

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
AURANGABAD BENCH, AURANGABAD**

ORIGINAL APPLICATION NO. 597 OF 2012

DISTRICT : JALGAON

Manohar s/o Devram Deore,
Age : 35 years, Occupation: Nil,
R/o. Plot No. 6, Gat No. 95/3-B,
Behind Shadawadi Jain Temple,
Near Rajini Floor Mill, Jalgaon.

....APPLICANT

VERSUS

1. The State of Maharashtra,
Through it's Secretary,
Home (Transport) Department,
Mantralaya, Mumbai-32.
2. The Commissioner of Transports,
Administrative Building, 4th Floor,
Government Colony, Vandre (East),
Mumbai – 400 051.

.....RESPONDENTS

APPEARANCE : Ms. Madhavi Ayyappan holding for Learned
Advocate Shri S.B. Talekar, for the Applicant.

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

CORAM: HON'BLE SHRI RAJIV AGARWAL, VICE CHAIRMAN (A)

AND

HON'BLE SHRI J.D. KULKARNI, MEMBER (J)

DATE : 21-10-2016.

O R D E R

(Per : Shri Rajiv Agarwal (Vice-Chairman))

Heard Advocate Ms. Madhavi Ayyappan holding for
Learned Advocate Shri S.B. Talekar, for the Applicant and Shri
N.U. Yadav, learned Presenting Officer for the Respondents.

2. The Applicant is seeking appointment as Assistant Motor Vehicle Inspector (AMVI) pursuant to his selection by the Maharashtra Public Service Commission (the Respondent no. 2) for the post by letter dated 25.5.2006.

3. Learned Counsel for the Applicant argued that the Respondent no. 2 had issued an advertisement for selection to the post of AMVI on 25.5.2005. The Applicant participated in the selection process and was recommended by the Respondent no. 2 for appointment from OBC category. The Applicant was informed accordingly by the Respondent no. 2 by letter dated 25.5.2006. Learned Advocate for the Applicant stated that though the Applicant was recommended by the Respondent no. 2 for appointment to the post of AMVI, the Respondent no. 1 has not issued the appointment letter to the Applicant. As per the Recruitment Rules for the post of AMVI, a candidate is required to have a driving licence to drive a Motor Cycle, Light Motor Vehicle (LMV), Heavy Goods Vehicle (HGV) and Heavy Passenger Motor Vehicle (HPV). However, if a candidate has one of the licence either for HGV or HMV, he can acquire the another one during the probation period, after appointment. Learned Advocate for the Applicant argued that the Applicant had licence for Motor Cycle and LMV. He also had licence for both HGV and HPV. However,

the Respondent no. 1 raised issued regarding his HGV licence unnecessarily. The Applicant had acquired LMV licence on 13.07.2000 and he had paid necessary fee of Rs. 80/- on 7.7.2000. He was given HGV licence on 5.10.2002. This is evident from the reports of Deputy Regional Transport Officer (Dy. R.T.O.), Jalgaon. On 22.3.2007, Assistant R.T.O., Jalgaon, reported to Dy. R.T.O., Jalgaon that the Applicant was given HPV licence on 9.12.2002. Dy. R.T.O., Jalgaon submitted a detailed report to the Transport Commissioner, Maharashtra State, Mumbai, on 23.3.2007. It is reported that the Applicant got driving licence for Motor Cycle on 8.10.1999. On that licence, by endorsement dated 13.07.2000, LMV licence is granted. There was some overwriting in the original records regarding date on which LMV licence was granted to the Applicant. The date was 13.7.2002, which was changed to 13.7.2000. However, it is seen that the Applicant paid necessary fee of Rs. 30/- for LMV licence on 7.7.2000. Also on the original licence granted to the Applicant, the date is 13.7.2000 and there is no overwriting. The applicant was given HGV licence on 5.10.2002 and that entry matches with the receipt of licence fee of Rs. 80/- paid by the Applicant. Learned counsel for the Applicant contended that the Applicant had LMV licence on 13.7.2000 and HGV licence on 5.10.2002. The original objection that the Applicant could not have acquired HGV licence within

one year of obtaining LMV licence was evidently invalid. Learned Advocate for the Applicant stated that another objection that the Applicant had not given any details of the authorized Motor Driving School where he has obtained training to drive a Heavy Goods Vehicle is also covered in the report of Deputy R.T.O., Jalgaon dated 16.07.2010. It is mentioned that entry regarding non-training of the Applicant in any authorized Motor Driving School may be due to mistake of employees of the School or the mistake of the employee of the Dy. R.T.O's office. Learned Advocate for the Applicant argued that this issue is pending with the Respondents for almost ten years now. There is no doubt that the Applicant was fully qualified to be appointed to the post of AMVI.

4. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that the driving licence of the Applicant were verified through Dy. R.T.O. Jalgaon, who gave report on 20.10.2006. It is clearly mentioned in that report that in the office records there were overwriting and the date of endorsement of LMV driving licence granted to the Applicant was 7.3.2002, which was scored off and 7.3.2000 was recorded. The endorsement fee of Rs. 15/- by receipt no. 551/14512 is dated 7.3.2002. This clearly establishes that the Applicant obtained LMV driving licence on

7.3.2002 and not on 7.3.2000. Learned Presenting Officer stated that as per Rules, HGV licence cannot be granted unless one year has elapsed from the date of grant of LMV certificate. In the licence of the Applicant, endorsement for HGV licence is 19.10.2002, i.e. within three months of granting of LMV licence. Learned Presenting Officer stated that for grant of HGV licence, a person is required to give training certificate from an authorized Motor Driving School. However, the Applicant could not produce any evidence in this regard. In the records of Motor Driving Schools in Jalgaon, no entry regarding this was found. The receipt no. 358488/7170 dated 5.10.2002 regarding fee of Rs. 80/- for this licence, was in respect of licence no. 14910/98, while the Driving Licence number of the Applicant was MH-19/15249/99. This clearly shows that endorsement regarding HGV licence in the driving licence of the Applicant was bogus. Learned Presenting Officer argued that the Applicant was given a show cause notice dated 16.04.2007 to clarify these issued but no satisfactory reply is received from him. The Applicant is not eligible for appointment as AMVI as he had submitted false information about his HGV driving licence.

5. We find that the Applicant had himself submitted voluminous documents in this O.A.. Condition about driving

licence for various types of Mother Vehicles was given in para 4(2) of the Schedule-1 of the advertisement dated 25.5.2005 issued by the Respondent no. 2. It reads:-

“(१) सदर परीक्षेस अर्ज सादर करण्याच्या शेवटच्या तारखेस म्हणजेच दिनांक ६ जुलै २००५ रोजी मोटार सायकल, हलके मोटार वाहन, जड माल वाहतून वाहन आणि जड प्रवासी वाहतूक वाहन चालविण्याची कायमस्वरूपी वैध अनुज्ञप्ती (Licence) उमेदवाराने धारण करणे आवश्यक आहे.

(२) वर नमूद केल्याप्रमाणे जड मालवाहतूक वाहन किंवा जड प्रवासी वाहतूक वाहन यापैकी एखादेच वाहन चालविण्याची अनुज्ञप्ती (Licence) असणा-या उमेदवारास अशी अनुज्ञप्ती, नियुक्तीनंतरच्या परिविक्षा कालावधीमध्ये प्राप्त करणे बंधनकारक राहिल. परिविक्षा कालावधीमध्ये अशी अनुज्ञप्ती प्राप्त न करणा-या उमेदवारास सेवेतून कमी करण्यात येईल.”

6. A candidate was required to have on 6.7.2005 the following driving licences, viz.

(i) Motor Cycle, (ii) LMV, (iii) HGV and (iv) HPV. Out of HGV and HPV, if the Applicant had any one licence, the balance could be acquired during the probation period, in case a person was appointed as AMVI. The Applicant has claimed that he had LMV licence which was endorsed on his original driving licence for Motor Cycle No. MH-19/15249/99 on 13.7.2000. When the Respondent no. 1 verified this licence of the Applicant, by crosschecking with the office records maintained by Dy. R.T.O., Jalgaon, it was reported by Dy. R.T.O., Jalgaon on 20.10.2006 that in the office records, there were over writings. The date of

endorsement of LMV driving licence of the Applicant was 7.3.2002, which was scored off and date of 13.7.2000 was written. For driving licence of LMV, fee of Rs. 15/- was required to be paid. The counter foil of the receipt no. 551/14512, which is mentioned in the office records for granting LMV driving licence was paid on 7.3.2002 as per the record of entry regarding this driving licence. This appears to be clinching evidence that the Applicant was granted LMV driving licence on 13.07.2002 and not on 13.07.2000. Why Dy. R.T.O. chose to change his report subsequently, is a matter, which should be enquired into by the Respondent no. 1.

7. Now coming to the date of grant of HGV driving licence to the Applicant, as per office records, it was endorsed on 19.10.2002. The receipt no. 358488/7170 dated 5.10.2002 of Rs. 80/- for this endorsement was found in respect of driving licence no. 14910/98, while admittedly, the driving licence number of the Applicant is MH-19/15249/99. It is clear, that the endorsement on the driving licence of the Applicant for HGV was bogus. Another factor which establishes this fact is the report of Dy. R.T.O. Jalgaon, dated 23.3.2007. It is mentioned in the report that:-

“तरीसुध्दा श्री देवरे यांना जड मोटार वाहन संवर्गीतील पृष्ठांकनाचे वेळी ज्या मोटार ट्रेनिंग स्कुलमधून प्रशिक्षण घेतले असेल, त्या स्कुलचे नाव अथवा त्यावेळचे कोणती शासकिय फी भरणा केली असेल त्याविषयीचा काही पुरावा असल्यास तो सादर करणेविषयी दिनांक ८.३.२००७ रोजी पत्र दिले होते. त्यानुसार त्यांनी ९.३.२००७ रोजी श्री देवरे यांनी उत्तर दिले आहे. त्या उत्तरानुसार श्री देवरे यांना त्यांनी ज्या प्रशिक्षण संस्थेमधून प्रशिक्षण घेतले होते त्या मोटार ट्रेनिंग स्कुलचे नांवही आठवत नाही असे लेखी दिले. तसेच पृष्ठांकनावेळची शासकिय फी भरलेची पावतीही त्यांना सापडत नसून ते सादर करू शकत नाही असे कळविले आहे.

