

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI

ORIGINAL APPLICATION NO.862 OF 2016

1. Shri. Abhijit Jotiram Telvekar)
Working as: Assistant Section Officer,)
Environment Department, Mantralaya,)
Mumbai 400 032.)
R/ at: Vighnesh CHS, Flat No.104,)
Plot No. 19, Sector-12,)
Kharghar-410210.)
2. Shri. Sharad Gyanoba Kirwale,)
Working as: Assistant Section Officer,)
Water Supply & Sanitation Department)
Mantralaya, Mumbai 400 032.)
Residing at: B-80/6, Govt. Colony,)
Bandra East, Mumbai-51)
3. Shri Dattaprakash Pandurang Jadhav,)
Working as: Assistant Section Officer,)
Revenue & Forest Department,)
Mantralaya, Mumbai 400 032)
Residing at: H-3/902, Mahavir Heights,)
Opp. Gokul Nagari, Khadakpada,)
Kalyan(W), Dist: Thane.)
4. Shri. Kedarpratap Jaysing Patil)
Working as: Assistant Section Officer,)
Revenue & Forest Department,)
Mantralaya, Mumbai 400 032.)
Residing at: NL-6, 3/13, Sector-15,)
Nerul, Navi Mumbai 400 706.)
5. Shri. Shashikant Nandkumar Bhise)
Working as: Assistant Section Officer,)
Revenue & Forest Department,)
Mantralaya, Mumbai 400 032.)
Residing at: B-32/4, Govt. Colony,)
Bandra East, Mumbai 51.)

6. Shri. Sarjerao Shivaji Patil.)
Working as: Assistant Section Officer,)
General Administration Department,)
Mantralaya, Mumbai 400 032)
Residing at: B-315/5, Govt. Colony,)
Bandra(E), Mumbai-51)
7. Shri Sandeep Bhivraj Pawar)
Working as : Assistant Section Officer,)
Home Department, Mantralaya,)
Mumbai 400 032)
Residing at B-315/5, Govt. Colony,)
Bandra (E), Mumbai 51)
8. Shri. Prasad Sudhakar Gangurde.)
Working as: Assistant Section Officer,)
Industry, Energy & Labour Department))
Mantralaya, Mumbai 400 032.)
Residing at: 402, A-08, Sinhgad,)
Ashtavinayak Phase-1, Adai,)
New Panvel, Navi Mumbai-410206.)
9. Shri. Sheshrao Bhaskar Kute.)
Working as: Assistant Section Officer,)
Tourism & Cultural Affairs Department))
Mantralaya, Mumbai 400 032.)
Residing at: Flat No. A/601,)
Adinath Alpine, Plot No. 28/A,)
Sector-25, Kamothe, Navi Mumbai.)
10. Smt. Pratima Uttam Jagdale.)
Working as: Assistant Section Officer,)
General Administration Department,)
Mantralaya, Mumbai 400 032.)
Residing at: Bldg N. N-258,)
Reserve Bank Staff Quarters,)
North Avenue Road, Vittaladas Nagar)
Santa Cruz (W), Mumbai 54)

11. Smt. Shilpa Sameer Kawale.)
 Working as: Assistant Section Officer,)
 Tribal Development Department,)
 Mantralaya, Mumbai 400 032.)
 Residing at: C/11, Golden Park,)
 Golden and Silver Co-Op. Housing)
 society. Shivaji Nagar,)
 Thane (W) 400603)
12. Smt. Pallavi Kishore Kolekar alias)
 Ms. Pallavi Devgonda Patil.)
 Working as: Assistant Section Officer,)
 Water Resources Department,)
 Mantralaya, Mumbai 400 032.)
 Residing at: B-138/7, Govt. Colony,)
 Bandra(E), 400051.)
13. Shri. Nitin Sadashiv Sawant.)
 Working as: Assistant Section Officer,)
 Revenue & Forest Department,)
 Mantralaya, Mumbai 400 032.)
 Residing at: Flat No.13, SaiVihar,)
 Gulab Nagar, Dhankawadi,)
 Pune 411 043.)
14. Shri. Mohan Baburao Chavan.)
 Working as: Assistant Section Officer,)
 Industry, Energy & Labour Department)
 Mantralaya, Mumbai 400 032.)
 Residing at: 315, A, Ekata Nagar,)
 Behind Walchand College,)
 New Patch Peth, Solapur 413 006.)
15. Shri. Umakant Bajirao Bhujbal.)
 Working as: Assistant Section Officer,)
 Rural Development Department,)
 Mantralaya, Mumbai 400 032.)
 Residing at: 138/6, Pravara,)
 Ram Society, AlandiRoad,)
 Yerawada, Pune 411006.) **...APPLICANTS**

VERSUS

1. The State of Maharashtra)
Through the Addl. Chief Secretary,)
General Administration Department,)
Mantralaya, Mumbai-32.)
2. The Secretary)
Maharashtra Public Service Commission)
Bank of India Building,)
Mahatma Gandhi Road, Mumbai-13.)
3. Shri. H. P. Baviskar,)
Desk Officer, Higher & Technical)
Education Department, Mantralaya,)
Mumbai 400 032.)
4. Smt. S. R. Shanbhag,)
Desk Officer Food, Civil Supply &)
Consumer Protection Department,)
Mantralaya, Mumbai 400 032.)
5. Shri. V.R.Vase,)
Desk Officer, Revenue & Forest)
Department, Mantralaya,)
Mumbai 400 032.)
6. Smt. M. S. Sawant,)
Desk Officer, Water Resource)
Department, Mantralaya,)
Mumbai 400 032)
7. Shri. G.J.Jadhav,)
Desk Officer, Rural Development &)
Water Conservation Department,)
Mantralaya, Mumbai 400 032.)
8. Shri. V.A.Jaikar,)
Desk Officer Social Justice & Special)
Assistance Department, Mantralaya,)
Mumbai 400 032.)

