

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO.769 of 2021**

**DISTRICT:- Nandurbar**

1. Smt. Vaishali Suresh Landge  
Age : 35 years, Occu. Talathi  
R/o. C/o. Talathi Office Shahada,  
Tq. Shahada, Dist. Nandurbar  
Dist. Nandurbar.
2. Suhas Keshavgir Gosavi  
Age : 33 years, Occu. Talathi,  
R/o. C/o. Tahsil Office, Taloda,  
Tq. Taloda, Dist. Nandurbar.  
Dist. Nandurbar.
3. Dayanand Balasaheb Hale,  
Age: 34 years, Occu. Talathi,  
R/o. C/o. Tahasil Office,  
Akkalkuwa, Tq. Akkalkuwa,  
Dist. Nandurbar.

**.. APPLICANTS.**

**V E R S U S**

1. The State of Maharashtra  
Trough : Secretary,  
Revenue and Forest Department,  
Mantralaya, Mumbai-32.
2. The Divisional Commissioner,  
Nashik Division, Nashik.
3. The District Collector,  
Nandurbar, Dist. Nandurbar.

**.. RESPONDENTS.**

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APPEARANCE : Shri Rahul O. Awasarmol, Counsel for  
Applicants.

:Shri M.B.Bharaswadkar, Chief Presenting  
Officer for the respondent authorities.

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**CORAM : JUSTICE SHRI P.R.BORA, VICE CHAIRMAN  
AND  
SHRI VINAY KARGAONKAR, MEMBER (A)**  
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**DATE : 06-08-2024**  
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**ORDER**

**[Per : Shri Vinay Kargaonkar, M (A)]**

1. Heard Shri Rahul O. Awasarmol, learned Counsel for Applicants, Shri M.B. Bharaswadkar, learned Chief Presenting Officer (CPO) for the respondent authorities.
2. Applicant No 3 has withdrawn from this Original Application.
3. By filing the present O.A. applicants are claiming following reliefs [paper book page 7 of O.A.]:

*“A] This original application may kindly be allowed.*

*B] The seniority list dated 03.08.2021 prepared by respondent no.3 may kindly be quashed and set aside.*

*C] Respondent No. 3 may kindly be directed to fix the seniority of the applicants from the date of joining of service instead of the date of passing the S.D.D. examination.*

*D] Respondent no.3 may kindly be directed to correct the seniority list dated 03.08.2021 by incorporating names of the applicants at suitable place in view of the G.R. dated 24<sup>th</sup> August 1976, 21<sup>st</sup> March, 1979 and 16<sup>th</sup> November, 2006.*

*E) Any other relief to which the applicants are entitled may kindly be granted in his favour.*

3. In the nutshell, it is the grievance of the applicants that, in the seniority list dated 03.08.2021, applicants are placed in the seniority list from the date of passing the Sub Services Departmental Examination ("SSD Examination" for short) whereas they should have been placed from the date of joining the service. Applicants have accordingly prayed for allowing the O.A.

4. Learned CPO has submitted that the respondents have appropriately placed the applicants in the seniority list as they have not cleared the SSD Examination within the prescribed period and chances. Since the applicants have not passed the SSD Examination within the prescribed period and chances their seniority has been rightly reckoned from the date of passing the SSD Examination. Respondents have, therefore, prayed for dismissing the O.A.

5. Main issue in this matter is whether or not G. R. dated 24-08-1976 is applicable for SSDE. Relevant extract of G. R. dated 24-08-1976 is as follows:

*"The Government has now decided that in the Departmental examination rules for promotion*

*to the higher posts 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.”*

6. Principal Seat of this Tribunal at Mumbai had decided similar issue of seniority in O.A.No.480 & 481 of 2021. Relevant extract of the said judgment is as follows:

*“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.”*

7. As held by the Principal Seat of this Tribunal in OA No 480 & 481 of 2021, G. R. dated 24-08-1976 is applicable to SSD Examination and candidates belonging to backward class should be given one more chance and one more year to pass the departmental examination.

