

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 660 OF 2022**

**DISTRICT : NANDED**

**Dr. Sunil S/o Devidas Longne,** )  
Age : 28 years, Occu. : Veterinary Doctor, )  
R/o : Sawarmal, Tq. Mukhed, Dist. Nanded. )

.. **APPLICANT**

**V E R S U S**

1. **The State of Maharashtra,** )  
Through it's Principal Secretary, )  
Agriculture, Animal Husbandry, )  
Dairy Development & Fisheries Department,) )  
Mantralaya Extension, Mumbai-32. )
2. **The Commissioner,** )  
Animal Husbandry, M.S., Aundh Road, )  
Opposite Spicer College Road, Pune-67.)
3. **Maharashtra Public Service Commission,)**  
Through its Secretary, )  
5 1/2, 7 & 8<sup>th</sup> Floor, Cooperage Telephone)  
Nigam Building, M.K. Road, Cooperage,) )  
Mumbai. )

.. **RESPONDENTS**

**APPEARANCE** : Shri Ajinkya Reddy, Advocate for Applicant.

: Shri M.S. Mahajan, C.P.O. for the Respondent  
Authorities.

**CORAM** : **Shri V.D. Dongre, Member (J)**  
and  
**Shri Bijay Kumar, Member (A)**

**Reserved on** : **02.05.2023**

**Pronounced on** : **22.06.2023**

**ORDER****(Per : Shri Bijay Kumar, Member (A))**

1. The applicant Dr. Sunil Devidas Longne has filed this Original Application No. 660/2022 dated 19.07.2022 invoking provisions of Section 19 of the Administrative Tribunals Act, 1985.

2. All the respondents have been duly noticed, but affidavit in reply has been filed by learned Chief Presenting Officer on behalf of respondent Nos. 1 and 2 only on 14.09.2022, which was taken on record and copy of which was served on the other side. Learned Advocate for the applicant filed rejoinder affidavit to the affidavit in reply filed on behalf of respondent Nos. 1 and 2 on 20.04.2023, which was taken on record and a copy of which was served on the other side.

3. **Facts of the matter** :- (a) The respondent No. 3 i.e. Maharashtra Public Service Commission (in short, MPSC) published an advertisement No. 13/2019, dated 23.08.2019 of filling up 435 posts of Live Stock Development Officer in the Department of Agriculture, Animal Husbandry, Dairy Development and Fisheries.

(b) After selection process conducted by MPSC, the respondent Nos. 1 and 2 issued call letters for verification of documents to 432 candidates as per the select list published on 08.10.2021 containing particulars of 432 candidates found by it to be eligible for recommendation.

(c) It may be noted that eligibility for getting candidates recommended for appointment was determined by cutoff marks adopted by MPSC, which is reproduced below for ready reference on page No. 45 of the paper book of this Original Application :-

<b>CATEGORY</b>	<b>SUB CATEGORY</b>	<b>CUTOFF MARKS</b>
OPEN	GENERAL	109.50
	FEMALE	95.00
	SPORTS	--
	AGAINST SPORTS	108.00
SC	GENERAL	97.50
	FEMALE	86.00
	SPORTS	--
	AGAINST SPORTS	95.50
ST	GENERAL	68.00
	FEMALE	70.00
	SPORTS	--
	AGAINST SPORTS	66.50
DT (A)	GENERAL	105.00
	FEMALE	91.50
NT (B)	GENERAL	94.00
	FEMALE	86.50
SBC	GENERAL	97.00
	FEMALE	94.00
NT (C)	GENERAL	107.50
	FEMALE	91.50
NT (D)	GENERAL	103.00
	FEMALE	86.00
OBC	GENERAL	87.50
	FEMALE	80.00
	SPORTS	--
	AGAINST SPORTS	87.00
EWS	GENERAL	92.50

	FEMALE	67.50
	AGAINST FEMALE	91.50
	SPORTS	--
	AGAINST SPORTS	91.00
ORPHAN		--
AGAINST ORPHAN		109.00
DIVYANG	HEARING IMPAIRMENT	48.50
	LOCOMOTOR DISABILITY OR CEREBRAL PALSY	65.50

(d) The applicant belongs to NT-C (General) category and is eligible for appointment under Unreserved (General) category also in addition to NT-C (General) category. He had secured 105.50 marks, whereas cutoff for Unreserved (General) category was 119.50 marks and the cutoff for NT-C (General) category was 107.50 marks. As the candidates eligible for appointment under NT-A, NT-B and NT-D categories were available so the applicant had no chance of being considered under these categories.