9. Smt. K. S. Jagtap,)
Desk Officer Women & Child)
Development Department, Mantralaya,)
Mumbai 400 032.)
10. Shri. P.S.Padole,)
Desk Officer School Education)
Department, Mantralaya,)
Mumbai 400 032.)
11. Shri. V.G.Sapkal,)
Desk Officer Medical Education &)
Drugs Department, Mantralaya,)
Mumbai 400 032.)
12. Shri. M.T.Nukte,)
Desk Officer, Medical Education)
& Drugs Department, Mantralaya,)
Mumbai 400 032.)
13. Shri. A. A. Khochare,)
Desk Officer Home Department,)
Mantralaya, Mumbai 400 032.)
14. Shri. P. D. Andhare,)
Desk Officer, Minority Development)
Department, Mantralaya,)
Mumbai 400 032.)
15. Smt. A.A.More (Jadhav),)
Desk Officer Finance Department,)
Mantralaya, Mumbai 400 032.)
16. Shri. L.R.Dhaygude,)
Desk Officer, Tribal Development)
Department, Mantralaya,)
Mumbai 400 032.)
17. Smt. S.A.Sayyad,)
Desk Officer, Water Resource)
Department, Mantralaya,)
Mumbai 400 032.)

18. Smt. S.G.Gawade,)
Desk Officer General Administration)
Department, Mantralaya,)
Mumbai 400 032.)
19. Smt. G.N.Yadav,)
Desk Officer, Law & Judiciary)
Department, Mantralaya,)
Mumbai 400 032.)
20. Smt. S.R.Patil,)
Desk Officer, Public Works)
Department, Mantralaya,)
Mumbai 400 032.)
21. Smt. R.S. Daphale (Pawar),)
Desk Officer, Water Supply &)
Sanitation Department,)
Mantralaya, Mumbai 400 032)
22. Smt. S S.Gaikawad,)
Desk Officer, Finance Department,)
Mantralaya, Mumbai 400 032.)
23. Smt. P. V. Khot,)
Desk Officer, Finance Department,)
Mantralaya, Mumbai 400 032.)
24. Shri. P. S. Madkar,)
Desk Officer, Revenue & Forest)
Department, Mantralaya,)
Mumbai 400 032.)
25. Smt.P. A. Deshpande,)
Desk Officer, Social Justice & Special)
Assistance Department, Mantralaya,)
Mumbai 400 032.)
26. Shri. P. S. Hadambar,)
Desk Officer, Planning Department,)
Mantralaya, Mumbai 400 032.)
27. Shri. S. R. Waghmode,)

- Desk Officer, Women & Child Development Department,
Mantralaya, Mumbai 400 032)
28. Shri. R. G. Kolekar,)
Desk Officer, Social Justice & Special Assistance Department, Mantralaya,)
Mumbai 400 032)
29. Shri. S. B. Chavan,)
Desk Officer, Home Department,)
Mantralaya, Mumbai 400 032.)
30. Shri. A. S. Waghmode,)
Desk Officer, Home Department,)
Mantralaya, Mumbai 400 032.)
31. Smt. D. U. Jape,)
Desk Officer, Rural Development & Water Conservation Department,)
Mantralaya, Mumbai 400 032)
32. Smt. S. M. Mane,)
Desk Officer, Water Resource Department, Mantralaya,)
Mumbai 400 032.)
33. Smt. N. J. Garole,)
Desk Officer, Food, Civil Supply & Consumer Protection Department,)
Mantralaya, Mumbai 400 032)
34. Smt. P. R. Narkhede,)
Desk Officer Water Resource Department, Mantralaya,)
Mumbai 400 032)
35. Shri. A. S. Jadhav,)
Desk Officer, Agriculture & ADF Department, Mantralaya,)
Mumbai 400 032.)
36. Smt. N. M. Mahajan,)

- Desk Officer, Public Works Department)
Mantralaya, Mumbai 400 032.)
37. Shri. U. D. Rathod,)
Desk Officer, Public Health Department)
Mantralaya, Mumbai 400 032.)
38. Smt. G. G. Kulvant,)
Desk Officer, Planning Department,)
Mantralaya, Mumbai 400 032.)
39. Smt. J. S. Arjun,)
Desk Officer, Agriculture & ADF)
Department, Mantralaya,)
Mumbai 400 032.)
40. Shri. R. S. Alkunte,)
Desk Officer, Revenue & Forest)
Department, Mantralaya,)
Mumbai 400 032)
41. Smt. P. S. Chaudhari,)
Desk Officer, Women & Child)
Development Department, Mantralaya,)
Mumbai 400 032)
42. Smt. S. A. Dhudhane,)
Desk Officer, Finance Department,)
Mantralaya, Mumbai 400 032.)
43. Shri. P. M. Pardeshi,)
Desk Officer, School Education &)
Sports Department, Mantralaya,)
Mumbai 400 032.)
44. Smt. M. P. Shinde,)
Desk Officer, Food, Civil Supply &)
Consumer Protection Department,)
Mantralaya, Mumbai 400 032.)

45. Smt. S. V. Gulhane,)
Desk Officer, General Administration)
Department, Mantralaya,)
Mumbai 400 032.)
46. Smt. S. S. Powar,)
Desk Officer, Public Works Department)
Mantralaya, Mumbai 400 032)
47. Smt. S. C. Jadhav, Desk Officer,)
Planning Department, Mantralaya,)
Mumbai 400 032.)
48. Smt. K. K. Wagare,)
Desk Officer, Industries, Energy &)
Labour Department, Mantralaya,)
Mumbai 400 032.)
49. Shri. S. B. Jadhav,)
Desk Officer, Urban Development)
Department, Mantralaya,)
Mumbai 400 032.)
50. Shri. M. V. Dhamale,)
Desk Officer, Revenue & Forest)
Department, Mantralaya,)
Mumbai 400 032.)
51. Shri. G. S. Kadam,)
Desk Officer, General Administration)
Department, Mantralaya,)
Mumbai 400 032.)
52. Shri. D. H. Chandel, Desk Officer,)
Home Department, Mantralaya,)
Mumbai 400 032.)
53. Shri. K. K. Pawar, Desk Officer,)
Tribal Development Department,)
Mantralaya, Mumbai 400 032)