8. G. R. dated 21<sup>st</sup> March 1979 of General Administration Department also states that one more chance and a period of one more year should be given to candidates belonging to Schedules Castes, Sheduled Tribe, Denotified and Nomadic Tribes to pass the Departmental Examination. Relevant part of G. R. dated 21 March 1979 is reproduced below:

“RESOLUTION : Government has decided that in the Departmental Examination Rules for promotion to higher posts applicable to 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) Schedules Tribes, and (iii) De-notified and Nomedic Tribes, should be given one more chance and one more year to pass the Departmental Examination than is permissible under the rules to other candidates.

2. In the subordinate revenue services the following departmental examinations have been prescribed for non-gazetted revenue subordinates: -

Bombay Collectorate       :- Revenue Departmental Examination.

Bombay & Pune Division : Sub-Service Departmental Examination for Talathis

Sub-Service Departmental Examination for Clerks

Revenue Qualifying Examination  
for promotion in Upper Division  
i.e. Awal Karkun.

Aurangabad Division :- Revenue Clerks' Departmental  
Examination for Revenue  
Officers' Examination.

Nagpur Division :- Departmental Examination for  
Revenue Officers.

3. In consonance with the Government decision referred to in para 1 above, Government is pleased to direct that the Government servants in Subordinate Revenue Services belonging to the (i) Scheduled Castes, (ii) Scheduled Tribes, and (iii) De-notified and Nomedic Tribes should be granted one more chance and a period of one more year to pass the Departmental Examination than that prescribed in the relevant Departmental Examination Rules to other candidates.

4. These orders should take the retrospective effect from 24<sup>th</sup> August 1976 i.e. the date of issue of G.A.D. orders.

5. Necessary amendment to the respective Departmental Examination Rules will be issued separately.

By order and in the name of the Governor of Maharashtra.

(S.V. Wadekar)  
Desk Officer,  
Revenue and Forests Department.”

8. The G.R. dated 16<sup>th</sup> November, 2006 also reiterates that one more chance and one more year should be given to candidates from Backward Class (SC/ST/NT/VJNT/SBC) to pass the departmental examinations, than is permissible under the rules to other

candidates. Relevant part of G.R. dated 16<sup>th</sup> November, 2006 is reproduced below [paper book page 32 of O.A.):

### “शासन निर्णय

विविध विभागातील /कार्यालयातील वरिष्ठ पदावर पदोन्नती देण्यासाठी ज्या विभागीय परीक्षा उत्तीर्ण होणे आवश्यक ठरविले आहे, त्या विभागीय परीक्षा उत्तीर्ण होण्याकरीता अनुसूचित जाती, अनुसूचित जमाती, भटक्या व विमुक्त जमातीच्या उमेदवारांना, सर्वसाधारण (खुल्या) उमेदवारांपेक्षा एक अतिरिक्त संधी व एका जादा वर्ष देण्याची तरतूद शासन निर्णय, सामान्य प्रशासन विभाग, क्र.ईएक्सएम-१०७५/१६८१/१७, दि.२४ ऑगस्ट, १९७६ च्या आदेशान्वये केलेली आहे. सदर सवलत आता "विशेष मागास प्रवर्गातील" उमेदवारांनाही लागू करण्यात येत आहे.

२. सर्व मंत्रालयीन विभागांना विनंती करण्यात येते की, त्यांच्या अखत्यारीतील विविध पदांवर पदोन्नतीसाठी अनिवार्य म्हणून विहित केलेल्या विभागीय परीक्षा नियमामध्ये "विशेष मागास प्रवर्गातील उमेदवारांना देखील एक अतिरिक्त संधी व एक अतिरिक्त वर्षाचा कालावधी परीक्षा उत्तीर्ण होण्याबाबत अनुज्ञेय करण्याबाबत आवश्यक त्या सुधारणा करण्यात याव्यात. उचित कार्य पध्दतीचा अवलंब करून अशा सुधारणा नियमात होईपर्यंत या आदेशातील तरतुदीनुसार "विशेष मागास प्रवर्गातील" उमेदवारांना पदोन्नतीसाठी विहित विभागीय पदोन्नती परीक्षामध्ये एक जादा संधी व एक अतिरिक्त वर्ष देण्यात यावे.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

