

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 39 OF 2013

DISTRICT : SANGLI

1. Miss Nilawati Keshaw Sale,)
R/o: Shivaji Peth, Vithal Mandir,)
Jath 416 404.)
2. Miss Jayshree Shivappa Kore,)
R/o: Basweshwar Mandir Road,)
Jath, House No. 179, Ward No. 1,)
Jath, Tal-Jath, Dist-Sangli.)
3. Mr Rajendra Vithoba Bansole,)
R/o: Shivaji Peth, Near Kanase Wada))
Jath.)
4. Miss Laxmi Pandurang Jadhav,)
R/o: Khan Bhag, Tiware Galli,)
Sangli.)...**Applicants**

Versus

1. The State of Maharashtra)
Through Principal Secretary, [Services])
General Administration Department)
Mantralaya, Mumbai.)
2. The District Collector,)
Sangli and Chairman, District)
Selection Committee,)
Collectorate Office, Rajwada Chowk,)
Sangli.)...**Respondents**

Shri Manoj Sawardekar, learned advocate for the Applicants.

Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

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

DATE : **12.10.2021**

PER : **Justice Mridula Bhatkar (Chairperson)**

J U D G M E N T

1. Heard Shri Manoj Sawardekar, learned advocate for the Applicants and Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents

2. The applicant is a beneficiary of Part time workers' scheme (अंशकालीन) and working in Sangli District. He challenges the advertisement dated 23.12.2009 in respect of filling up the posts of Class-III & IV in the establishment of Sangli Collectorate.

3. It is the case of the applicants that the advertisement dated 23.12.2009 is issued against the directions given in the Government Resolution dated 1.8.2003, and they further claim that though the case of the applicants is covered under the G.R dated 1.8.2003, they could not get the benefits of the services which they had put in for more than 3 years as a Part time workers (अंशकालीन). The applicants further pray that the said advertisement issued in Daily Pudhari on 23.12.2009 be quashed and set aside. Learned counsel for the applicants submitted that as per G.R dated 29.11.2001, a person who has worked for a period of 3 years as Part time worker (अंशकालीन), his age limit is also

to be increased and those persons are to be absorbed in the regular employment. Similarly, if at all the examinations are conducted for filling up the posts, then the persons who have rendered the services as Part time workers (अंशकालीन), they are to be given 2% more marks for every year, which is up to maximum of 5% by including the same in the total marks secured by such employees. Learned counsel for the applicants submitted that the Respondents have filled up all the posts of Class-III like Clerk and Talathis in the establishment of Sangli Collectorate from open category by issuing the impugned advertisement dated 23.12.2009. He submitted that the applicants have also participated in the said examination conducted by the Respondents. But the applicants are not aware of their results. Learned counsel for the applicants therefore claim that the applicants should be given appointment now.

4. The affidavit in reply dated 20.8.2016 is filed on behalf of Respondent no. 2, by Abhijeet M. patil, working as Tahsildar in the office of the Tahsildar, Jath, Dist-Sangli, thereby denying all the contentions raised by the applicants in the Original Application.

5. Learned P.O while opposing this application has submitted that not only the prayers made are time barred but the application was also filed very late. She further has submitted that in the said advertisement dated 23.12.2009 the Respondents have specifically reserved 10% of the posts for Part time workers (अंशकालीन) which is mentioned in the affidavit in reply of the Respondent-State. She further submitted that till today all the posts are filled up as per the said advertisement and hence no relief can be granted.

6. Perused the relevant G.Rs and the advertisement. At the outset, we hold that the reliefs and the application have become infructuous as all the posts are filled up by the Respondent-State. It is to be noted that the applicants have challenged advertisement dated 23.12.2009 by filing the present Original Application on 7.1.2014. Thus right from the beginning the prayers made by the applicants were in fact infructuous. So also the applicants were not successful in securing the interim relief in their favour.

7. The advertisement discloses that the Respondents have mentioned in the said advertisement that posts for Part time workers (अंशकालीन) were reserved. In the affidavit in reply filed by Respondent no. 2, it is further clarified that the Respondents have kept 10% of the posts reserved for part time workers (अंशकालीन) and thus 20 posts out of total 98 posts were reserved for Part time workers (अंशकालीन) and those posts are filled up from the said quota only.

8. Thus, it is obvious that the applicants could not get through the examination and could not succeed in the examinations and therefore, they have challenged the examination and recruitment process. The applicants could not point out specifically what exactly was contravened or any law laid down by the Hon'ble Supreme Court is breached by the Respondents in respect of not keeping reserved posts for Part time workers (अंशकालीन). Moreover, it is not the case of the applicants that they have secured the marks which were just less than 2% or 4% and they could have reached the cut-off marks by giving them benefit of the scheme of adding 2% to 5% marks as per G.R dated 7.1.2014.

9. On query made to the learned counsel for the applicants on this point, he submitted that the applicants have applied for the

results under R.T.I. However, that is not provided. Such oral submissions cannot be satisfactory. It was necessary for the applicants to substantiate their claim by producing the copies of service of application made to the Respondents under R.T.I. The oral submission made by the learned counsel for the applicants cannot support in any manner the case of the applicants.

10. We find no merit and substance in the Original Application and the same is dismissed.

**Sd/-
(Medha Gadgil)
Member (A)**

**Sd/-
(Mridula Bhatkar, J.)
Chairperson**

**Place : Mumbai
Date : 12.10.2021
Dictation taken by : A.K. Nair.**