

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 713 OF 2012

DIST. : OSMANABAD

Pandit Tukaram Fawade,
Age. 41 years, Occ. Nil
R/o C/o Sanjay Churmure Niwas,
Ahilyabai Holkar Nagar, Arvi,
Tq. & Dist. Latur.

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APPLICANT

VERSUS

1. The State of Maharashtra,
Through the Secretary,
Revenue Department,
Mantralaya, Mumbai . 32.

2. The District Collector,
Collector Office, Osmanabad.

3. Member Secretary,
District Selection Committee,
Osmanabad & Resident Dy. Collector
Osmanabad.

4. Baliram Shivappa Hangarge,
Age. 42 years, Occu. Nil,
R/o at & post Trikoli, Tq. Omerga,
Dist. Osmanabad.

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RESPONDENTS

APPEARANCE : Shri R.P. Adgaonkar, learned Advocate for
the applicant.

: Shri M.P. Gude, learned Presenting Officer for
respondent nos. 1 to 3.

: Shri S.N. Patne, learned Advocate for
respondent no. 4 (absent).

CORAM : HON'BLE SHRI RAJIV AGARWAL, VICE CHAIRMAN
AND
HON'BLE SHRI J. D. KULKARNI, MEMBER (J)

J U D G M E N T**(Delivered on this 13th day of December, 2016)**

1. The applicant Shri Pandit Tukaram Fawade and the respondent no. 4 Shri Baliram Shivappa Hangarge have participated in the process of recruitment for the post of Talathi in response to the advertisement dated 2.3.2012. As per the clause no. 5 of the said advertisement, the upper age limit for the graduate candidates of Anshkalin Karmachari category was 45 years. The applicant and the res. no. 4 applied from the category of Anshkalin Karmachari and have taken the benefit of enhanced upper age limit for the said post.

2. Admittedly, after due process of selection, the select list was published on 9.4.2012 and in the said select list the res. no. 4 was shown as a selected candidate, whereas the applicant was shown at sr. no. 3 in the wait list. Consequent to the said selection, the res. no. 4 has been appointed as a Talathi. The applicant has challenged the selection of res. no. 4 and has claimed that the selection of res. no. 4 be declared as illegal, since he is not possessing three years experience of serving as Anshkalin Karmachari and, as such, he is not eligible for enhanced upper age limit. It is submitted that the applicant be declared as selected on his own merits for the post of Talathi and that the select list dated 9.4.2012,

so far as selection of res. no. 4 is concerned, published by res. no. 3, be quashed and set aside.

3. The res. nos. 1 to 3 have resisted the claim and submitted that there was clerical and arithmetical mistake in the experience certificate of the res. no. 4. The res. no. 4 has completed 3 years service as Anshkalin Karmachari. The para 7 of the said reply is as under :-

“7. As regards para no. 8 of the application, that the contents are denied, I say and submit that as the calculation of period mentioned in the certificate in the favour of the respondent no. 4 is as under (from the period of 5.7.1995 to 30.6.1998 which is mentioned in the certificate.)

- 1. Month of July, 1995 to December, 1995 = 06 months***
- 2. Month of January 1996 to December,1996= 12 months***
- 3. Month of January,1997 to December,1997= 12 months***
- 4. Month of January, 1998 to June, 1998 = 06 months”***

4. So far as merit is concerned, it is stated that the applicant got 142 marks, whereas the res. no. 4 secured 150 marks. The select list showing the marks obtained by the different candidates is placed on record at Annex. A.4.

5. Heard Shri R.P. Adgaonkar, learned Advocate for the applicant and Shri M.P. Gude, learned Presenting Officer for respondent nos. 1 to 3. Shri S.N. Patne, learned Advocate for respondent no. 4 remains absent and in spite of granting of ample opportunities he has not filed reply to the matter. We have also perused the application, affidavit, affidavit in reply and various documents placed on record.

6. There is no dispute of the fact that the applicant and the res. no. 4 applied from Anshkalin Karmachari category and are claiming benefit of age relaxation. Clause 5 of the advertisement dated 2.3.2012 shows that the candidates, who have 3 years experience of working as Anshkalin Karmachari are entitled for the benefit of upper age limit of 45 years. According to the applicant, the res. no. 4 has not worked as Anshkalin Karmachari for 3 years and, therefore, he cannot take the benefit of the enhanced age limit of 45 years. If this contention of the applicant is accepted, then the res. no. 4 may not be eligible for relaxation in the age limit.

7. The copy of the certificate of experience in respect of res. no. 4 is placed on record at paper book page 40. The upper portion of the said certificate dated 8.11.1999 shows that the res. no. 4 has worked as Anshkalin Karmachari during the period from 5.7.1995 to 30.6.1998. Though the said period comes 5 days less to 3 years, it is mentioned in

the said certificate that the res. no. 4 has worked as such for 510 days in the office of Talathi, Sajja Mulaj. In the later part of the said certificate, this period from 5.7.1995 to 30.6.1998 seems to have shown as 2 years and 10 months and this seems to be totally incorrect calculation. It is material to note that for Anshkalin Karmachari it is necessary to work for 15 days in a month for 4 hours. This can be seen from the G.R. dated 19.3.1998, copy of which is placed on record and kept as document ~~xyz~~ The learned P.O. submits that, if this calculation is considered, then the res. no. 4 has worked for 455 days and not 510 days.

8. The respondent nos. 1 to 3 in para 5 of the reply affidavit have stated that, there was clerical and arithmetical mistake in the experience certificate of res. no. 4 and the said certificate is properly considered by the res. nos. 1 to 3 and it is seen that the res. no. 4 has worked for the period of 3 years as Anshkalin Karmachari. We do not find any difficulty in accepting this contention of the learned P.O.

9. If it is considered that the Anshkalin Karmachari has to work for 15 days in a month, the res. no. 4 must have worked for 540 days during the period of 3 years and, therefore, it cannot be said that the res. no. 4 was wrongly considered for the post.

10. So far as merit is concerned, there is no dispute that the applicant got 142 marks, whereas the res. no. 4 has secured 150 marks and, therefore, on merits the res. no. 4 stands ahead of the applicant and was rightly taken in the select list, whereas the applicant has been rightly placed in the wait list. We do not find any merits in the present O.A. and, therefore, we pass following order :-

ORDER

The O.A. stands dismissed with no order as to costs.

MEMBER (J)

VICE CHAIRMAN