54. Shri. V. M. Desouza, Desk Officer,)
Minority Development Department,)
Mantralaya, Mumbai 400 032)
55. Shri. A. D. Landage, Desk Officer,)
Agriculture & ADF Department,)
Mantralaya, Mumbai 400 032)
56. Shri. S. K. Randive, Desk Officer,)
General Administration Department,)
Mantralaya, Mumbai 400 032.)
57. Shri. R. B. Patil, Desk Officer,)
Skill Development & Entrepreneurship)
Department, Mantralaya,)
Mumbai 400 032)
58. Shri. B. R. Patil, Desk Officer,)
Minorities Development Department,)
Mantralaya, Mumbai 400 032.)
59. Shri. P. R. Kadarkar, Desk Officer,)
Rural Development & Water)
Conservation Department, Mantralaya,)
Mumbai 400 032.)
60. Shri. J. C. Sawadekar,)
Assistant Section Officer, Water)
Resource Department, Mantralaya,)
Mumbai 400.032)
61. Shri. D. Y Dange, Desk Officer)
Industries, Energy & Labour)
Department, Mantralaya,)
Mumbai 400 032)
62. Shri N. L. Yewage, Desk Officer,)
Finance Department, Mantralaya,)
Mumbai 400 032)

63. Shri. D. N. Bembade, Assistant Section)
Officer, Tourism & Cultural Affairs)
Department Mantralaya,)
Mumbai 400 032.)
64. Shri. K. M. Soitkar, Desk Officer,)
Industries, Energy & Labour)
Department Mantralaya,)
Mumbai 400 032.)
65. Smt. P. V. Mainkar, Desk Officer,)
Finance Department, Mantralaya,)
Mumbai 400 032.)
66. Smt. V. P. Vartak, Desk Officer,)
Water Resource Department,)
Mantralaya, Mumbai 400 032)
67. Shri. G. M. Gaikwad, Desk Officer,)
Social Justice & Special Assistance)
Department, Mantralaya,)
Mumbai 400 032.)
68. Smt. G. A. Pimpale, Desk Officer,)
Social Justice & Special Assistance)
Department, Mantralaya,)
Mumbai 400 032.)
69. Smt. P. S. Joshi, Desk Officer,)
Woman & Child Development)
Department, Mantralaya,)
Mumbai 400 032.)
70. Smt. A. A. Patwardhan, Desk Officer,)
Finance Department, Mantralaya,)
Mumbai 400 032.)
71. Smt. Y. R. Gavathe, Desk Officer,)
Finance Department, Mantralaya,)
Mumbai 400 032.)

72. Smt. A. V. Borvankar, Desk Officer,)
School Education & Sports Department),
Mantralaya, Mumbai 400 032.)
73. Smt. S. J. Purav,)
Priyanka Cultural Dept: Desk Officer,)
Rural Development & Water)
Conservation Department, Mantralaya,)
Mumbai 400 032)
74. Shri. S. G. Sugaonkar, Desk Officer)
Industries, Energy & Labour)
Department, Mantralaya,)
Mumbai 400 032.)
75. Shri. P. S. Shelar, Desk Officer,)
General Administration Department,)
Mantralaya, Mumbai 400 032.)
76. Shri. S. R. Uttekar, Desk Officer,)
Social Justice & Special Assistance)
Department, Mantralaya,)
Mumbai 400 032.)
77. Smt. S. S. Ghag, Desk Officer,)
Finance Department, Mantralaya,)
Mumbai 400 032.)
78. Smt. S. M. Nagale, Desk Officer,)
Law & Judiciary Department,)
Mantralaya, Mumbai 400 032.)
79. Smt. M. M. Sathe, Desk Officer,)
Revenue & Forest Department,)
Mantralaya, Mumbai 400 032.)
80. Smt. V. A. Kakade, Desk Officer,)
Minorities Development Department,)
Mantralaya, Mumbai 400 032)

81. Smt. A. N. Govekar, Desk Officer,)
Marathi Language Department,)
Mantralaya, Mumbai 400 032.)
82. Smt. S. T. Sawant, Desk Officer,)
Home Department, Mantralaya,)
Mumbai 400 032.)
83. Smt. M. D. Kandalkar, Desk Officer,)
Food, Civil Supply & Consumer)
Protection Department, Mantralaya,)
Mumbai 400 032.)
84. Smt. V. D. Sardesai, Desk Officer,)
Planning Department, Mantralaya,)
Mumbai 400 032.)
85. Shri D.R. Puradopadhyay, Desk Officer)
Planning Department, Mantralaya,)
Mumbai 400 032.)
86. Smt. R. U. Bapat, Desk Officer,)
General Administration Department,)
Marathi Language, Mantralaya,)
Mumbai 400 032)
87. Shri. C. S. Katkade, Desk Officer)
Planning Department, Mantralaya,)
Mumbai 400 032)
88. Smt. N. D. Khedkar, Desk Officer,)
Planning Department, Mantralaya,)
Mumbai 400 032)
89. Shri. S. D. Palkar, Assistant Section)
Officer, Finance Department,)
Mantralaya, Mumbai 400 032.)
90. Smt. V. S. Parab (Lot), Assistant Section)
Officer, Industries, Energy & Labour)
Department, Mantralaya,)
Mumbai 400 032.)

