

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

MISC. APPLICATION NO.194 OF 2018 IN ORIGINAL APPLICATION NO.277 OF 2018

DISTRICT:

Dr. Mohan Apparao Jadhav)
Age: 54 years, Occu: Deputy Director Health Service, Mumbai.)
R/O:- Swastik, Building no.4/4/20)
Sir J.J. Hospital Campus Byculla)
Mumbai – 400 008.)**....Applicant**

Versus

1. The Principal Secretary,)
Public Health Department,)
Mantralaya, Government of Maharashtra.)
2. The Secretary,)
Maharashtra Public Service Commission)
M.T.N.L. Building, 5 & half, 7th and 8th Floor,)
Near Cooperage Ground, Mumbai-32.)**...Respondents**

Dr. Gunratan Sadavarte, the learned Advocate for the Applicant.

Smt. Archana B.K., the learned P.O. for the Respondent No.1.

Shri A.A. Desai, the learned Advocate for the Respondent No.2.

CORAM : Justice Shri A.H. Joshi, Chairman
Shri P.N. Dixit, Member (A)

Reserved on : 07.05.2018

Pronounced on : 11.05.2018

PER : Justice Shri A.H. Joshi, Chairman.

ORDER

1. Heard Dr. Gunratan Sadavarte, the learned Advocate for the Applicant, Smt. Archana B.K., the learned P.O. for the Respondent No.1 and Shri A.A. Desai, the learned Advocate for the Respondent No.2.

2. Heard both sides.

3. By this Misc. Application, Applicant has prayed for following relief:-

“b. That this Hon. Tribunal may kindly be pleased to direct to state authority/MPSC to initiate appropriate enquiry/complaint as permissible in law for misuse of office and considering the recurring cause arised i.e. tampering/forget from of applicant by the MPSC officers.

c. That this Hon. Tribunal may kindly be please to squash and set aside, the selection process on the sole ground of malafied (i.e. criminal conduct) prejudiced, arbitrary exercises which arised out of injustice to backward class applicant.”

(quoted from page no.5 of the M.A.)

4. In so far as prayer clause (c) is concerned, it needs to be dealt with while considering merits of O.A. Therefore, while deciding the M.A., prayer clause (b) alone is being considered.

5. The foundation of present Misc. Application is Applicant’s plea and belief which is summarized as below:-

- (a) Copy of Applicant’s application which is exhibit ‘B’ at page no.8,9 and 10 is true and genuine copy of the application form submitted by the Applicant in the process of applying online for the post of subject matter.
- (b) The document replied upon by the Respondent is exhibit ‘C’, claiming to be the application form submitted by the Applicant.
- (c) The text contained in exhibit ‘C’ consists of numerous discrepancies or omissions when the text is compared with text as seen from exhibit ‘B’ at page 8,9 & 10.
- (d) These discrepancies have occurred due to fabrication of Applicant’s application by the M.P.S.C. with object of eliminating Applicant’s candidature in the process of short listing.
- (e) The conduct of the officer of M.P.S.C. consists of criminal nature and enquiry is necessary, which be ordered.”

6. Applicant has narrated/described the discrepancies which are perceived by him in the text relied upon by M.P.S.C. revealing from exhibit ‘C’ (page no.11,12 & 13 of M.A.) in the tabulated form at page no.2 of the M.A.

7. We have perused the averments describing the discrepancies pleaded by the Applicant.

8. Crucial question for our consideration is as to whether alleged tampering results in adversely affecting Applicant's eligibility after Applicant's reckoning length of service after Applicant acquired Master's Degree in Medicine i.e. after 1991.

9. We have compared the text contained in page nos. 9 and 10 with the text seen at page no.13, it is evident each entry about narration of experience and actual working narrated by the Applicant relating to period of service which is incorporated by the Applicant included in the narration contained at page no.13.

10. The Applicant's emphasis is that the total or aggregate of period of service after eligibility rendered by him as narrated at page no.10 to be 24 years, 11 months and 11 days is not shown in page no.13. The figure of total of experience is not contained in page no.13 is a matter of record.

11. It is also seen from page no.12 that the noting of calculation done / worked out by the M.P.S.C. is seen at the bottom of page no.12. Said entry/writing reveals '14.07.2016' as date when calculation was done. The period of service claimed by the Applicant was initially calculated to 18 years, 4 months and 21 days and the said calculation is cancelled by putting lines across those figures and fresh calculation is written which is 21 years, 11 months & 12 days.

12. Thus the documents at page nos.11,12 and 13 does not emerge to be a creation of recent origin.

13. Moreover, the description spells of experience written at page no.10 and details of experience written at page no.13 do not differ. It emerges that Page nos.8 to 13 have to be taken in to consideration as one documentation. Page nos.8 to 10 are the first part of the application form, while the page nos.11 to 13 contain the Applicant's profile.

14. Though Applicant's case is that the details seen in the profile which is at page nos.11 to 13 are created by the M.P.S.C., Applicant has not pleaded or shown as to how could M.P.S.C. collect the information with minute details as is are seen included in column numbers 2 to 7 of the table at page no.13.

15. These are the minute details which had to be filled in by Applicant and these must have been actually filled in by the Applicant himself, lest his profile could never have become complete. Had the Applicant taken full printout, he would not have labored under misbelief. Applicant's direction of deductive logic seems to have got misdirected.

16. Moreover, these documents show that the calculation of experience done by staff of M.P.S.C. is dated 14.07.2016 as is evidenced from the calculation which is at page no.12.

17. It is not the case of Applicant that the calculation of experience evident from page nos.11 to 13 of M.P.S.C. was done by some of the employee of the M.P.S.C. with dishonest intention of causing loss to the Applicant, and that too during pendency of any of the Original Applications.

18. The Applicant had and even now he has a choice of filing proper application with proper averments be it that Applicant continues to persist on his belief that criminal intention exists on the part of any particular officer of M.P.S.C. The averments in present M.A., as those stand are based on doubts and are speculative and do not stand to the need of taking action whatsoever.

19. Hence present Misc. Application does not deserve cognizance and is rejected.

(P.N DIXIT)
MEMBER (A)

(A.H. JOSHI, J.)
CHAIRMAN

sba