तरीसुध्दा अजून चौकशी करण्याचे उद्देशाने दिनांक १३.३.२००७ रोजी सहा. प्रादेशिक परिवहन अधिकारी श्री. धात्रक यांना ज्या ज्या ड्रायव्हिंग स्कुलमध्ये एच.जी. व्ही. चे प्रशिक्षण दिले जाते, त्या सर्व स्कुलना भेट देउन फॉर्म १४/१५ तपासून अहवाल सादर करणेविषयी निर्देश दिले होते. त्यानुसार त्यांनी २०.३.०७ रोजी अहवाल सादर केला. त्यानुसार त्यांनी येथील सर्व मोटार ड्रायव्हिंग स्कुलना प्रत्यक्ष भेट देउन फॉर्म १४/१५ तपासले. परंतु कोणत्याही स्कुलमध्ये श्री देवरे यांना जड मोटार वाहन संवर्गासाठीचे प्रशिक्षण दिल्याची नोंद आढळून आली नाही. असा अहवाल त्यांचेकडून प्राप्त झाला आहे. या सर्व बाबीचे अवलोकन केल्यानंतर एच. जी.व्ही. चे पृष्ठांकनाविषयी संशयाची धारणा पक्की झाली आहे. सोबत श्री धात्रक यांचा अहवाल व सर्व मोटार ड्रायव्हिंग स्कुलची पत्रे जोडलेली आहेत.”

8. It is quite clear that the Applicant could not give even the name of the authorized Motor Driving School, where he obtained training to drive HGV, nor could be produce receipt for the fee paid by him for obtaining HGV licence. Dy. R.T.O., Jalgaon searched records of all authorized Motor Driving School in Jalgaon, and could not find any entry regarding Applicant in the records of any one of them.

9. The Applicant is relying on the report of Dy. R.T.O. dated 16.7.2010 which mentions as below:-

“ सबब केवळ जड वाहन संबर्गाच्या पृष्ठांकनाच्या पावतीची नांकद चुकीची आहे या एका बाबी मुळे श्री मनोहर देवराम देवरे यांची जड वाहन संबर्गाची पृष्ठांकनाची नोंद चुकीची ठरविणे अप्रस्तुत वाटते. सदर चुकीची नोंद कार्यालयीन कर्मचा—याच्या अथवा मोटार ड्रायव्हिंग स्कूलच्या कर्मचा—याच्या चुकीमुळे झाले असल्याची शक्यता आहे. श्री मनोहर देवराम देवरे यांनी जड वाहन चालविण्याचे कौशल्य आधिच आत्मसात केले असल्यामुळे ड्रायव्हिंग स्कूलच्या कर्मचा—याने अभिलेखात नोंद न घेता परस्पर नमुना क्र. ५ दिला असल्याची शक्यता आहे. त्यामुळे ड्रायव्हिंग स्कूलच्या अभिलेखात त्यांचा प्रशिक्षणाच्या नोंदी आढळून आल्या नसण्याची शक्यता आहे.”

Obviously, this does not satisfactory explains the discrepancies in the office records mentioned in earlier report of Dy. R.T.O., Jalgaon dated 23.03.2007 and it cannot be accepted.

10. The applicant was given a notice on 16.4.2007 by the Transport Commissioner, Maharashtra State, Mumbai (page 55 of the Paper Book). Though, the Applicant has appended a copy of this notice in the O.A., he has not enclosed his reply to this notice. He has managed to obtain copies of even the Cash Book maintained by Dy. R.T.O., Jalgaon. It was claimed during the hearing that this was obtained under the Right to Information Act. However, he could not produce any material to show that he obtained copies of Cash Book in an authorized manner. Even when he could access all sorts of information from the office of

Dy. R.T.O., Jalgaon, the Applicant has not been able to give a satisfactory reply to notice dated 16.4.2007. It is clear that HGV certificate produced by the Applicant is not genuine and as regards the LMV certificate there are overwritings in the office records regarding the date on which it was granted to him. Considering all these facts, we are not inclined to interfere in this matter.

11. Having regard to the aforesaid facts and circumstances of the case, this O.A. is dismissed with no order as to costs.

**J.D KULKARNI
(MEMBER. J)**

**RAJIV AGARWAL
(VICE-CHAIRMAN)**

KPB - DB OA NO. 259/2001 SENIORITY RA