91. Shri. N. B. Shelake, Assistant Section)
Officer, Urban Development Department,
Mantralaya, Mumbai 400 032.)
92. Smt. M. M. Samant, Assistant Section)
Officer, Home Department, Mantralaya,))
Mumbai 400 032.)
93. Smt. S. S. Mane, Assistant Section)
Officer, Planning Department,)
Mantralaya, Mumbai 400 032)
94. Smt. A. A. Mun, Desk Officer,)
Water Supply & Sanitation Department)
Mantralaya, Mumbai 400 032.)
95. Shri. S. M. Kshirsagar,)
Assistant Section Officer,)
General Administration Department.)
Parliamentary Affairs Mantralaya,)
Mumbai 400 032)
96. Shri. R. S. Vhatakar, Assistant Section)
Officer, Revenue & Forest Department)
Mantralaya, Mumbai 400 032)
97. Smt. S. P. Kandalgaonkar, Assistant)
Section Officer, Finance Department,)
Mantralaya, Mumbai 400 032)
98. Shri. S. N. Garudkar, Assistant Section)
Officer, Home Water Supply &)
Sanitation Department, Mantralaya,)
Mumbai 400 032.)
99. Smt. S. N. Natu, Assistant Section)
Officer, General Administration)
Department, Mantralaya,)
Mumbai 400 032.)
100. Shri. S. V. Hendre. Assistant Section)
Officer, Water Supply & Sanitation)
Department, Mantralaya,)

- Mumbai 400 032)
101. Shri. S. S. Nikam, Assistant Section)
Officer, General Administration)
Department, Mantralaya,)
Mumbai 400 032.)
102. Smt. S. S. Torskar, Assistant Section)
Officer, Water Resource Department,)
Mantralaya, Mumbai 400 032)
103. Shri. K. A. Phulzele, Assistant Section)
Officer, Rural Development & Water)
Conservation Department, Mantralaya,)
Mumbai 400 032.)
104. Smt. M. J. Koli, Assistant Section)
Officer, Water Resource Department,)
Mantralaya, Mumbai 400 032)
105. Smt. V. D. Shirsat, Assistant Section)
Officer, General Administration)
Department, Mantralaya,)
Mumbai 400 032.)
106. Smt. V. D. Amrutkar, Assistant Section)
Officer, Food, Civil Supply & Consumer)
Protection Department, Mantralaya,)
Mumbai 400 032.)
107. Smt. A. S. Rode (Advait), Assistant)
Section Officer, Law & Judiciary)
Department, Mantralaya,)
Mumbai 400 032)
108. Smt. S. A. Chavan, Assistant Section)
Officer, Co-operation, Marketing &)
Textile Department, Mantralaya,)
Mumbai 400 032.)
109. Shri. K. M. Shardul, Assistant Section)
Officer, Industries, Energy & Labour)
Department, Mantralaya,)

- Mumbai 400 032)
110. Smt. V. V. Bhingarde, Assistant Section)
 Officer, Public Works Department,)
 General Administration Mantralaya,)
 Mumbai 400 032.)
111. Smt. S. A. More, Assistant Section)
 Officer, Finance Department,)
 Mantralaya, Mumbai 400 032.)
112. Smt. D. S. Vaidya, Assistant Section)
 Officer, Finance Department,)
 Mantralaya, Mumbai 400 032.)
113. Shri. A. K. Yedsikar, Assistant Section)
 Officer, Public Health Department,)
 Mantralaya, Mumbai 400 032)
114. Smt. V. G. Deshpande, Assistant)
 Section Officer, Home Department,)
 Mantralaya, Mumbai 400 032)
115. Smt. N. P. Chaudhari, Assistant)
 Section Officer, Public Health)
 Department, Mantralaya,)
 Mumbai 400 032.)
116. Shri. D. V. Savant, Assistant Section)
 Officer, Industries, Energy & Labour)
 Department, Mantralaya,)
 Mumbai 400 032.)
117. Smt. A. K. Desai (Mhatre), Assistant)
 Section Officer, Rural Development &)
 Water Conservation Department,)
 Mantralaya, Mumbai 400 032.)

118. Shri. G. D. Dabhilkar, Assistant Section)
Officer, Revenue & Forest Department,)
Mantralaya, Mumbai 400 032)
119. Smt. S. S. Bagul (Devare), Assistant)
Section Officer, Agriculture & ADF)
Department, Mantralaya,)
Mumbai 400 032)
120. Shri. P. R. Sali, Assistant Section)
Officer, Finance Department,)
Mantralaya, Mumbai 400 032.)
121. Shri. P. S. Patil, Assistant Section)
Officer, Agriculture & ADF Department,))
Mantralaya, Mumbai 400 032.)
122. Shri. P. P. Tirlokar, Assistant Section)
Officer, Tribal Development)
Department, Mantralaya,)
Mumbai 400 032.)
123. Smt. Y. S. Desai, Assistant Section)
Officer, Water Resource Department,)
Mantralaya, Mumbai 400 032.)
124. Shri. S. J. Kale, Assistant Section)
Officer, Industries, Energy & Labour)
Department, Mantralaya,)
Mumbai 400 032.)
125. Shri. A. N. Dhikale, Assistant Section)
Officer, Urban Development)
Department, Mantralaya,)
Mumbai 400 032.)
126. Smt. M. V. Jadhav, Assistant Section)
Officer, Law & Judiciary Department,)
Mantralaya, Mumbai 400 032)

127. Shri. R. G. Ambadekar, Assistant)
Section Officer, Urban Development)
Department, Mantralaya,)
Mumbai 400 032.)
128. Shri. S. V. Keni, Assistant Section)
Officer, Agriculture & ADF Department,))
Mantralaya, Mumbai 400 032.)
129. Shri. P. V. Kadam, Assistant Section)
Officer, Home Department, Mantralaya,))
Mumbai 400 032.)
130. Smt. N. A. Parab, Assistant Section)
Officer, General Administration)
Department, Planning Mantralaya,)
Mumbai 400 032.)
131. Smt. P. S. Palav, Assistant Section)
Officer, Public Works Department,)
Mantralaya, Mumbai 400 032.)
132. Smt. P. P. Parab, Assistant Section)
Officer, Food, Civil Supply & Consumer)
Protection Department, Mantralaya,)
Mumbai 400 032.)
133. Smt. L. M. Rane (Parab), Assistant)
Section Officer, Water Supply &)
Sanitation Department, Mantralaya,)
Mumbai 400 032)
134. Shri. R. R. Deherkar, Assistant Section)
Officer, Law & Judiciary Department,)
Mantralaya, Mumbai 400 032.)
135. Shri. P. M. Raut, Assistant Section)
Officer, Urban Development)
Department, Mantralaya,)
Mumbai 400 032)

