

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 693 OF 2022

DISTRICT : NANDED

Shri Arjun Ramkrishnrao Tarke)
Occ: Service, R/at Post-Kiwla, Tal-Loha)
Kiwala, Nanded – 431707)...**Applicant**

Versus

1. The State of Maharashtra,)
Through the Secretary,)
General Administration Department,)
Mantralaya, Mumbai 400 032.)

2. The Secretary,)
Maharashtra Public Service)
Commission, 5th, 7th & 8th floor,)
Cooperage Telephone Exchange Bldg)
M.K Road, Cooperage,)
Mumbai 400 021.)...**Respondents**

Shri S.S Dere, 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 : 22.07.2022

PER : Justice Mridula Bhatkar (Chairperson)

J U D G M E N T

1. The applicant prays that the Respondent No. 2, M.P.S.C be directed to allow the applicant to fill the examination form for the Main Examination pursuant to the advertisement dated 28th June, 2022, for the post of Clerk-cum-Typist.

2. Learned counsel for the applicant submits that Respondent no. 2 issued advertisement dated 21.12.2021 for the Preliminary Examination for Group-C Combined Examination for the post of Clerk-cum-Typist. As per clause no. 7.8.1 and 7.8.2 of the said advertisement dated 21.12.2021, extension of two years is given to the persons with disability and Ex-servicemen respectively to obtain the qualification in Typing from the date of their appointment.

3. Learned counsel for the applicant further submitted that the applicant cleared the Preliminary Examination. However, he received the message on his profile while filling the on-line application on 11.7.2022 that he cannot be considered eligible for the Main Examination on the ground that he does not hold the necessary qualification in Computer Typing. Learned counsel for the applicant submits that the applicant is a Graduate from Yeshwantrao Chavan Maharashtra Open University, which is recognized by the State of Maharashtra. He submits that the last date of acceptance of the form for the Main Examination is 14.7.2022. Learned counsel submits that he has fortunately come across the G.R dated 7.7.2022 issued by G.A.D, wherein the candidates falling in the category of Orphan are given concession in acquiring the necessary qualification in Computer Typing, that

is within two years and two chances from the date of appointment. Learned counsel for the applicant submits that the applicant is an Orphan and therefore, he should be given the benefits of the said G.R dated 7.7.2022, as the last date of filling the on-line application for the Main Examination is 14.7.2022, i.e., before the date of the G.R. Learned counsel for the applicant on this point relied on the terms and condition No. 7.7.1 of the advertisement dated 21.12.2021. Learned counsel for the applicant submitted that the applicant has secured 24 marks while the cut-off marks for Orphan is 15.75 marks.

4. Learned C.P.O, while opposing the Original Application, on instructions from Shri Sunil Awatade, Joint Secretary, M.P.S.C, submits that benefit of the G.R dated 7.7.2022 cannot be given to the present applicant because the date of the advertisement for the Preliminary Examination was 21.12.2021 and at the relevant time no extension of time given for obtaining the qualification in computer typing for Orphans and the benefit of the G.R dated 7.7.2022 cannot be made applicable retrospectively. The applicant was not holding the necessary qualification in Computer Typing at the relevant time and therefore the decision taken by M.P.S.C is correct and therefore he cannot be allowed to appear for the Main Examination. Learned C.P.O submits that the selection process is governed by the legal position on the date of issuance of the advertisement.

5. It is true that the Rules which are prevailing on the date of the issuance of the advertisement or the law which is in force at that time are applied for the process of selection. In the present case, the applicant admittedly is an Orphan and he does not hold the requisite qualification in Computer Typing. However, he has filled up the applicant form for the examination irrespective of the

fact that he was not holding qualification in Computer Typing. The applicant otherwise would have been ineligible as per the message received by him through the on-line application system while filling the on-line form on 11.7.2022. However, coincidentally, the State of Maharashtra has issued G.R dated 7.7.2022 and took a policy decision of giving concessions to Orphans who are appearing for the examination for Government services in Class-III posts that they can secure the necessary qualification in Computer Typing in two years and two chances from the date of the appointment.

6. We have considered Clause nos 7.7.1 and 7.7.2 of the advertisement dated 21.12.2021, wherein it says that the qualification in Computer Typing can be acquired/held by the candidate till the last date of filling up the form for the Main Examination. The last date of filling up the form was 14.7.2022. The G.R was introduced on 7.7.2022 and the communication of rejection was received on 11.7.2022. As the communication dated 11.7.2022 is after the G.R dated 7.7.2022 and so also the last date of filling up the Form for the Main Examination was 14.7.2022, that is also after the G.R dated 7.7.2022, hence the applicant can be given benefit of the G.R without giving retrospective effect to the said G.R. Moreover, the applicant has prayed that he may be allowed to appear for the Main Examination which is going to be held on 6.8.2022 and 13.8.2022.

7. In view of the above, we pass the following order:-

- (a) The Original Application is allowed.
- (b) The Respondent no. 2, M.P.S.C is directed to open the on-line link and accept the application form of the applicant and allow him to appear for the Main Examination pursuant to

advertisement dated 28.6.2022 for the post of Clerk-cum-Typist.

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

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

**Place : Mumbai
Date : 22.07.2022
Dictation taken by : A.K. Nair.**

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