



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3617 OF 2024
WITH
CIVIL APPLICATION NO. 1032 OF 2025
IN
WRIT PETITION NO. 3617 OF 2024

1. The State of Maharashtra
Through Additional Chief Secretary
Revenue and Forest Department, Mantralaya,
Mumbai-32.
2. The Divisional Commissioner,
Aurangabad Division, Aurangabad.
3. The District Collector,
Collector Office, Parbhani.

...PETITIONERS
[Ori. Respondents]

VERSUS

1. Madansingh Shivsing Gusinge
Age: 34 years, Occu. Govt. Service,
Awal Karloon, Office of Divisional Commissioner,
Aurangabad Division, Aurangabad. ...Orig. Applicant
2. Datta Rameshrao Raut
Age: 46 years, Occu. Govt. Service
Tahsil Office, Manwat,
Tq. Manwat, Dist. Parbhani

...RESPONDENTS
[Orig. Resp. No. 4]

Mr. S.R. Wakle, AGP for Petitioner-State
Mr. Jiwan J. Patil, Advocate for Respondent No. 1
Mr. Ashish Deshmukh, Advocate for Respondent No. 2

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**CORAM : NITIN B. SURYAWANSHI AND
ABASAHEB D. SHINDE, JJ.**

**RESERVED ON : 27th JULY, 2026
PRONOUNCED ON: 09th SEPTEMBER, 2026**

ORDER : [Per Nitin B. Suryawanshi, J.]

1. By this petition, Petitioner-State challenges the judgment and order dated 12.12.2023 passed by the Maharashtra Administrative Tribunal, Mumbai Bench at Aurangabad in Original Application No. 171 of 2022.

2. Facts in nutshell can be stated thus;

Respondent No. 1 joined the service as Clerk on 26.02.2009. In the merit list Respondent No. 1 was at serial no. 2 and Respondent No. 2 was at serial no. 3. Petitioner No. 3- District Collector published a seniority list on 06.05.2014 and in the said list Petitioner No. 3 has considered the seniority of Respondent No. 1 w.e.f. 26.02.2009. In the said seniority list Respondent No. 2 was shown at serial no. 118 and Respondent No. 1 was shown at serial no. 116. Petitioner No. 3 revised the seniority list of Clerk/Typist cadre and the provisional seniority list was published on 21.10.2021, however, Respondent No. 1 did not received any communication in that regard. Final seniority list of Clerk/Typist cadre was published on 24.01.2022 and in the said seniority list Respondent No. 1 is placed at serial no. 203 and Respondent No. 2 who was shown junior to Respondent No. 1 in the earlier seniority list is placed at serial No. 168. The seniority of Respondent No. 1 was considered w.e.f. 15.02.2012 i.e. the date of his

passing Sub Services Departmental Examination ("S.S.D." for short) in the seniority list published on 24.01.2022 whereas in the earlier seniority list published on 06.05.2014 it was considered w.e.f. 26.02.2009 i.e. the date of his joining the service.

3. Aggrieved by said change, Respondent No. 1 approached the Tribunal by filing Original Application No. 171/2022 contending that in the final seniority list of Clerk/Typist cadre published on 24-01-2022 the seniority of Respondent No. 1 is considered w.e.f . 15.02.2012 i.e. the date of passing the SSD examination. Respondent No. 1 has passed the SSD examination in 4th attempt within four years, and therefore, Petitioner no.3 has considered the seniority of the Respondent No. 1 from date of his passing the SSD examination.

4. The Tribunal allowed the application by taking into consideration the Government Resolution dated 24.08.1976 and the decision rendered by the Principal Seat of the Tribunal in Original Applications Nos. 480 of 2021 and 481 of 2021, by which it was held that Government Resolution dated 24.08.1976 is applicable to the SSD examination and the candidates belong to Backward Class should be given one more chance and one more year to pass the departmental examination.

5. Heard learned AGP for State and learned Advocates for Respondents at length. Perused the record.

6. Indisputably, the Respondents have cleared SSD examination on 15.02.2012 in 4th attempt, which is permissible in terms of Government Resolution dated 24.08.1976. The relevant provision of the said Government Resolution reads thus;

"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."

7. The Government Resolution dated 21.03.1979 issued by General Administration Department also states that one more chance and a period of one more year should be given to the candidates belonging to Scheduled Castes, Scheduled Tribes and Nomadic Tribes to pass the departmental examination. Government Resolution dated 16.11.2006 also reiterates that one more chance and one more year should be

given to the candidates from Backward Class (SC/ST/NT/VJNT/SBC) to pass the departmental examination, than is permissible under the rules to other candidates.

8. The Co-ordinate Bench of this Court in Writ Petition No. 7735 of 2013 (Shyam Marotirao Kavle v/s. The State of Maharashtra & Others) had an occasion to consider the similar issue. By relying on Sub Rule 3-b of Rule 4 of the Maharashtra State Zilla Parishad District Services Post Recruitment Examination Rules, 1985, it is held:

"9. Rule 4 (3-b) was introduced by way of an amendment with effect from 24.05.1999. Rule 4 (3-b) gives powers to the Chief Executive Officer in exceptional circumstances for good and sufficient reasons to be recorded in writing to grant additional opportunity not more than two chances or more than two years to Parishad employee for passing the examination. It is not disputed by either of the parties that the Chief Executive Officer had granted additional chance to the petitioner and the petitioner has passed the departmental examination in four chances. It appears that the Chief Executive Officer has granted opportunity to the petitioner to pass the departmental examination relying on the Resolution dated 24.08.1976 and/or Government Resolution dated 16.11.2006. Even if, the contention of the learned Additional Government Pleader is accepted that the said Government Resolution would not apply to the petitioner and it would not inure to the benefit of the petitioner, however, Rule 4 (3-b) empowers the Chief Executive Officer to give additional chance not more than two chances to pass the departmental examination. The petitioner in one additional chance has passed the departmental examination and thereafter, is considered for selection. At the time, the petitioner was promoted on recommendation of the

Departmental Promotion Committee, the petitioner had already passed the required examination in four chances. Courtesy, the Chief Executive Officer who had given one additional chance to the petitioner. The same was within his powers, though, the Chief Executive Officer may have relied on erroneous Resolution.”

09. In the backdrop of above, we are of the view that the Tribunal is justified in allowing the Original Application filed by the Respondent No. 1 by giving cogent reasons. Reliance by the Tribunal on Government Resolution dated 24.08.1976 is well placed. There is no illegality or perversity in the order passed by the Tribunal. No jurisdictional error or error of law is committed by the Tribunal while allowing the Original Application.

10. In the light of above discussion, we do not find any merit in the challenge raised by the Petitioner. Writ Petition being devoid of merit is dismissed.

11. In view of disposal of writ petition, civil application stands disposed of.

(ABASAHEB D. SHINDE, J.)

(NITIN B. SURYAWANSHI, J.)