

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

**O.A. NO.1633 OF 2024 WITH O.A. NO.1636 OF 2024 WITH
O.A. NO.1640 OF 2024 WITH O.A. NO.1641 OF 2024 WITH
O.A. NO.1643 OF 2024 WITH O.A. NO.1645 OF 2024 WITH
O.A. NO.1646 OF 2024 WITH O.A. NO.1648 OF 2024**

Shri S.S. Karche,
J.G. Hinge,
P.S. Shirke,
M.P. Shingare,
M.K. Tadavi,
A.S. Pawar,
L.A. Londhe,
G.S. Jaypatre

).. Applicant

Versus

State of Maharashtra & 2 Ors.

) ..Respondents

Shri R.B. Khot, Shri D.S. Patil, Ms. S.T. Suryavanshi, Shri B.R. Deshmukh, Shri S.S. Dere along with Shri Sachin Ambulkar, Shri Omkar Wangikar, Shri Ashish Agarkar, Shri Pooja Mankoji, Shri N.G. Kamble learned Advocate for the Applicant.

Smt. Archana B.K., Shri A.D. Gugale, along with Shri D.R. Patil, learned Presenting Officer for the Respondents.

CORAM : SHRI DEBASHISH CHAKRABARTY, MEMBER(A)

DATE : 27.12.2024.

ORDER

1) The learned Advocates for Applicants state that Applicants who come from diverse service backgrounds have been denied opportunity to remain present for 'Interview' being conducted by 'MPSC' on 26.12.2024 and 27.12.2024 for posts of 'Administrative Officer, General State Services, Group-B' under 'Directorate of Health Services'. The grounds cited by 'MPSC' is that Applicants do not possess requisite

'Administrative Experience' which is necessary as per 'Para 8.4' of 'Advertisement No.024/2022' dated 19.03.2022 published by 'MPSC'.

2) The learned Advocates for Applicants then emphasized that 'Administrative Experience' of Applicants as is necessary as per 'Para 8.2' have not been evaluated diligently by 'Expert Committee' constituted by 'MPSC' which was obligated to minutely examine the 'Experience Certificates' of Applicants which had been uploaded along with 'Application Forms'. The 'Expert Committee' was then expected to come so as to come to conclusion as to whether or not Applicants possessed (a) Necessary Experience of 'Office Administration' for period of not less than '5 Years' (b) Necessary Experience of '3 years' out of the 5 Years in 'Supervisory Capacity' & (c) Necessary Experience comparable to that of 'Superintendents/Head Clerks' under Government Department or Local Authority or Commercial Establishments or Corporations or Boards established by 'State Government'.

3) The learned Advocates for Applicants thereupon contended that 'Expert Committee' constituted by 'MPSC' in certain cases has decided to recommend that concerned candidates be provided further opportunity to clarify about their 'Experience Certificates'. Therefore 'MPSC' has conditionally allowed them to appear for 'Interview' on 26.12.2024 & 27.12.2024; but the same opportunity was not provided to Applicants who had submitted their 'Experience Certificates' to 'MPSC'. However; 'MPSC' should have been given equal opportunity to Applicants like to

several other candidates if there was any doubt about their 'Experience Certificates'.

4) The learned Advocates for Applicants then draws specific attention to 'Para 11.2.4.' of 'Advertisement No.024/2022' dated 19.03.2022 published by 'MPSC' which forbids any opportunity being given to candidates whose 'Experience Certificates' were not even uploaded along with their 'Application Form' and thus were not available for scrutiny by 'Expert Committee' constituted by 'MPSC'.

5) The learned Advocate for Applicants also highlighted that 'Experience Certificates' of Applicants were required to be examined by 'Expert Committee' constituted by 'MPSC' primarily based on equivalence of 'Pay-Scales' of '7th Pay Commission' which have been specified to be (i) 'S-14 with Grade Pay Rs. 4300'/- & (ii) 'S-13 with Grade Pay Rs. 4200'/- by 'Under Secretary', 'Public Health Department' letter dated 31.01.2024 addressed to 'Under Secretary', 'MPSC' especially in respect of candidates who have held posts where there were drawing 'Salary & Allowances' at par with these '2 Pay-Scales' of 7th 'Pay Commission' while serving in Government Departments or Local Authority or Commercial Establishments or Corporations or Board established by 'State Government'. Even for Applicants who were serving outside this set of Government Department or related Organizations, such as with Nationalized Banks, Financial Institutions, Insurance Companies, etc. or particular 'PSU' or 'Parastatal

Organizations' under State Government; their 'Experience Certificates' were required to be scrutinized assiduously; even some 'Pay Scales' were if not having exact equivalence with 'Pay Scale' of (i) 'S-14 with Grade Pay Rs. 4300'/- & (ii) 'S-13 with Grade Pay 4200'/- under 7th 'Pay Commission' but on parity of 'Gross Salary' drawn and nature of responsibilities assigned to their positions, so to clearly ascertain whether or not they full-filled the condition of equivalence with post of 'Superintendent'/'Head Clerk' and held them in 'Supervisory Capacity' as required as per 'Para 8.4' of 'Advertisement No.024/2022' dated 19.03.2022 published by 'MPSC'.