136. Smt. M. S lamdade, Assistant Section)
 Officer, Medical Education & Drugs)
 Department, Mantralaya,)
 Mumbai 400 032)
137. Shri. M. M. Karande, Assistant Section)
 Officer, Revenue & Forest Department,)
 Mantralaya, Mumbai 400 032.)
138. Smt. D. N. Sonawane, Assistant Section)
 Officer, Finance Department,)
 Mantralaya, Mumbai 400 032)
139. Shri. S. S. Rathod, Assistant Section)
 Officer, Water Supply & Sanitation)
 Department, Mantralaya,)
 Mumbai 400 032)
140. Shri. V. V. Veladi, Desk Officer,)
 Social Justice & Special Assistance)
 Department, Mantralaya,)
 Mumbai 400 032.)
141. Shri. H. V. Rathod, Assistant Section)
 Officer, Finance Department,)
 Mantralaya, Mumbai 400 032)
142. Shri. R. G. Dhumal, Assistant Section)
 Officer, Rural Development & Water)
 Conservation Department, Mantralaya,)
 Mumbai 400 032.)
143. Smt. V. P. Borude (Jadhav),)
 Desk Officer, Law & Judiciary)
 Department, Mantralaya,)
 Mumbai 400 032.).....**RESPONDENTS**

Mr. M.D. Lonkar, learned Counsel for the Applicants.

Mr. A.J. Chougule, learned Presenting Officer for the Respondent.

Mr. D.B. Khaire, learned Counsel for Respondent No.2.

Ms. S.R. Pawar, learned Counsel for the Respondents No.4, 6, 7, 9, 10, 11, 12, 14, 15, 17 to 20, 22, 25, 29, 31, 32 to 37, 38, 39, 44, 46, 48, 49, 50, 52, 55 and 57

Mr. S.S. Dere, learned Counsel for the Respondent No.101.

**CORAM : Justice Mridula Bhatkar (Chairperson)
Mr. Debashish Chakrabarty, Member (A)**

RESERVED ON : 07.05.2024

PRONOUNCED ON : 11.06.2024

J U D G M E N T

1. Applicants who are working as Assistant Section Officers pray for declaration that Respondent No.2 to prepare merit list of the Applicants who appeared for 2005 examination as per provisions of Rule 4(2)(a) of the Maharashtra Civil Services (Regulation of Seniority) Rules, 1982 (hereinafter referred as 'Rules 1982' for brevity). It is also prayed that the Respondents be directed to revise the Final Seniority List dated 21.09.2015 of the post of Assistant Section Officer/ Assistant Desk Officer as on 01.01.2015 in accordance with the Rule 4(2)(a) of the 'Rules 1982' and also the Applicants are to be given deemed date in accordance with the provisions of Rule 5(2) of the 'Rules 1982'.

2. The facts of the case in brief are as follows:-

The Advertisement dated 07.09.2006 was issued for Multi Cadre Posts in the various Departments of the State. Out of all these, 192 posts of Assistant Section Officers were advertised. Applicants have applied for the post and as they have secured less marks their names were not mentioned in the Select List, but they were wait listed. Out of 192 Selected Candidates some of them in the application have given

choice for other posts along with the post of Assistant Section Officer. Thus, being meritorious they were selected for two to three posts. These candidates did not opt for the post of Assistant Section Officer, but opted for other posts and did not join the post of Assistant Section Officer in the result, out of 192 posts, 69 posts of the Assistant Section Officer fell vacant. This being a big number, Respondent-State gave requisition for more candidates from the wait list or the next meritorious candidates to fill up 69 posts. The M.P.S.C. accordingly recommended the names and the present Applicants are out of those 69 candidates who were subsequently recommended and recruited to the post of Assistant Section Officer.

3. Learned Counsel Mr. Lonkar has submitted that the post of Assistant Section Officer are filled up through three modes with specific quota:-

- 40% by Nomination i.e. Direct Recruits
- 30% by Limited Departmental Competitive Examination
- 30% by Promotion

Mr. Lonkar has relied on the Rule 4(2)(a) and Rule 5(2) of the Rules 1982 which reads as below :

“4. General principles of seniority :

(2) Notwithstanding anything contained in sub-rule (1) –

(a) the inter se seniority of direct recruits selected in one batch for appointment to any post, cadre or service, shall be determined according to their ranks in the order of preference arranged by the Commission, Selection Board or in the case of recruitment by nomination directly made by the competent authority, the said authority, as the case may be, if the appointment is taken up by the person recruited within thirty days from the date of issue of the order of appointment or within such extended period as the competent authority may in its discretion allow” ;

(emphasis placed)

“5. Assignment of deemed dates of appointment:-

(2) Where the direct recruits selected in the same batch report for the dates and the actual dates on which they are appointed are not chronologically in conformity with their inter se seniority as provided in Clause (a) of sub-rule (2) of Rule 4, the recruit higher in rank, out reporting for duty later than his junior shall be assigned, as deemed

date of appointment, the date on which the recruit lower in rank reports for duty, provided the recruit higher in rank reports for duty, provided the recruit higher in rank has reported for duty within the period of thirty days from the date of his appointment or within such further period as may be extended by the competent authority.”

