

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

ORIGINAL APPLICATION 559 OF 2015

DISTRICT : JALGAON

Smt Mayadevi Himmatrao Khairnar,)
Occ : Nil, At post Kingaon (bk),)
Tal : Yawal, Dist-Jalgaon 425 318.)...**Applicant**

Versus

1. The Secretary,)
Water Resources Department,)
Mantralaya, Mumbai.)
2. The Superintending Engineer,)
[Doors], Madhywarti Sankalpchitra)
Sanghatana [Darvaze],)
Va Parimandaliya Adhikari,)
Nasik Parimandal, Nasik Circle,)
Dindori Road, Nasik.)
3. The President,)
Regional Selection Committee &)
Chief Engineer, North Maharashtra)
Region, Water Resources Department)
Nasik.)...**Respondents**

Shri S.D Dhongde, learned advocate for the Applicant.

Smt Deepali S. Deshpande, learned Presenting Officer for the Respondents.

**CORAM : Shri Rajiv Agarwal (Vice-Chairman)
Shri B.P Patil (Member) (J)**

DATE : 16.08.2017

PER : Shri Rajiv Agarwal (Vice-Chairman)

ORDER

1. Heard Shri S.D Dhongde, learned advocate for the Applicant and Smt Deepali S. Deshpande, learned Presenting Officer for the Respondents

2. This Original Application has been filed by the Applicant, who had applied for the post of Civil Engineering Assistant (C.E.A) in Water Resources Department. The Applicant has challenged communication dated 30.5.2015 issued by the Respondent no. 2 on the ground that she did not have educational qualification for the post of Civil Engineering Assistant and there was no provision of relaxation of educational qualification of the physically handicapped persons.

3. Learned Counsel for the Applicant argued that the Applicant suffers from 60% disability. She holds qualification of H.S.C and Diploma in Civil Draftsman course. The

Respondent no. 2 had issued advertisement no. 2/2011 to fill up 101 posts of Civil Engineering Assistant. 5 posts were reserved for physically handicapped persons. As per G.R issued by Public Works Department on 13.8.2008, Civil Draftsman course is equivalent to the Civil Engineering Assistants course. As such, the Applicant was holding qualification for selection to the post of Civil Engineering Assistant. The Applicant was, however, held to be not having requisite educational qualification. The Applicant made a complaint to the Commissioner for Persons with Disabilities, Maharashtra State, Pune, who directed the Respondent no. 2 to relax the educational qualification of the Applicant in terms of office Memorandum dated 29.12.2005, issued by the Department of Personnel & Training, Government of India. On that count also, the Applicant was eligible to be selected for the post of Civil Engineering Assistant.

4. Learned Presenting Officer (P.O) argued that the Water Resources Department has notified Recruitment Rules for the post of Civil Engineering Assistant. By G.R dated 15.12.2011, two years course of Civil Draftsman of I.T.I has been deleted and is not recognized as equivalent to Civil Engineering Assistant's course. As Department of Water Resources has its own Recruitment Rules, G.R dated 13.8.2008 issued by Public Works Department is not applicable. Learned Presenting Officer argued that by judgment dated 3.10.2014 in O.A no 442/2014, Mumbai Bench of this Tribunal has held that recruitment to the post of Civil Engineering Assistant in Water Resources Department

would be in accordance with the Recruitment Rules of that Department only.

5. As regards order of the Commissioner for Persons with Disability dated 23.9.2013, learned Presenting Officer argued that the order is based on wrong reading of Office Memorandum dated 29.12.2005. As per this O.M, relaxation in degree of disability is permissible but not in educational qualification. The Applicant has been informed accordingly by impugned communication dated 30.5.2015.

6. We find that the Applicant's case is based on two premises, viz (a) that her qualification of Civil Draftsman course should be treated as equivalent to course of Civil Engineering Assistant, and (b) as a person with disability, she is entitled to relaxation in educational qualifications under O.M dated 29.12.2005 of Government of India. This Tribunal (Mumbai Bench) by judgment dated 3.10.2014 in O.A no 442 of 2014 has held that for appointment as Civil Engineering Assistant in Water Resources Department, course of Civil Draftsman is not recognized and a person having that qualification will not be eligible to be appointed as Civil Engineering Assistant. We are unable to take any different view and this claim of the Applicant has to be rejected.

7. Coming to the aspect of relaxation in educational qualification of persons with disabilities, it is true that Commission for Persons with Disabilities, Maharashtra State, Pune has passed an order dated 23.9.2013 directing the Respondent no. 2 to grant relaxation in educational

qualification to the Applicant. However, relaxation is subject to the fitness of these candidates for appointment to the post. We are of the opinion that the Respondent no. 2 has correctly interpreted Office Memorandum dated 29.12.2005 and issued impugned communication dated 30.5.2015 to the Applicant.

8. Having regard to the aforesaid facts and circumstances of the case, this Original Application is dismissed with no order as to costs.

Sd/-
(B.P Patil)
Member (J)

Sd/-
(Rajiv Agarwal)
Vice-Chairman

Place : Aurangabad
Date : 16.08.2017
Dictation taken by : A.K. Nair.