(प्र.कृ. लोखंडे)

उप सचिव, महाराष्ट्र शासन”

9. Rule 4 of the SSD Examination states that Every Talathi appointed to the post after the appointed date shall be required to pass the Examination within a period of four years from the date of appointment and within three chances. Applicant belong to Nomadic Tribe Category and as per the Government Resolution dated 24.07.1976 and

GR dated 16.11.2006, they should be given 01 more chance and 01 more year to pass the departmental examination.

10. One Applicant, Vaishali Suresh Landge, belongs to Nomadic Tribe -C and other applicant, Suhas Keshavgir Gosavi, also belongs to Nomadic Tribe -C. Applicants have passed SSD Examination as per the charts given below: -

Vaishali Suresh Landge, Date of Joining: 21.10.2013

| Sr.No. | Year of Examination | Attempt         | Remarks     |
|--------|---------------------|-----------------|-------------|
| 1      | 23.01.2016          | 1 <sup>st</sup> | Failed      |
| 2      | 07.01.2017          | 2 <sup>nd</sup> | Failed      |
| 3      | 03.02.2018          | 3 <sup>rd</sup> | Failed      |
| 4      | 02.02.2019          | 4 <sup>th</sup> | Passed SSDE |

Suhas Keshavgir Gosavi, Date of Joining: 28.10.2013

| Sr.No. | Year of Examination | Attempt         | Remarks     |
|--------|---------------------|-----------------|-------------|
| 1      | 07.02.2015          | 1 <sup>st</sup> | Failed      |
| 2      | 23.01.2016          | 2 <sup>nd</sup> | Failed      |
| 3      | 07.01.2017          | 3 <sup>rd</sup> | Failed      |
| 4      | 03.02.1018          | 4 <sup>th</sup> | Passed SSDE |

Applicant Vaishali Suresh Landge has passed SSDE in forth attempt in 5 years, 3 months and 12 days from her date of joining. Since the applicant Vaishali Suresh Landge has not passed SSDE in extended period of

5 years therefore relaxation for backward class candidates as mentioned in GR dated 24.08.1976, 21.03.1979 and 16.11.2006 will not be applicable to her. She will lose her seniority and her seniority will be reckoned from the date of passing SSDE. Respondents have rightly placed her in the seniority list dated 03.08.21. Applicant Suhas Keshavgir Gosavi has passed SSDE in fourth attempt in 4 years, 3 months and 6 days from his date of joining. Since the applicant has passed the SSDE in the 4th chance and within 5 years, he shall be construed to have passed the examination within prescribed chances, and therefore, he need not be pushed down in seniority list published on 03.08.2021. Since the applicant has passed the departmental examination within the prescribed period and chances, therefore, he is entitled for seniority as per date of appointment and the merit list in the appointment order.

12. In view of the above, we pass the following order:

**ORDER**

[i] Seniority of the Applicant Vaishali Suresh landge will not change and it will be reckoned from the date of her passing the SSDE i.e.18.05.2019. The seniority of the Applicant Suhas keshavgir Gosavi is restored back to the date of joining i.e. 28.10.2013.

[ii] Necessary corrections be carried out in the seniority list within 8 weeks from the date of this order.

[iii] O.A. stands allowed, however, without any order as to costs

**(VINAY KARGAONKAR)**  
**MEMBER (A)**

**(P.R.BORA)**  
**VICE CHAIRMAN**

**Place : Aurangabad**  
**Date : \_\_\_-07-2024.**

O.A.NO 769-2021-HDD-seniority list