4. Learned P.O. has relied on the affidavit-in-reply dated 21.10.2016 filed on behalf of Respondent No.1, through Mr. Gajanan B. Gurav, Under Secretary in the office of General Administration Department and learned Counsel Mr. Khaire had relied on the affidavit-in-reply dated 22.11.2016 filed on behalf of Respondent No.2, through Mr. Maruti P. Jadhav, Under Secretary in the office of Maharashtra Public Service Commission wherein both of them have submitted that the Applicants being less meritorious their names were not mentioned in the select list as they were wait listed candidates. Rightly M.P.S.C. has sent the names of 192 candidates by letter dated 24.09.2008. However, it is pointed that by letter dated 05.06.2009 as a special case on the request of the State, Respondent-M.P.S.C. has recommended the names of 68 candidates by maintaining the roster.

5. Learned P.O. has submitted that the Seniority List dated 01.01.2015 was published by the Respondent-State on 21.09.2015 and in the seniority list the applicants stand at Serial No.655 to 672 and the candidates from Limited Departmental Competitive (LDC) Examination stand at Serial No.576 to 652 from the date of appointment. It was argued that the Applicants were never the part of the main results as their names were subsequently recommended. It is argued that the M.P.S.C. recommended names of 192 candidates to the post of Assistant Section Officer by letter dated 24.09.2008 and G.A.D. issued appointment orders dated 07.10.2008 of those candidates giving them joining period of 30 days. When it was found that 71 candidates did not join initially within the stipulated period to that post and hence the Government decided to go for next meritorious candidates and request was sent to M.P.S.C. by letter dated 06.01.2009. 2 candidates in

between joined the post of the Assistant Section Officer and M.P.S.C. recommended 69 candidates by letter dated 05.06.2009 and they were appointed by order dated 12.06.2009, hence they cannot be given the seniority date of the earlier batch.

6. Learned P.O. Mr. A.J. Chougule has relied on the additional affidavit-in-reply dated 01.12.2023 on behalf of Respondent No.2 through Mr. Dilip Arjun Waghe, Under Secretary in the office of Maharashtra Public Service Commission. He has placed reliance on the **judgment dated 07.03.2019 of the Hon'ble High Court in Writ Petition No.11501/2015, M.P.S.C. Versus Smt. Varsha Nivrutti Zalte & Ors.**

7. Learned Counsel Mr. Dere has relied on the affidavit-in-reply dated 19.07.2018 filed by Private Respondent No.101, Mr. Sunilsingh Shivaji Nikam and submitted that the Applicants were not born in the cadre when the earlier select list was prepared and candidates were appointed. Hence, that date cannot be given to the present Applicants as the deemed date for maintaining seniority. Learned Counsel Mr. Dere has submitted that Respondent No.101 from the next recruitment through Limited Competitive Departmental Examination were appointed in the interregnum on 12.11.2008. The candidates in the recruitment for which Applicants had appeared were selected and recommended in two batches, one batch was of the first meritorious 192 candidates recommended on 24.9.2008 and second batch was of the 69 wait listed candidates recommended on 5.6.2009 of the applicants. Learned Counsel Mr. Dere has further argued that the seniority cannot be fixed from the date of the occurrence of the vacancy and it cannot be given retrospective effect unless it is expressly provided by the relevant service rules. Learned Counsel Mr. Dere has submitted that the case of the Applicants cannot be covered by Rule 4(2)(a) of the Rules 1982, but he relied on Rule 4(2)(b) of the Rules 1982 wherein it reads as below:-

“4. General principles of seniority:-

(2) Notwithstanding anything contained in sub-rule (1) –

(b) the inter se seniority of Government servants promoted from a Select List shall be in the same order in which their names appear in such Select List. If the Select List is prepared in two parts, the first part containing the names of those selected unconditionally and the second part containing the names of those selected provisionally. All persons included in the first part shall rank above those included in the second part.”

Learned Counsel Mr. Dere states that as per Rule 4(2)(b) of the Rules 1982 the persons included in the earlier list shall rank above the persons included in the second list. He has further relied on the Government Resolution dated 28.05.2018. Learned Counsel Mr. Dere has submitted that as per provisions of Rule 4(2)(a) of Rule 1982 the candidates are required to join within 30 days from the date of the order and if at all he fails to join he is likely to lose the appointment and his name cannot be considered. Learned Counsel Mr. Dere has submitted that in the later portion of the said G.R. in Clause (3) of the paragraph 1, it is stated that if the State takes decision to appoint the wait listed candidates then the seniority of such wait listed candidates is to be fixed on the basis of the date on which they join and therefore they are not entitled to the benefits of the seniority as per original select list and this fact is mentioned specifically in the appointment order of wait listed candidates.

8. Learned Counsel Mr. Dere has submitted that there was recruitment of Limited Departmental Competitive Examination of Assistant Section Officers for the year 2007 and on 05.11.2008 the M.P.S.C. recommended the names of 99 candidates for the Advertisement of 102 posts and Government issued appointment order dated 12.11.2008. On the basis of his submission he has relied on the

judgment of Smt Varsha N. Zalte Vs. The State of Maharashtra & Ors, O.A 255/2023, which is also relied by learned P.O.

9. Learned Counsel Mr. Lonkar while by way of reply to the submissions of learned Counsel Mr. Dere has submitted that G.R. of 28.05.2018 cannot be made applicable to the Government employees who were appointed earlier.

10. Learned Counsel Mr. Lonkar has submitted that Notification dated 21.06.2021 is also not applicable to the present case. Learned Counsel Mr. Lonkar has also submitted that Rule 4(2)(b) is also not applicable to the present case as it is with regard to promotion and the present case deals with direct recruits.

11. On the basis of submissions learned Counsel Mr. Lonkar has placed reliance on the following judgments:-

- (I) Manoj Manu and Another Versus Union of India and Others reported in (2013) 12 SCC 171.
- (II) Amarjeet Singh and Others Versus Devi Ratan and Others reported in (2010) 1 SCC 417.
- (III) Virendra S. Hooda and Others Versus State of Haryana and Another reported in (1999) 3 SCC 696.
- (IV) G. Deendayalan Ambedkar Versus Union of India & Ors. reported in (1997) 2 SCC 638.
- (V) Tulshidas Baliram Bastewad Versus The Mahatma Phule Krishi Vidyapeeth, Rahuri & Anr. judgment by High Court of Judicature at Bombay, Aurangabad Bench reported in 2016(2) ALL MR 122.
- (VI) Abdul Saleem Siddiqui Abdul Rahim Versus State of Maharashtra & Ors. judgment by High Court of Judicature at Bombay, Aurangabad Bench reported in 2004 (3) Mh.L.J.

