

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

**MISC APPLICATION NO. 72 OF 2022
IN
ORIGINAL APPLICATION NO 832 OF 2021
WITH
ORIGINAL APPLICATION NO 832 OF 2021**

DISTRICT : PUNE

Ganesh Hanumant Girankar,)
Occ :Unemployed, Add:Deulgaon Raje,)
Pune 413801.)...**Applicant**

Versus

1. The State of Maharashtra)
Through the Secretary,)
Women & Child Development Dept,)
Mantralaya, Mumbai 400 032.)
2. The M.P.S.C,)
Through its Secretary,)
5, 6, 7th floor,)
Cooperage Telephone Exchange Bld,)
M.K Marg, Mumbai 400 021.)...**Respondents**

Shri S.V Waghmare, learned advocate for the Applicant.

Ms Swati Manchekar, learned Chief Presenting Officer for the Respondents.

**CORAM : Justice Mridula Bhatkar (Chairperson)
Mrs Medha Gadgil (Member) (A)**

DATE : 14.02.2022

PER : Justice Mridula Bhatkar (Chairperson)

J U D G M E N T

1. The applicant prays that he should be given the benefits of reservation of Orphan category as per G.R dated 23.8.2021, for

Maharashtra Civil Engineering Services Main Examination for the post of Assistant Engineer (Civil) pursuant to advertisement dated 30.9.2019.

2. Learned counsel for the applicant submitted that the applicant appeared for the examination on 24.11.2019. He has cleared the said examination. So he was called for the interview on 13.10.2021. The result of the said examination was declared on 12.2.2022.

3. Learned counsel for the applicant submits that when the applicant filled up the Application Form on 14.10.2019 he was not eligible as per the definition of 'Orphan'. However, as per the G.R dated 23.8.2021, the definition of 'Orphan' is made wide and therefore, the applicant is now eligible as he is covered under the wide definition of 'Orphan'. Learned counsel for the applicant submitted that the said G.R is made applicable retrospectively since 2.4.2018, if the result of the examination is not declared till then. Thus, learned counsel for the applicant submits that the case of the applicant is squarely covered under this G.R dated 23.8.2021.

4. Learned C.P.O states that there are three departments, viz. Irrigation Department, Public Works Department and Soil and Water Conservation Department. The provisional result of the examination was declared on 12.2.2022 and choice was given to all the successful candidates to give their choice of post. Learned C.P.O submits that the name of the applicant is appearing in the O.B.C category as he has secured 246 marks. However, the applicant wants to change his category from OBC to Orphan and the reservation for Orphan is provided only at two places, i.e.

Assistant Engineer (Civil) in Soil & Water Conservation and Assistant Engineer (Civil) in P.W.D.

5. Learned C.P.O on instructions submits that till today nobody is recommended by the M.P.S.C for the post of Assistant Engineer (Civil) against reserved category of Orphan as nobody is qualified as per the percentile system. However, the applicant has acquired the necessary percentile. Learned C.P.O further submits that the case of the applicant cannot be considered by M.P.S.C because M.P.S.C does not allow the shifting from one category of reservation which is chosen by the applicant to other category of reservation.

6. We have considered the submissions and so also gone through the clauses of G.R dated 23.8.2021, especially clause 9, which specifically states that this G.R is applicable from the date of the G.R, which is 23.8.2021, to the candidates who have appeared for the examination, however, the results of the said examinations are not declared after 2.4.2018.

7. The result of the examination for which the applicant has appeared for the post of Assistant Engineer (Civil) for the 2019 Examination, admittedly was not declared and the provisional result was declared on 12.2.2022. Thus, the G.R dated 23.8.2021 is applicable retrospectively to the present applicant. As per the said G.R, the definition of Orphan is extended to children who have lost their parents, but they were brought up and looked after by their relatives, are also included in the definition of Orphan. Learned counsel for the applicant submitted that the applicant has produced Certificate of Orphan at page 64, dated 8.10.2021, issued by Deputy Commissioner, Women and Child Welfare, Pune Division, Pune.

8. Thus two posts of Assistant Engineer (Civil) are reserved for Orphan category in the selection process for Maharashtra Civil Engineering Services Main Examination pursuant to advertisement dated 30.9.2019. The effect of the G.R dated 23.8.2021 is required to be given effect retrospectively so that the G.R can be implemented in its true letter and spirit.

9. Thus, we allow the Original Application and direct the Respondent-MPSC to consider the candidature of the applicant in reserved category of Orphan for the 2019 Examination for the post of Assistant Engineer (Civil) and if at all he is not selected for the 2019 Examination or appointment is not given, then M.P.S.C to treat the application of the applicant under the reserved category of Orphan if he clears the 2020-Examination. Then he is to be considered for the post of Assistant Engineer (Civil), Group-A in P.W.D and he be allowed to choose either of the post in view of the hierarchy.

10. In view of the above both the Misc Application No. 72/2022 and O.A 832/2021 stands disposed of.

Sd/-
(Medha Gadgil)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 14.02.2022
Dictation taken by : A.K. Nair.