

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**ORIGINAL APPLICATION NO 884 OF 2017**

**DISTRICT : THANE**

Shri Sandeep Changdeo Thoke, )  
Working as Library Attendant, )  
Ismail Yusuf College, Jogeshwari, )  
Mumbai. R/o: Room No. 8, )  
Chawl No. 10, Balaji Colony, )  
Near Chetana School, Malang road, )  
Kalyan [E], Dist-Thane 421 906. )...**Applicant**

**Versus**

1. The Director, )  
Higher Education, M.S, )  
Central Bldg, Pune. )
2. The Joint Director of Higher )  
Education, Mumbai Division, )  
Office in the compound of )  
Elphinstone Technical School )  
3, Mahapalika Marg, )  
Mumbai 400 001. )
3. The Principal, )  
Ismail Yusuf College, )  
Jogeshwari, Mumbai 400 060 )...**Respondents**

Shri U.V Bhosle, learned advocate for the Applicant.

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

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

**DATE : 01.02.2024**

### **J U D G M E N T**

1. The applicant prays that this Tribunal be pleased to hold and declare in the light of his qualifications that he is entitled for being considered for promotion to the post of Assistant Librarian as per provisions of G.R dated 10.7.1996, as has been done in the case of Shri D.D Chakre from Amravati Division.

2. Learned counsel for the applicant has submitted that the Government took a policy decision to fill in vacant posts reserved for backward class communities vide G.R dated 2.8.2011. Accordingly, advertisement was issued for the post of Library Attendant on the establishment of Respondent No. 3. Applicant applied for the said post and after selection he was appointed as Library Attendant in Ismail Yusuf College, Jogeshwari, Mumbai and he joined on 4.6.2012. Learned counsel for the applicant has further submitted that as per G.R dated 10.7.1996, the post of Assistant Librarian can be filled in by promotion as well as by nomination. Learned counsel for the applicant has submitted that no recruitment rules are in existence for the post of Assistant Librarian. Learned counsel submitted that the applicant is holding Degree in M.A, B. Ed, B. Lib and M. Lib. Learned counsel has further submitted that he seeks promotion to the post of Assistant Librarian on the basis of his qualification and also on the basis of

G.R dated 10.7.1996. Learned counsel for the applicant submits that the Recruitment Rules dated 17.9.1971 are not for Higher Education Department and he relied on the letter dated 17.8.2007 of the Director, Higher Education, written to the Regional Joint Director, Higher Education, Kolhapur Division, Kolhapur, wherein the G.R dated 10.7.1996 is referred. It is stated therein that the employees working in the Colleges, if at all holding the educational qualification which is prescribed for the eligibility by nomination, then they are entitled to be appointed to the post of Assistant Librarian by promotion as per their seniority.

3. Learned P.O relies on the affidavit in reply dated 18<sup>th</sup> September, 2018, of Dr Rohidas B. Kale, In-charge Joint Director, Higher Education Department, Mumbai Region, Mumbai, and pointed out that the department by order dated 28.8.2018 held that the promotion of Shri D.B Chakre to the post of Assistant Librarian was on account of breach of the rules and therefore, he is reverted to the earlier post of Library Attendant. Therefore, the analogy which is applicable to the applicant of Shri Chakre is not available. Learned P.O further submitted that by letter dated 3.2.2018 the Director, Higher Education, Mumbai, informed the college of the applicant that the applicant Shri Thote belongs to OBC category and no post was available in the year 2018 in the category of OBC and therefore he cannot be transferred and promoted to the post of Assistant Librarian in the quota of Scheduled Caste, vacant at the relevant time. Moreover, the post of Assistant Librarian is to be filled in by direct recruitment and nomination and not by way of promotion. Learned P.O relied on the affidavit in reply dated 24.12.2014 filed by Dr Haibhau B. Shinde, Joint Director in the office of Joint Director of Higher Education, Mumbai Region, Mumbai. Learned P.O relied on the Unified Recruitment Rules dated 17.9.1971 for the posts of

Librarians and Assistant Librarians. Learned P.O while countering the submissions of the learned counsel for the applicant with regard to letter dated 17.8.2007, stated that the G.R dated 10.7.1996 does not pertain to Government servants, but it is applicable only to Non-Agriculture University and associated Non-Government Colleges. Thus, this G.R cannot be made applicable for appointment to the post of Assistant Librarian even if it is mentioned that promotional avenue is open for them.

4. The relevant Rule 47 of the Unified Recruitment Rules dated 17.9.1971 is reproduced below:-

“Recruitment Rule for the posts of Librarians and Assistant Librarians.

Appointment to the posts shall be made by nomination from among candidates who, unless already in the service of the Government of Maharashtra, are not more than 25 years of age, and possess-

- i) at least a degree of a recognized University; and
- ii) A diploma in Librarianship

Provided that the age-limit may be relaxed in the case of a candidate possessing good qualification and/or experience.

2. The selected candidates shall be required to pass an examination in Hindi according to the prescribed rules.”

5. Thus, it is clear that the post of Assistant Librarian/Librarian cannot be filled up by way of promotion. The avenue of promotion is not available, but it is only by way of nomination.

6. In view of the above, we find no merit in the Original Application and the same is accordingly dismissed.

**(Medha Gadgil)**  
**Member (A)**

**(Mridula Bhatkar, J.)**  
**Chairperson**

**Place : Mumbai**  
**Date : 01.02.2024**  
**Dictation taken by : A.K. Nair.**