6) The learned Advocates for Applicants produced copies of the letter written by 'Commissioner of Health Services, Maharashtra State Mumbai' to 'General Managers' of 'RBI' and 'Nationalized Banks' or 'Insurance Companies as well as particular PSU or Parastatal Organization under State Government such as 'MSSC' at Akola & 'MSRTC' at Mumbai; to stress that 'Commissioner of Health Services, Mumbai' after replies were received from all of them was required to forward those immediately to 'MPSC' which thereupon was obligated to place these clarifications for consideration of 'Expert Committee' as without supplementary information being received from 'Commissioner of Health Services, Maharashtra State, Mumbai; it was just not possible for 'Expert Committee' to unilaterally decide whether or not such candidates had full-filled requirement of necessary 'Administrative

Experience' as per 'Para 8.2' of the Advertisement No.024/2022 dated 19.03.2022.

7) The learned Advocates for Applicants thereupon emphasized that level playing field which was to be maintained by 'MPSC' in such sensitive matters of 'Public Employment' has not be done at time of scrutiny of 'Experience Certificates' by Expert Committee; so as to have ensured without any reasonable doubt that only those who completely meet necessary requirements 'Administrative Experience' as per 'Para 8.2' of 'Advertisement No. 024/2022 dated 19.03.2022 were called for 'Interview' by 'MPSC' on 26.12.2024 & 27.12.2024 for posts of 'Administrative Officer, General State Services, Group-B' under the 'Directorate of Health Services' .

8) The learned Advocates for Applicants during course of their arguments pointed out that 'G.A.D. Circular dated 03.07.2004' was issued to clarify about various categories of employment which are to be considered for verification of 'Experience Certificates' and these include the following :- "यापुढे सरळ सेवेने/नामनिर्देशनाने नियुक्तीसाठी उमेदवारांच्या अनुभवाच्या कालावधीची गणना करताना रोजंदारी, कार्यव्ययी, करार पध्दतीवर, मानधन इ.स्वरूपात केवळ पूर्णवेळ काम केले असल्यासच असा कालावधी नियुक्तीसाठी विहित केलेल्या अनुभवासाठी ग्राह्य धरण्यात यावा" Hence; the 'Experience Certificates' of candidates who come under such specific categories of employment should have been deliquently considered by 'Expert Committee' constituted by 'MPSC'.

9) The learned Advocates for Applicants repeatedly drew attention to fact about 'MPSC' providing another opportunity to some candidates and not to Applicants to clarify about their 'Experience Certificates' and even regarding 'Age Relaxation' in few instances; by going much beyond scope of 'Para 11.2.4' of Advertisement No.024/2022 dated 19.03.2022 published by 'MPSC' and by doing so have contravened principles laid down by 'Judgment' of **Hon'ble Supreme Court in Bedanga Talukdar vs. Saifudaullah Khan & Other (2011) 12 SCC 85.**

10) The learned Advocates for Applicant also narrated particular instance where Applicant in O.A. No.1500/2024 had claimed similar relief from 'M.A.T.- Chhatrapati Sambhajanagar Bench', but submitted 'Pursis' today for its withdrawal because representation made by this Applicant has been belatedly considered by 'MPSC'. Thereupon; 'MPSC' has even sent communication to him for 'Interview' on 27.12.2024 for posts of 'Administrative Officer, Group-B under' Directorate of Health Services. The contention then vehemently raised was that if decision of 'Expert Committee' can thus be reviewed 'Sou-moto' by 'MPSC' for Applicant in O.A.No.1500/2024: then it should also be done in respect of Applicants in this O.A.No.1633/2024 & others based on 'Principles of Parity' with this conscious decision taken by 'MPSC'. The Applicants be therefore be granted 'Interim Relief' by way of fair opportunity to appear for 'Interview' on 27.12.2024.