- (VII) O.A.No.255/2023, dated 04.12.2024, Smt. Varsha Nivrutti Zalte Versus The State of Maharashtra & Ors.
- (VIII) O.A.No.907/2003, dated 29.03.2005, Mr. V.V. Kulkarni Versus State of Maharashtra & Ors.
- (IX) O.A.No.1047/2018, dated 7.6.2023, Mr. Vijay Vilasrao Desai Versus The State of Maharashtra.

12. Learned Counsel Mr. Khaire appearing for Respondent No.2, M.P.S.C. has relied on the affidavit-in-reply dated 22.01.2018 wherein it is stated that,

“7. It is further submitted that the seniority cannot be fixed from the date of occurrence of the vacancy and cannot be given retrospectively unless it is so expressly provided by the relevant service rules. It is so because seniority cannot be given on retrospective basis when an employee has not even been born in cadre and by doing so it may adversely affect the employee who has been appointed validly in the meantime. Hence, the contention raised by the Applicants in this Para is denied.”

“29. The comments of M.P.S.C. were received vide letter dated 06.08.2016. In its letter M.P.S.C. also conveyed that, the merit numbers of the applicants are lower in the main result i.e. 193 and onwards. After getting these comments of M.P.S.C. a reply was given to representation vide letter dated 19.09.2016, through concerned administrative departments.

Learned counsel further argued that the criteria for fixing the seniority was

1. Merit list sent by the M.P.S.C.
2. Date of joining
3. Continuous officiation”.

There is no merit in the application.

13. The judgment of **Mr. Vijay Desai (supra)** is on the point of fixation of seniority of particular batch as per Rule 4(2)(a) and Rule 5(2) of Rules 1982. Learned Counsel Mr. Lonkar has relied on those Rules and argued that the present Applicants are appointed against 192 posts which were advertised and they have appeared for the same examination

in the year 2006 so they are from the same batch who were recruited earlier and hence they are entitled to get listed as per merit in the same batch. These submissions are not correct as the present applicants are not from the one batch.

14. In the case of **Manoj Manu (supra)**, the Supreme Court has dealt with two situations, Situation-A, when a candidate joined had resigned subsequently and so there is a vacancy and in Situation-B, out of recommended candidates some candidates do not join at all. It was held by the Supreme Court that when there is a second situation, i.e., Situation-B then not forwarding the names from the reserved or wait listed candidate is not justified especially when the requisition is by the appointing authority. We fail to understand how this ruling is applicable to the facts of the present case.

15. In the case of **Amarjeet Singh (supra)**, the Supreme Court while dealing with the issue of promotion and seniority has held that the act of the Court shall prejudice no one. In the said case the appellants and the Respondents were promoted against the vacancies which had occurred in different recruitment years under different rules and on different criteria and so the Respondents would rank below the appellants in the seniority. The appellants had been promoted for an earlier date and they are bound to be senior to the Respondents who had been promoted from a later date. No employee can claim seniority to the date of his birth in the cadre. We also rely on this judgment which in fact supports the case of the Respondent-State.

16. In the case of **Virendra S. Hooda (supra)**, the appellants were kept out of the employment when some vacancies arose by reason of non-appointment of some of the candidates. The Supreme Court directed that the Government should consider the case of the appellants for appointment to the posts of Haryana Public Service (Executive Branch).

17. In the case of **G. Deendayalan Ambedkar (supra)**, the Respondent was not sent for training earlier to the appellant due to pendency of the enquiry. While deciding the issue of seniority, the Supreme Court held that merely because the appellant completed the training and joined the post earlier to the Respondent, he cannot be given the seniority over the Respondent, who was otherwise senior in the merit list.

18. In the case of **Tulshidas Baliram Bastewad & Abdul Rahim (supra)**, the issue of seniority though is discussed, the facts are different. For the facts of the present case, one needs a case law in respect of the term “one batch” as mentioned in Rule 4(2) of the Maharashtra Civil Services (Regulation of Seniority) Rules, 1982. The cases relied on by the learned counsel for the applicants are not at all useful to the applicants. We are constrained to mention that the learned counsel for the applicants has unnecessarily cited irrelevant case laws. Such practice needs to be deprecated. One or two case law of the Hon’ble Supreme Court or Hon’ble High Court which are to the point are sufficient to have a better understanding of the issue. In our precedent oriented legal system if precise case law is cited then there is no need to even argue or discuss much.

19. The learned P.O. while demanding cost has relied on paragraph 6 of the judgment in O.A.No.255/2023.

“6. We are therefore of the considered view that the present Petition is nothing else but an abuse of process of law. In the result, Petition is dismissed with costs, which is quantified at Rs.1,00,000/- (One Lakh) to be paid by the Petitioner – MPSC to the Tata Memorial Hospital within 10 days from today and receipt of payment thereof be placed on the record and proceedings of the present Petition.”

