

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 672 OF 2020

DISTRICT : MUMBAI

1. Shri Firoj Harun Shaikh,)
R/at Post Sakat, Tal-Barshi,)
Dist-Solapur,)
2. Mr Suhas Sudam Dhokale,)
R/at Post Bawchi, Tal-Walva,)
Dist-Sangli.)...**Applicant**

Versus

1. The State of Maharashtra)
Through the Secretary,)
Urban Development Department,)
Mantralaya, Mumbai.)
2. The Director of Municipal)
Administration, Mumbai.)
C/1, Sir Pochkhanawala Rd,)
Municipal Colony, Worli, Shiavaji)
Nagar, Worli, Mumbai 400 030.)
3. The Director/Officer in charge,)
Maharashtra Information Technology)
Corporation Ltd, Room no. 514,)
5th floor, Annexe Bldg,)
Hutatma Rajguru Chowk,)
Mantralaya, Mumbai.)...**Respondents**

Smt Vaishali Jagdale, learned advocate for the Applicants.

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

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

DATE : 28.03.2023

J U D G M E N T

1. The applicants pray that the Respondents be directed to select and appoint the applicants to the post of Auditor and Accountant, Class-III Grade-C.

2. Learned counsel has submitted that the applicants applied to the post of Auditor and Accountant, Class-III Grade-C, pursuant to the advertisement dated 5.4.2018 for 422 posts. Learned counsel for the applicants has submitted that the Respondents wanted to fill up total 22 posts out of which 191 were reserved for open category. Learned counsel has submitted that the applicants cleared the preliminary examination and the result of the Main Examination was declared on 19.11.2018. Applicant No. 1 had secured 70 marks and Applicant no. 2 secured 69.50 marks, while the cut-off was 71.50 marks. Therefore, the applicants were not selected. 10 posts are reserved for disabled persons. Apart from these 10 posts, as on today, 5 posts are vacant. Learned counsel for the applicants has submitted that though they secured less marks than the cut-off marks, but they are above the percentile.

3. Learned counsel for the applicants has pointed out that five persons namely Shashikant B. Bombe, Mayur V. Mandlik, Ankush S. Karande, Vyankatesh S. Ghodke and Chetan S. Dhanavade, joined the service and later on resigned and thus there are still five post vacant, wherein the applicants can be accommodated. Learned counsel for the applicants has submitted that the five person who have resigned, their names appear in the revised merit list and further the 10 posts of disabled are also appearing in the revised merit list. Learned counsel for the applicants submitted that the names of five persons should have been dropped from the

revised merit list as they have already resigned prior to the publication of the revised merit list.

4. Learned C.P.O submitted that out of 191 posts, 12 are kept for Physically Handicapped Persons. 7 posts were kept for the employees who have worked in the Municipal Councils from open category. Finally, 172 posts were available for open category. Out of 172 posts, 11 persons did not join and 5 persons who joined earlier, resigned. Thus, there were in all 16 posts. Learned C.P.O has submitted that 13 persons who were already appointed and working, their names were not in the revised merit list. However, they were required to be accommodated as per the order of the Tribunal dated 24.6.2022 in O.A 207/2022. One candidate was eligible in the revised result from open category. Therefore, 14 posts were available, which were filled up and only two posts are vacant. Learned C.P.O further has submitted that the applicant no. 1, stood at Sr No. 8 and applicant no. 2 at Sr. no. 13 in the select list. However, the applicants could not be accommodated because there are other candidates above them who have secured more marks than the applicants. Learned C.P.O has further submitted that requisition is already sent to the Urban Development Department and these two posts are shown as fresh vacancies. As all the candidates were below the cut-off marks the Department did not consider the name of any candidate who have cleared the examination but not reached the cut-off marks for appointment.

Learned C.P.O confirms that five persons who joined the service and resigned, their details are given below:-

- 1) S.B. Bombe, joined on 7.1.2019 and resigned on 11.9.2019.
- 2) M.V Mandlik, joined on 7.1.2019 and resigned on 30.9.2019.

- 3) A.S Karande, joined on 8.1.2019 and resigned on 4.1.2020.
- 4) V.S Ghodke, joined on 8.1.2019 and resigned on 4.1.2020.
- 5) C.S Dhanavade, joined on 3.1.2019 and resigned on 10.2.2020.

5. In this recruitment process the first list was published and it was revised on the basis of the order dated 24.6.2022 passed by this Tribunal in O.A 207/2022. The said order was not challenged. So the mandate of the said order is in force. The M.P.S.C has fixed the bench mark of cut-off marks. The applicants admittedly could not reach upto that. The fact that there are other candidates who have secured more marks but they were not considered by MPSC on the ground that they are below the cut-off marks. Moreover, the facts and figures which are placed before us by the Respondents are explanatory and reasonable. We do not find any illegality in the procedure. Moreover, the proposal for the new recruitment is also sent by M.P.S.C to the Government, wherein the two vacancies are included. Under such circumstances, the applicants cannot be accommodated in the selection process.

6. In view of the above, we find no substance in the Original Application and the same stands dismissed.

Sd/-
(Medha Gadgil)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai
Date : 28.03.2023
Dictation taken by : A.K. Nair.