

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**COMMON JUDGMENT IN O.A. NOS. 286/11 & 616/12****(1) Original Application No. 286 of 2011**

DIST. : Beed

Jitendra s/o Sadashivrao Waghirkar,
Age. 39 years, Occ. Nil,
r/o Mudhapuri, Tq. Georai,
Dist. Beed,
Presently residing at,
Pathrud Galli, Dhondipura,
Beed, Dist. Beed.

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APPLICANT

VERSUS

1. The State of Maharashtra,
Through the Secretary,
Department of Health Services,
Mantralaya, Mumbai.
2. The Joint Director,
Administration,
Directorate of Health Services,
Government of Maharashtra,
Arogya Bhawan, 4th floor,
Premises of Saint George Hospital,
Mumbai – 400 001.
3. The Joint Director,
Health Services, Pune.
Directorate of Health Services,
Government of Maharashtra,
Arogya Bhavan,
In front of Vishrantwadi Police Station,
Yerwada, Pune.
4. The District Rehabilitation Officer,
@ District Collector, Beed.

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RESPONDENTS

WITH**(2) Original Application No. 616 of 2012**

DIST. : Beed

Vivek Bhaskarrao Deshmukh,
Age. 30 years, Occ. Nil,
r/o Khadkighat, Tq. Beed, Dist. Beed,
(presently residing at 'Laxmi Narayan Niwas',
Bhagya Nagar, Dist. Beed). --

APPLICANT

VERSUS

1. The State of Maharashtra,
Through the Secretary,
Department of Health Services,
Mantralaya, Mumbai.
2. The Joint Director,
Administration,
Directorate of Health Services,
Government of Maharashtra,
Arogya Bhawan, 4th floor,
Premises of Saint George Hospital,
Mumbai – 400 001.
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Health Services, Pune.
Directorate of Health Services,
Government of Maharashtra,
Arogya Bhavan,
In front of Vishrantwadi Police Station,
Yerwada, Pune.
4. The District Rehabilitation Officer,
@ District Collector, Beed. --

RESPONDENTS

APPEARANCE : Shri Milind Patil, learned Advocate for
the Applicants in both the matters.

: Shri N.U. Yadav, learned Presenting
Officer for the Respondents in both the
matters.

CORAM : Hon'ble Shri Rajiv Agarwal, Vice Chairman
A N D
Hon'ble Shri J.D. Kulkarni, Member (J)
DATE : 21.10.2016

JUDGMENT

{PER : HON'BLE SHRI RAJIV AGARWAL, VICE CHAIRMAN}

1. Heard learned Advocate Shri Milind Patil for the Applicants in both the matters and Shri N.U. Yadav, learned Presenting Officer (P.O.) for the Respondents in both the matters.
2. These O.As. were heard together and are being disposed of by a common order as the issues to be decided are similar.
3. These O.As. are filed by the Applicants challenging the selection process for the post of Laboratory Technician vide advertisement dated 5.10.2008 issued by the Director of Health Services, M.S., Mumbai. It is stated that no horizontal reservation of 5% for Project Affected Persons and Earthquake Affected Persons was provided and, therefore, the entire selection process was vitiated. These submissions were made by learned Counsel for the Applicants.
4. Learned P.O. argued that till 23.9.2009, 5% Group 'C' & Group 'D' posts in the State Government were required to be filled from Project Affected Persons. However, there was no

horizontal reservation for P.A.Ps. and as per Govt. Circular dated 13.9.2000, lists of P.A.Ps. were maintained by the Collectors in each districts and direct appointments were given to P.A.Ps. up to 5% of the vacancies in Group 'C' & 'D' cadres. However, Hon'ble High Court (Aurangabad Bench) in W.P. nos. 5266/2008, 6100/2008 & 7175/2008 by judgment dated 9.7.2009, held that P.A.Ps. cannot be appointed directly without the posts being advertised. In the present case, advertisement was issued on 5.10.2008 and there was no question of reserving 5% posts horizontally for P.A.Ps.

5. It is quite clear that on the date of advertisement dated 5.10.2008, no horizontal reservation was provided for P.A.Ps. or Earthquake Affected Persons. These OAs are misconceived and the Applicants are not eligible to be granted any reliefs. These OAs are dismissed accordingly with no order as to costs.

MEMBER (J)

VICE CHAIRMAN