20. The submissions of learned Counsel Mr. Lonkar that though accepted that the G.R. dated 28.05.2018 cannot be made applicable

retrospectively; however, the said G.R. is in the form of clarification and more explanatory in the nature of the original provisions of Rule 4(2)(a) of the Rules 1982. Clause 3 of G.R dated 28.5.2018 is reproduced below:-

“3) वरील प्रमाणे मुदतवाढ दिल्यानंतरही संबंधित उमेदवार रुजू न झाल्यास, संबंधित उमेदवारांचे नियुक्ती आदेश रद्द करावेत व अशा रिक्त पदांवर गुणानुक्रमे प्रतिक्षायादीतील अन्य उमेदवारांना नियुक्ती देण्याबाबत नियुक्ती प्राधिकाऱ्यांनी विचार करावा. मात्र प्रतिक्षायादीतील उमेदवारांना नियुक्ती देण्याचा निर्णय घेतल्यास, अशा उमेदवारांची ज्या आदेशान्वये नियुक्ती होईल त्या आदेशानुसार ते ज्या दिनांकास रुजू होतील त्या दिनांकास त्यांची ज्येष्ठता निर्धारित केली जाईल. त्यांना मूळ गुणवत्ता यादीनुसार ज्येष्ठतेचे लाभ अनुज्ञेय राहणार नाहीत. त्याप्रमाणे प्रतिक्षायादीतील उमेदवारांच्या नियुक्ती आदेशात स्पष्ट उल्लेख करण्यात यावा.”

The words used in Rule 4(2)(a) of the Rules 1982 specifically state,

“(a) the inter se seniority of direct recruits selected in one batch for appointment to any post, cadre or service, shall be determined according to their ranks in the order of preference arranged by the Commission, Selection Board or in the case of recruitment by nomination directly made by the competent authority, the said authority, as the case may be, if the appointment is taken up by the person recruited within thirty days from the date of issue of the order of appointment or within such extended period as the competent authority may in its discretion allow”.

Thus, many candidates can be recruited against the posts Advertised in one Advertisement. However, those candidates can be selected in one batch or in two to three batches. Relying on rule of plain interpretation of the statute we have to give same meaning to the language used in Rule 4(2)(a) of the Rules 1982 by the legislature. Rule does not restrict to have appointments of the candidates who are selected for the post Advertised in only one batch. There can be more batches than one batch. There may be some specific reason to recruit the candidates in more than one batch. Splitting the batches in the recruitment of one and the same Advertisement may be due to the court orders or may be because of certain difficulties faced by the recruiting authority or as in the present case. If the candidates in the select list do not join and the Government needs to fill up all the vacancies of the posts Advertised immediately and on request of the Government further

recommendations are made then such candidates form another batch. On account of Court judgment / order if few candidates are to be treated as selected candidates in the first batch then obviously they are considered as part of one of the same batch, who were recommended earlier. In other circumstances especially, the candidates who were not in the first selected batch as they are below the cut-off or wait listed candidates their names are recommended on State's request will form another batch and they cannot be treated that they belong to earlier selected batch. They are entitled to get the benefit of the appointment, however, their seniority will be decided from the date of their appointment. We rely on Rule 4(1) of the Rules 1982 which reads as below :-

“4. General principles of seniority:- (1) Subject to the other provisions of these rules, the seniority of a Government servant in any post, cadre or service shall ordinarily be determined on the length of his continuous service therein.

Thus, the continuous service is necessarily from the date of the appointment. We accept that when the candidates did not join on within the stipulated period of 30 days without good reason his seniority changes according to the date of his appointment. Deeming provision is a legal fiction. However, that is to be observed and made applicable when there is some legal footing. The selected candidates were appointed against all the posts advertised by order dated 07.10.2008. Subsequently, when 69 candidates did not join and requisition was sent in the year 2009, at that time the Applicants were considered when they were recommended. However, the recommended candidates cannot be automatically appointed unless he/she undergoes further stage of verification of documents. There are incidents that recommended candidates were found ineligible at the time of the verification of the documents and therefore when actual order is issued that date is fixed for computing seniority of any Government servant. In the present

matter Respondent No.2, M.P.S.C. had issued another Advertisement for 102 candidates subsequently in the next recruitment names of those 99 selected candidates were recommend on 5.11.2008 and Government issued order of their appointment in the interregnum on 12.11.2008.

21. Rule 4 of the Maharashtra Civil Services (Regulation of Seniority) Rules, 1982, states about the General Principles of Seniority. Rule 4(2)(a) states about how to arrange the inter-se seniority of the direct recruits. When the select list is prepared in two parts. The said rule is a guiding principle though it is not identical where the term is 'one batch' is more decisive. Thus, the term used "one batch" is the decisive term resolving this issue. Admittedly, the recruitment of batch No. 101, i.e., the batch of the applicants was not recommended and appointed in one batch, but the appointments were split in two batches and select list is not made in two parts. The first batch is of the meritorious candidates who were appointed by order dated 7.10.2008. The recommendations of the names of the applicants were in the second batch and all of them were appointed by order dated 12.6.2009. Thus, the applicants were appointed eight months after appointment of the selected candidates in the first batch of the same recruitment process. It is to be noted that the legislature did not use the term in "one recruitment" but have consciously adopted the term not in "one batch". The intention of the legislature appears to be very clear that the seniority is to be fixed from the date of the appointment of any Government servant and it is to be counted on the basis of continuous officiation. It appears that the legislature has taken into account various possibilities of the appointment on different dates in "one recruitment process". It is also accepted principle that a Government employee cannot be said to be appointed on a particular post, though may be vacant; when he was not even born to that cadre. Thus, when the first selected batch was appointed at that time the applicants were not even recommended. They were recommended on 5.6.2009. There is another twist in the present

case as in between the candidates of batch No. 102, i.e., Respondent No. 101 was appointed on 12.11.2008. Thus, the recruited candidates of 102 batch are necessarily senior to the second batch of 101 recruitment process.

22. Thus, appointments of 2nd Batch of 101 candidates, i.e., the applicants have taken place after the candidates of 102 batch who were in the select list of the year 2006, recruitment and present Applicants were appointed by order dated 12.06.2009. Here we again rely on Rules 4(1)(a) of the Rules 1982. Thus, we are of the view that the Applicants have no case and their prayer for seniority which is given by way of deemed date from the date original selected candidates were appointed stands rejected.

23. Hence, we find no merit in the submissions made by the learned counsel for the applicants. Accordingly, Original Application is dismissed.

(Debashish Chakrabarty)
Member(A)
11.06.2024

(Mridula Bhatkar, J.)
Chairperson
11.06.2024