 decided on 08-10-2001. It appears that these 2 orders were regarding the candidates belonging to backward classes who were appointed in a special drive to fill the backlog posts.*

3. *In the earlier case, applicants were selected for Sardar Sarovar Project by following regular selection process. It was held by the Tribunal that reference to selection by District Selection Board in their appointment order was a mistake and their initial selection was on regular basis.*

4. *It is not clear as to whether the present applicants were also selected through a regular process. We find that these facts are not covered in the affidavits in reply filed by the respondents. Respondents should clearly specify as to mode of selection of the present applicants and whether they are similarly situated persons as the applicants in the O.As. mentioned hereinabove.*

5. *Learned P.O. states that he will file affidavit in reply covering these issues within a period of 4 weeks. Time granted.”*

10. In view of aforesaid directions the res. no. 2 again filed additional affidavit on 18.12.2017. It is admitted that the applicants were appointed on temporary basis but were given technical break of 2 days. Learned P.O. fairly admits that the cases of the applicants are covered by the earlier pronouncement of the Tribunal as well as various pronouncements of the Hon'ble High Court. It is admitted fact that the applicants have been appointed with due procedure of law for time being and were absorbed in service. Employees in similarly situated conditions were granted regularization from initial date of appointment and therefore, there was absolute no reason as to why the applicants were discriminated and their services have been regularized from the date of passing of order by the Tribunal and not from the date of their initial appointment.

11. As already stated, the learned P.O. has fairly admitted that the cases of the present applicants have been covered in view of the pronouncements by this Tribunal in various cases on which learned Advocate has placed reliance and these cases are writ petition no. 10313/2015 [Abaji Shivdas Jadhav Vs. the State of Maharashtra & Ors.] with writ petition no. 10517/2015 [Sukhdev Shravan Chite Vs. the State of Maharashtra & Ors.] dtd. 18.4.2016, judgment dtd. 8.10.2001 of the Tribunal in O.A. nos. 269/2001 [Smt. Kokani Sunita Tejrao vs. the State of Maharashtra & Ors.] with O.A. 746/2001 [Smt. Yashoda Deoji Vasave respectively vs. the State of Maharashtra & Ors.], writ petition no. 6766/2005 [the State of Maharashtra & Ors. Vs. Rajendra Maharu Ghuge] dtd. 9.10.2017, writ petition no. 2334/2001 [Nandkumar Suresh Mayekar Vs. Union of India & Ors.] dtd. 18.6.2009 etc.

12. In O.A. nos. 746/2001 & 269/2001 filed by Kum. Yashoda Devaji Vasave & Smt. Kokani Sunita Tejaram, this Tribunal vide order dtd. 8.10.2001 was pleased to observe in para 4 & 5 as under :-

*“4. All these persons including present petitioners were recruited during a special drive for recruitment of candidates for filling up of the backlog posts. They were thus regularly selected candidates and there was no question of their being displaced by other selectees as such. None the less, the authorities under mistaken impression that they are liable to be displaced by duly*

*selected candidate from the Regional Selection Board, continued them in service for a period of 18 month and they were discontinued thereafter. Many of such persons approached the Tribunal by filing Original Applications and obtained relief in their favour. For example, Original Application No. 82/2001 may be cited. In the said O.A. no. 82/2001 even after the petitioner obtained relief from this Tribunal, since the respondent authorities were not still acting, he was again required to move this Tribunal. Ultimately, the respondent authorities did the needful and complied with the order only after this Tribunal passed an order on 24.7.2001 in M.A. no. 81/2001 in O.A. no. 82/2001. In the said order the Tribunal had to record it's displeasure and to warn the respondent authorities not to compel this Tribunal to pass adverse orders.*

*5. In view of the facts stated above and also in view of the orders consistently passed in all similar matters, we have to allow both these petitions by directing the respondent authorities to reinstate / reappoint the petitioners on the posts for which they were duly selected and also had been appointed. We expect the respondent authorities to comply with this order within a period of eight weeks from the receipt of copy of this order. It is made clear that the petitioners will retain their earlier seniority even though they would not be entitled to any back wages. With the above observations and directions, both the petitions are disposed of. No orders as to costs."*

13. In the circumstances, we are of the opinion that, similar view as has already been taken by the Tribunal in aforesaid cases, can also be taken in the present O.As. Hence, we pass following order :-

### **ORDER**

- (i) O.A. nos. 488 & 489 both of 2016 are partly allowed.
- (ii) The respondents are directed to treat the applicants as regularized from the date of their initial appointment.

Applicants however are not entitled to claim arrears of back wages. It is, however, made clear that their seniority shall be reckoned from the date of their initial appointment.

There shall be no order as to costs.

**(ATUL RAJ CHADHA)**  
**MEMBER (A)**

**(J.D. KULKARNI)**  
**VICE CHAIRMAN**

**Place : Aurangabad**

**Date : 24<sup>th</sup> August, 2018**

ARJ O.A.NO.406-2015 (D.B.) SALARY-PENSION (HON. CHADHA)