11) The learned P.O. per contra diligently argued to explain why 'MPSC' had given another opportunity to some candidates to clarify doubts recorded by 'Expert Committee' regarding their Experience Certificates and even to produce authorizations about claims of 'Age Relaxation'. She emphatically stated with that few instances in which 'MPSC' has given another opportunity some candidates as pointed out by Applicants to clarify about their 'Experience Certificates' was only to clarify specific doubts recorded by 'Expert Committee' about contents of their Experience Certificates; but it was important to note the fact that all these candidates had submitted all their Experience Certificates along with 'Application Forms'; but Applicants had not submitted necessary 'Experience Certificates' along with their 'Application Forms'. Hence; there was no question of 'MPSC' giving Applicants any further opportunity when there were no 'Experience Certificates' which could even been verified by 'Expert Committee' constituted by 'MPSC'.

12) The learned P.O. then stressed that it is for 'Expert Committee' constituted by 'MPSC' to examine validity of 'Experience Certificates' of all candidates including checking the length of time for which they have worked in Government Department or other Organization including Local Authority or Commercial Establishments or Corporations or Board established by the 'State Government' or even 'Nationalized Banks', 'Insurance Companies' and specific 'PSU's' and 'Parastatal Organization' of 'State Government'; so as to shortlist only those candidates who fulfill requirements of mandatory experience of 5 years in 'Office

Administration' with minimum 3 years experience in 'Supervisory Capacity' on post comparable of 'Superintendent'/'Head Clerk'. The decision of 'Expert Committee' constituted by 'MPSC' cannot be called in question and only eligible candidates who had fulfilled requirement of necessary 'Administrative Experience' as per 'Para 8.4' of Advertisement No.024/2022 dated 19.03.2022 published by 'MPSC' have been called for 'Interviews' by 'MPSC' on 26.12.2024 & 27.12.2024.

13) The learned P.O. then drew attention to contents of 'Interim Order' dated 20.12.2024 passed in O.A. No.1620/2024 and O.A. No.1622/2024 especially contents of 'Para 7 & Para 8' to emphasize that no case was made out by Applicants therein for grant of 'Interim Relief' to appear for 'Interview' scheduled on 26.12.2024 and 27.12.2024 by 'MPSC'.

14) The learned P.O. lastly clarified that in the particular case relating to Applicant in O.A.No.1500/2024 filed before 'M.A.T.- Chhatrapati Sambhajnagar Bench'; Where MPSC has reviewed consciously decision of 'Expert Committee' was only to rectify some 'Typographical Error' relating to 'Pay Scales' as candidate had made bonafide mistake while mentioning it as S-8 whereas it was actually 'S-14' with Grade Pay Rs. 4300/-.

15) The arguments on both sides were heard at length along with perusal of documents of Applicants. The claims of Applicants vary in terms of 'Designation of Posts' which they have held in the past; besides

'Number of Years' of 'Administrative Experience', as well as structure of 'Salary and Allowances' while serving either in any Government Department or Local Authority or Commercial Establishments or Corporations or Boards established by 'State Government' or while serving in 'Nationalized Banks, Insurance Companies, or specific PSU' and 'Parastatal Organizations' of State Government.

16) The fact however remains that most important factor for consideration of 'Expert Committee' constituted by 'MPSC' was the exact 'Nature of Work' done by candidates in atleast last 5 Years which would count towards their 3 Years experience in 'Supervisory Capacity'. Therefore the yard stick which 'Expert Committee' had adopted to verify the 'Experience Certificates' to ascertain if candidates had held the post held in 'Supervisory Capacity' was required to be confided by 'MPSC' at the time of hearing today for grant of 'Interim Relief' to Applicant. The onerous responsibility of ensuring complete transparency in appointment to posts of Administrative Officer 'Group B' at all stages including 'Interview' cannot be over emphasized even at this belated stage; because 'MPSC' acts as crucial 'Nodal Agency' for conduct of may 'Public Examinations'. The 'Public Health Department' as provider of this opportunity of 'Public Employment' would definitely be required to respond to prayers made by Applicants. Thus both 'MPSC' and 'Public Health Department' remain bounden to ensure that ongoing recruitment to posts of 'Administrative Officer, General State Services, Group-B under the 'Directorate of Health Services' is completed in transparent

manner strictly as per Advertisement No. 024/2022 dated 19.03.2022. However, why 'Interviews' are being conducted belatedly on 26.12.2024 & 27.12.2024 remains unexplained because 'Mark Lists' of 'Written Examination' came published long back on 04.07.2023 but list of candidates to be called for 'Interview' on 26.12.2024 & 27.12.2024 came to be declared more than 1 ½ years later only 17.12.2024. More than sufficient time was thus available to both 'MPSC' and 'Public Health Department' to constitute the 'Expert Committee' who could have been given as much time as would be reasonably required by them to diligently verify 'Experience Certificate' of all candidates including Applicants. The 'MPSC' could have been far sighted to carryout re-verification of 'Experience Certificates' even by giving 'Personal Hearing' to them much before calling them for 'Interview'. No justification has been received from 'MPSC' today as to why re-verification of 'Experience Certificates' of some candidates was necessary to be done even on dates of 'Interview' on 26.12.2024 and 27.12.2024.