(e) Out of 432 candidates recommended by MPSC, documents verification of 428 candidates had been completed and their appointment cum posting orders were issued by the Government order dated 08.02.2022, which is appended at page No. 50 of the paper book of the O.A. and marked as Exhibit A-5.

(f) Out of 428 orders issued, appointment of one candidate namely Dr. Hegaje Patil Shivanand Ramgonda (merit No. 41) was cancelled vide Government order dated 18.02.2022 on the ground of suppressing by him of fact of his conviction. This

candidate belonged to EWS category and had secured 118.50 marks, therefore, selected as Unreserved (General) 35<sup>th</sup> candidate.

(g) Vide Government order dated 30.06.2022 appended at page No. 60 of the paper book of O.A., marked as Exhibit A-6, candidature of 3 candidates were cancelled for not participation in document verification process and 11 candidates' candidature was cancelled for reason of not joining even after extended joining time given to them. Out of these total 14 candidates whose candidature was cancelled vide order dated 30.06.2022, four belong to Unreserved category and one belonged to S.C. category but appointed under Unreserved (General) category with marks of 111.50.

(h) Particulars of 14 candidates, whose appointments were cancelled vide Government order dated 30.06.2022, were reported to MPSC for recommending new names of candidates from merit list. Accordingly, MPSC recommended 13 candidates, whose orders of posting were issued by respondent No. 1 vide order No. पसंप्र-२०२१/प्र.क.२२२/पदुम-१, dated 26.09.2022 (page Nos. 109 to 113 of the paper book, Exhibit-X).

(g) Applicant vide rejoinder affidavit dated 24.01.2023 has claimed that against 5 candidates of Unreserved (General) category, whose appointment was cancelled, only four names have been recommended by MPSC. Had MPSC recommended 5 names, the applicant too would have received appointment letter on his own merit under Open (General category).

4. **Reliefs prayed for** :- Applicant has prayed for relief in terms of para No. 21 of the Original Application, which is being reproduced verbatim for ready reference as follows :-

**“PRAYERS :**

**21) In view of the above circumstances, the applicant most respectfully prays under section 19 of the Administrative Tribunal Act 1985:**

- (A) *By issuing directions and order this Hon'ble Tribunal would be graciously pleased to direct the respondent No. 1 and 2 to consider the candidature of the applicant on the posts of Live Stock Development Officer falling vacant due to cancellation appointment order dated 18.02.2022 and 30.06.2022 pursuant to the Advt. No. 13 of 2019 issued by the MPSC.*
- (B) *By issuing directions and order this Hon'ble Tribunal would be graciously pleased to direct the respondent No. 1 and 2 to furnish requisition to the respondent No. 3 to fill up the posts of Live Stock Development Officer falling vacant due to cancellation appointment order dated 18.02.2022 and 30.06.2022 pursuant to the Advt. No. 13 of 2019 issued by the MPSC.*
- (C) *Ad interim relief in terms of the prayer clause "A" and "B" may kindly be granted.*

(D) Grant any other relief to which the applicant is found entitled to in the peculiar facts and circumstances of the present case”

**5. Analysis of Facts:** In this matter following factual position is observed to prevail, for which no explanation /justification has been offered by the respondents :-

(a) The dispute is in relation to the claim of the applicant for getting recommended for appointment under Unreserved (General) category posts. As per advertisement No. 13/2019 dated 23.08.2019 vacancy position as per Horizontal Reservation category under Unreserved Social Reservation Category of Posts and number of candidates recommended against each of them is as follows :-

**TABLE -1**

**Showing Number of Posts for Various Horizontal Reservation Types Advertised and Number of Candidates Recommended by MPSC for Unreserved Social Reservation Category**

<b>Total No. of Posts</b>	<b>General</b>	<b>Female*</b>	<b>Sports Persons*</b>	<b>Orphan*</b>	<b>Divyang</b>	<b>Total</b>
Number of posts Available as per Advertisement No. 13/2019 (Exhibit A-2, page 20 of P.B. of O.A.)	93	43	7	1	# @	144

