

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Writ Petition No. 10513 of 2015

District : Nandurbar

1. Abaji Shivdas Jadhav,
Age : major,
Occupation : Service,
As Awal Karkoon,
Office of the Collector,
Nandurbar.
 2. Naresh Ramdas Saidane,
Age : Major,
Occupation : Service,
As Clerk in the office of
Tahsildar, Shahada,
District : Nandurbar.
 3. Dilip Pundlik Kulkarni,
Age : Major,
Occupation : Service,
As Awal Karkoon,
Office of the Collector,
Nandurbar.
 4. Sunil Nimba Khairnar,
Age : Major,
Occupation : Service,
As Clerk in the office
of Tahsildar, Taloda,
District : Nandurbar.
- .. Petitioners.

versus

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

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WithWrit Petition No. 10517 of 2015

District : Dhule

1. Sukhdev Shravan Chite,
Age : Major,
Occupation : Service,
Plot No. 99,
Indraprastha Colony,
Opp. State Bank,
Kondur Road, Devpur,
Dhule.
2. Shrikant Namdev Desle,
Age : Major,
Occupation : Service,
Plot No.18, Madhav Colony,
Parola Road, Dhule.
3. Kiran Baburao Kamble,
Age : Major,
Occupation : Service,
27-A, Bijlee Nagar,
Wadibhokar Road,
Devpur, Dhule.

.. Petitioners.

versus

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

.. Respondents.

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*Mr. Suresh D. Dhongade, Advocate, for the
petitioners in both petitions.*

*Mrs. A.V. Gondhalekar, Asst. Government Pleader,
for respondent nos.1 and 2 in both petitions.*

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**CORAM : S.S. SHINDE &
SANGITRAO S. PATIL, JJ.**

DATE : 18TH APRIL 2016

ORAL JUDGMENT (Per S.S. Shinde, J.) :

Heard the learned Counsel appearing for the petitioners and the learned Asst. Government Pleader appearing for the respondents.

2. Rule. Rule made returnable forthwith. Heard finally with consent of the parties.

3. It is the case of the petitioners that they were appointed on different posts by order dated 19th August 1995, issued by the office of the District Collector, Dhule. The learned Counsel appearing for the petitioners invited our attention to the fact that the employees whose names are mentioned at Serial Nos.9 and 10 in the said appointment order, their Original Applications bearing Nos. 746/2001 and 269/2001, respectively, have been decided by the Maharashtra Administrative Tribunal, Mumbai, Bench at Aurangabad [**For short, "the Tribunal"**] and they have been given reinstatement on seniority from the date of their appointment though it is held that they are not entitled for back wages. It is the submission of the learned Counsel for the petitioners, that the petitioners' names stand at Serial Nos.11, 12, 14, 15

and 16 and, therefore, the petitioners are also entitled for the benefit of seniority from the date of their initial appointment. He, therefore, submits that the Tribunal ought to have decided the Original Applications filed by the petitioners on merits. However, their Applications have been rejected only on the ground of delay.

4. On the other hand, the learned Asst. Government Pleader appearing for the State submits that there was inordinate delay in filing the Original Applications by the petitioners. Therefore, taking into consideration the length of delay, the Tribunal has rightly rejected the Applications filed by the petitioners. She, therefore, urged that the petitions may be rejected.

5. We have carefully considered the entire documents placed on record. It appears that the Tribunal has granted relief to reckon seniority from the date of appointment, in case of candidates at Serial Nos.9 and 10 in the appointment order, namely, Kum. Vasave Yashoda Devji and Smt. Kokani Sunita Tejaram. There is no dispute that the petitioners and the afore mentioned original applicants were appointed by the District Collector by order dated 19th August 1995 on various posts. In that view of the matter, instead of rejecting the Applications of the petitioners on the ground of delay, the Tribunal would have considered the cases of the petitioners on

merits. It is true, that there was inordinate delay in filing the Original Applications. However, length of delay may lose its significance in view of the fact that the other similarly situated employees, namely, Kum. Vasave Yashoda Devji and Smt. Kokani Sunita Tejaram, who were appointed by the same order dated 19th August 1995, have been granted relief of reckoning seniority from the date of their appointment. Therefore, the learned Counsel for the petitioners is right in contending that there is continuous cause of action for the petitioners since they are in service and they will lose some benefits due to not reckoning their seniority from the date of their appointments.

6. In the result, both Petitions are allowed in terms of prayer clauses "c", "d" and "e" which read as under :-

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(c) The order dated 17.07.2015 passed by MAT, Aurangabad, in M.A. No.135/2014 in O.A. St.No. 545/2014 be quashed and set aside.

(d) The delay caused in filing the Original Application (St.No.545/2014) may kindly be condoned in the interest of justice.

(e) The learned MAT be directed to hear and decide the Original Application (St.No.545/2014) on its own merit as expeditiously as possible.

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(c) The order dated 17.07.2015 passed by MAT, Aurangabad, in M.A. No.134/2014 in O.A. St.No. 542/2014 be quashed and set aside.

(d) The delay caused in filing the Original Application (St.No.542/2014) may kindly be condoned in the interest of justice.

(e) The learned MAT be directed to hear and decide the Original Application (St.No.542/2014) on its own merit as expeditiously as possible.

7. Rule is made absolute in the above terms. In the circumstances of the case, there shall be no order as to costs.

(SANGITRAO S. PATIL)
JUDGE

(S.S. SHINDE)
JUDGE

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