

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.82 OF 2020

DISTRICT : PARBHANI

Smt Angha Narayanrao Agnihotri)
Age : 32 years, Residing at Village Pathri,)
Tal. Pathri, District Parbhani) **.. Applicant**

Versus

1. State of Maharashtra,)
Through its Secretary,)
Revenue and Forest Department,)
Mantralaya, Mumbai 32)

2. Chairman and Collector,)
Sindhudurg District Selection)
Committee, Sindhudurg,)

3. Kum. Minaj Tajuddin Biradar)
Aged Adult, residing at Village)
Dafalpur, Tal. Jat, Dist. Sangli)

4. Kum. Tarannum Chand Shaikh)
Aged adult, residing at village)
Warse, Tal. Roha, Dist. Raigad) **..Respondents**

Smt. Punam Mahajan, learned Advocate for the Applicant.

Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

Shri Iqbal Qureshi, learned Advocate for the Respondent No. 4

**CORAM : JUSTICE MRIDULA R. BHATKAR, CHAIRPERSON
MEDHA GADGIL, MEMBER (A)**

DATE : 24.04.2023.

J U D G M E N T

1. The Applicant challenges the final selection list dated 05.12.2019 published by the Respondents and also prays that the appointment orders dated 20.12.2019 and 19.12.2019 of Respondent Nos. 3 & 4 respectively also be quashed and set aside and the Applicant be given appointment to the post of Talathi.

2. Learned Advocate for the applicant submits that the Respondents published advertisement dated 25.2.2019 thereby inviting applications for the post of Talathi. The applicant and Respondent Nos. 3 & 4 have applied in EWS female category. As per the advertisement, out of four posts, three posts of Talathi were reserved for EWS female category. Learned counsel for the applicant submits that thereafter Respondents conducted written examination on 21.7.2019 and the provisional select list was published on 8.11.2019. The provisional select list was subject to process of verification of documents. Learned counsel for the applicant has submitted that the candidates were called for verification of documents on 15.11.2019. The applicant is having the E.W.S Certificate dated 19.3.2019, which is between 12.2.2019 and 22.9.2019. The Respondent nos. 3 & 4 are holding E.W.S Certificate dated 11.11.2019 and 19.11.2019 respectively. Thus, Respondents no 3 & 4 are holding the E.W.S Certificate after the cut off date, i.e., 22.9.2019. Learned counsel for the applicant has submitted that as the Respondents no 3 & 4 were not having the E.W.S Certificate on the cut-off date as per G.R dated 12.2.2016, they should not have been appointed to the post of Talathi. Learned counsel for the applicant further submitted that the applicant and Respondent no. 3 secure 134 marks, while Respondent no. 4 secured 148 marks. However, as Respondent no. 3 is senior by age than the applicant, she was selected and appointed. Learned counsel for the applicant submitted that as per G.R. dated 12.02.2019, the Respondents no 3 & 4 should possess the EWS certificate on or before 22.09.2019.

3. Learned counsel for the applicant has relied on the judgment of the Hon'ble Supreme Court in VIKAS PRATAP SINGH & ORS Vs. STATE OF CHATTISGARH & ORS (2013) 14 SCC 494.

4. We directed the learned C.P.O to verify the position, apart from the affidavit in reply and the documents filed by the Respondents dated 28.9.2022, through District Collector, Sindhudurg. Learned C.P.O informs that there was some confusion in counting the six months period as E.W.S category was newly introduced reservation category. However, learned C.P.O, on instructions from the office of the Collector, Sindhudurg informs that as on today one post of Talathi in E.W.S category is vacant. Learned counsel Mr Iqbal Quershahi for Respondent no. 4, could not argue on the point of the date of the E.W.S Certificate. Thus, we go as per the record and we find that the applicant was erroneously not considered for appointment to the post of Talathi, Sindhudurg in E.W.S category.

5. We have gone through the judgment in the case of VIKAS PRATAP SINGH (supra). It was with regard to the selection process for the post of Subedar, Platoon Commanders and Sub-Inspectors. The first merit list was cancelled and therefore the appellants have approached the Hon'ble Supreme Court. The Supreme Court held that the decision of the re-evaluation by the Respondent-Board was a valid decision which could not be said to have caused any prejudice to the appellants or to the candidates selected who suffer on account of re-evaluation. However, the Hon'ble Supreme Court allowed the appointments of the appellants placing them at the bottom of the said list.

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

(a) The Original Application is allowed.

- (b) The Respondent no. 1 is directed to appoint the applicant to the post of Talathi within two weeks, i.e., on or before 10.5.2023.
- (c) The applicant is to be placed in the seniority list above Respondents no 3 & 4, subject to passing further required departmental examination, if any, as per rules.
- (d) The applicant is entitled to notional pay from the date of appointment. However, she is not entitled to get pay from the date of appointment on the principle of 'No Work - No Pay'.

Sd/-
(Medha Gadgil)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place : Mumbai

Date : 24.04.2023

Dictation taken by : A.K. Nair.