No. of Posts Advertised as shown in Summary Sheet of Recommendations Made (Exhibit A-3, page 24 of P.B. of O.A.)	124	58	10	1	2 2	197
Recommended in First Round	117	58	10	1	1 2	189

**Note-**

*\*As per availability, Horizontal Reservation*

*# Hearing Impairment*

*@ Locomotor Disability or, Cerebral Palsy*

(b) It is further observed that total of 15 number of appointment orders had been cancelled by the two orders issued by respondent No. 1, one appointment order was cancelled vide order dated 18.02.2022 (Exhibit A-6, page 57 of paper-book of O.A.) and remaining 14 appointments were cancelled vide order dated 30.06.2022 (Exhibit A-7, page 60 of paper-book of O.A.). Caste category-wise break up of appointment orders cancelled shows that 6 candidates were appointed against vacancies of Unreserved (General) category and one candidate had been appointed as Unreserved (Female) category.



(c) Respondent No. 1 requisitioned 14 names of candidates from waiting list in response of which MPSC recommended 13 names. Respondent No. 1 has issued appointment orders in favour of 12 candidates (one candidate did not attend documents verification). Against resultant six vacant posts under Unreserved (General) Category, only five names have been received from MPSC for appointment, who have been given appointment orders by respondent No. 1 vide order No. पसं-२०२१/प्र.क.२२२/पदुम-१, dated 26.09.2022, copy of which is appended as Exhibit 'X'. page No. 109 of paper-book of O.A.

(d) The grievance of the applicant is that had six names had been recommended by MPSC for appointment against resultant six vacant positions under Unreserved (General) category; he could get appointment order as he is next in merit list to the last recommended candidate for Unreserved (General) Category based on his merit position.

(e) Though, none of the three respondents has responded to the claim of the applicant, it is noticed from the merit list appended as Exhibit 'Y', page Nos. 115-204 of paper-book, that the last recommended candidate has merit position of

172 and the applicant has merit position of 174. Candidate with merit list position of 173 has already been recommended by MPSC against Quota of OBC (General-Backlog) and his name appears at serial No. 168 of Exhibit A-3, page 33 of paper-book of O.A.

(f) Respondent Nos. 1 and 2, in affidavit of reply submitted, have taken stand that it is for respondent No. 3 to offer clarification regarding above points elaborated in the analysis of facts. On the other hand, respondent No. 3 has not submitted any reply even though they had been duly served notice on 25.08.2022. This state of affairs is a matter of concern as the respondent authorities seem to be avoiding assisting this Tribunal in adjudicating this matter without prejudice to the either side of the dispute.

6. **CONCLUSION**- It is a matter of serious concern that respondent Nos. 1 to 3 have neither commented on apparent discrepancies in number of posts advertised in advertisement No. 13/2019 issued on 23.08.2019 appended as Exhibit A-2, and the number of posts declared to have been advertised in Exhibit A-3 and finally the number of candidates recommended for appointment under each category of Horizontal reservation under

Unreserved Category of Social Reservation. In addition, the respondents are also silent on recommending only 13 names against 15 resultant vacancies caused by cancellation of appointment letters of candidates recommended by MPSC in the first round. Likewise, the respondents have miserably failed to offer any explanation as to why only 5 names have been recommended against six resultant vacancies under Unreserved (General) category of posts. Therefore, we are constrained to observe that there is more than what meets our eyes and therefore, in our considered opinion, there is merit in the present O.A.; hence the following order :-

**ORDER**

- (I) Original Application No. 660 of 2022 is allowed in following terms :-
  - (a) Prayer Clause 21 (A) is allowed.
  - (b) Respondents No. 3 is directed to take decision on prayer clause 21 (B) of this application on merit, as per extant rules, within four weeks of passing of this order and communicate the same to Respondent Nos. 1 and 2 and also to the applicant who should be communicated by Speed Post within two weeks of taking decision.
  - (c) Respondent Nos. 1 and 2 are directed to take action due on their part, upon receiving decision

from Respondent No. 3 as mentioned in preceding para (I) (b) within two weeks by speed post.

- (d) Applicant, if aggrieved by decision of respondent No. 3 and/ or respondent Nos. 1 and 2, he may seek relief from competent authority, including by having recourse to file Original Application.

(II) No order as to costs.

**MEMBER (A)**

**MEMBER (J)**

**Kpb**/D.B. O.A. No. 660/2022 VDD & BK 2023 Appointment