17) The 'Interim Order' passed on 20.12.2024 in O.A. No.1620/2024 and O.A. No.1622/2024 by which no 'Interim Relief' was granted to Applicants therein; would thus continue to hold ground even in case of present Applicants in O.A.No.1633/2024 & Others. Thus on-going process to conduct of 'Interview' of candidates who have been declared eligible to can be completed today i.e. 27.12.2024. However, as elaborated above, with a view to ensure that all stages of the 'Public Examination' being conducted by MPSC on behalf of 'Public Health

Department for posts of 'Administrative Officer, General State Services, Group-B' provides equal opportunity to all candidates as per provisions of 'Article 14' of 'Constitution of India'; it is necessary to protect the interests of Applicants at this intermediate stage as per 'Proviso Clause' of Section 24 of the 'Administrative Tribunal Act, 1985. Hence, 'MPSC' is informed not to publish any 'Select List' and then prepare 'Recommendation List' till the 'Next Date' i.e. 13.01.2025 in respect of the 'Administrative Officer, General State Services, Group-B' under Directorate Health Services.

18) The 'MPSC' for cause of greater transparency in matters of 'Public Employment' is also directed to disclose the designations of those who constituted the 'Expert Committee' for verification of 'Experience Certificate' and what were those compelling circumstances why they had to recommend to 'MPSC' to give another opportunity to only some candidates to clarify about their 'Experience Certificates' even if it were to be at belated stage of 'Interview'. Further if there are any other instances besides case of Applicant in O.A. No. 1500/2024 where MPSC has consciously reviewed decision of 'Expert Committee' to inform at very last moment some left out candidates to appear for 'Interview' on 26.12.2024 and 27.12.2024.

19) The office objections, if any, are to be removed and court fees to be paid, if not already paid.

20) Issue notice before admission returnable on 13.01.2025.

21) Applicant is authorized and directed to serve on Respondent intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Private service is allowed. Respondents are put to notice that the case may be taken up for final disposal at the stage of admission hearing.

22) This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

23) By Hand delivery, speed post, courier notice to be served and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice.

24) In case notice is not collected within seven days or service report on affidavit is not filed three days before returnable date, the Original / Miscellaneous Applications shall be placed on board before the concerned Benches under the caption "for Dismissal" and thereafter on the subsequent date the Original / Miscellaneous Applications shall stand dismissed.

25) S.O. to 13.01.2025.

Sd/-

(DEBASHISH CHAKRABARTY)
MEMBER (A)

Place: Mumbai

Date: 27.12.2024

Dictation taken by: N.M. Naik.

Office Notes, Office Memoranda of Coram, Appearance, Tribunal's orders or directions and Registrar's orders	Tribunal's orders
	<p>Date: 27.12.2024</p> <p>O.A. No.1634 of 2024</p> <p>P.S. ShirkeApplicant Versus The State of Maharashtra & Ors.Respondents.</p> <ol style="list-style-type: none"> 1. Shri D.S. Patil along with Shri P.A. Dongre, learned Advocate for the Applicant and Smt Archana B.K., learned Presenting Officer for the Respondents. 2. The office objections, if any, are to be removed and court fees to be paid, if not already paid. 3. Issue notice before admission returnable on 13.01.2025. 4. Applicant is authorized and directed to serve on Respondent intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Private service is allowed. Respondents are put to notice that the case may be taken up for final disposal at the stage of admission hearing. 5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open. 6. By Hand delivery, speed post, courier notice to be served and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file Affidavit of compliance and notice. 7. In case notice is not collected within <u>seven</u> days or service report on affidavit is not filed <u>three</u> days before returnable date, the Original / Miscellaneous Applications shall be placed on board before the concerned Benches under the caption "<u>for Dismissal</u>" and thereafter on the subsequent date the Original / Miscellaneous Applications shall stand dismissed. 8. S.O. to 13.01.2025. <p style="text-align: right;">Sd/- (Debashish Chakrabarty) Member (A)</p>