

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION No. 668 of 2020 (D.B.)**

Manojkumar S/o Nagorao Hedao,  
Aged: 56 years, Occu.: Service as Assistant Professor,  
Govt. Engineering College, Amravati,  
R/0.25, Shri Vikas Colony, Rukhmini Nagar, Amravati.

**Applicant.**

**Versus**

- 1) The State of Maharashtra, through its Secretary,  
Higher and Technical Education Department,  
Mantralaya, Mumbai - 400032.
- 2) The State of Maharashtra,  
Through its Secretary, General Administration Department,  
Mantralaya, Mumbai - 400032.
- 3) Government Engineering College,  
Amravati, District-Amravati, through its Principal.

**Respondents.**

---

**Shri A.R. Ingole, Advocate for the applicant.  
Shri S.A. Sainis, P.O. for respondents.**

---

**Coram :- Hon'ble Shri Justice M.G. Giratkar,  
Vice Chairman.**

**Dated :- 01/03/2024.**

---

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

Heard Shri A.R. Ingole, learned counsel for the applicant  
and Shri S.A. Sainis, learned P.O. for the respondents.

2. The regular Division Bench is not available. The Hon'ble  
Chairperson, M.A.T., Principal Bench, Mumbai issued Circular  
No.MAT/MUM/JUD/469/2023, dated 24/04/2023. As per the direction

of Hon'ble Chairperson, if both the parties have consented for final disposal, then regular matter pending before the Division Bench can be disposed off finally.

3. As per the M.A.T., Principal Bench, Mumbai office order / letter No.MAT/MUM/JUD/1350/2023, dated 21/11/2023, the Hon'ble Chairperson, M.A.T., Principal Bench, Mumbai has given direction to this Tribunal to decide the Division Bench matters if the matter is covered by the Judgments of Hon'ble Supreme Court, Hon'ble High Court and the Benches of the M.A.T. etc. Hence, the matter is heard and decided finally with the consent of learned counsel for both the parties.

4. The case of the in short is as under –

The applicant was appointed on the post of Lecturer in Civil Engineering Department of respondent no.3 on 05/01/1996. The applicant was appointed in Open category as per the appointment order dated 05/01/1996. The respondents have treated him in the reserved category i.e. S.T. (Halba). Therefore, the applicant approached to this Tribunal by filing the O.A.No.338/2004. This Tribunal has held in para-12 that “we hold that the impugned Circular dated 06/09/2002 relegating the applicant's position in merit from 3 to 22 by placing him as appointed from the category of S.T. and not

Open is without any legal basis and hence it deserves to be struck down.”

5. As per the contention of the applicant that the applicant is to retire in the month of March,2024. The respondents have issued impugned order dated 31/12/2019 by which the appointment of applicant is shown on supernumerary post for 11 months because the applicant had not produced caste validity certificate.

6. It is submitted by the applicant that this Tribunal has already recorded its findings that the applicant should have been considered in the Open category, but the respondents have not considered the same. The proposal was submitted by respondent no.3 to respondent no.2 as per letter dated 24/09/2020. But till date respondent no.1 has not decided the grievances of the applicant. Hence, the applicant approached to this Tribunal for the following reliefs –

*“(9) (i) Hold and declare that the Government Resolution dated 21.12.2019 (Annexure-A6) issued by respondent no.2-General Administration Department of the State of Maharashtra is not applicable to the case of the applicant, as the appointment of applicant is in Open category without relaxation in the recruitment rules;*

*(ii) Issue an appropriate order or directions to quash and set aside the impugned order dated 31.12.2019 received on 19.03.2020 passed by respondent no.1-State of Maharashtra, through its Secretary, Higher and Technical Education Department, Mantralaya, Mumbai (Annexure-A5);*

*(iii) Direct the respondents to forthwith comply with the judgment and order dated 26.09.2014 passed by this Hon'ble Tribunal in Original Application No.338/2004;*

*(10) (i) Stay the effect and operation of the impugned order dated 31.12.2019 received on 19.03.2020 passed by respondent no.1-State of Maharashtra, through its Secretary, Higher and Technical Education Department, Mantralaya, Mumbai which the (Annexure-A5) by which the applicant appointed on supernumerary post of 11 months, till the decision of original application in the interest of justice;*

*ii) ad-interim relief in terms of prayer clause (i) above;*

7. The O.A. is strongly opposed by respondent nos.1 to 3. It is submitted that the applicant was appointed in S.T. category. The applicant could not produce Caste Validity Certificate of S.T. (Halba) and therefore his post was kept on supernumerary for 11 months. Therefore, the applicant cannot claim that he should be considered in the open category. Hence, the O.A. is liable to be dismissed.

8. During the course of argument the learned counsel for applicant has pointed out the Judgment of this Tribunal in O.A.No.338/2004. That O.A. was filed by the applicant himself. In that O.A., it was the contention of the applicant that he was wrongly shown in the reserved category. Para-12 of the Judgment is reproduced below –

*“(12) From the above it is seen that there is a clear provision to allow a candidate, who does not have the prescribed professional experience, to obtain such experience within 5 years of his appointment. The consequences of not doing so are also provided in the proviso. In our clear view by no stretch of imagination can this provision be deemed to be a relaxation in the conditions of eligibility. Hence*

*there is no valid ground to lower the applicant's position in merit. We also find that the applicant had fulfilled the above conditions fully by submitting his experience certificate. In view of the above, we hold that the impugned circular dt. 6/9/2002 relegating the applicant's position in merit from 3 to 22 by placing him as appointed from the category of ST and not Open is without any legal basis and hence it deserves to be struck down. Hence we pass the order as follows:-*

*(a) The O.A. stands allowed.*

*(b) The impugned circular dt. 6/9/2002 is quashed and set aside.*

*(c) The respondents will maintain the applicant's position as per the original select list on the basis of selection by MPSC by considering that he was selected without granting any relaxation in the Recruitment Rules.*

*(d) There is no order as to costs."*

9. As per the Judgment in O.A.No.338/2004 specific direction was given to the respondents by quashing the impugned circular dated 06/09/2002 that the respondents shall maintain the applicant's position as per the original select list on the basis of selection by MPSC by considering that he was selected without granting any relaxation in the recruitment rules. In the said Judgment, it is held that the applicant was wrongly shown in the S.T. category. He should have been shown in the Open category.

10. It was duty of the respondents to comply the order. Nothing is on record to show that the Judgment in O.A. No.338/2004 is challenged before the Hon'ble High Court. The learned counsel for applicant has pointed out the proposal submitted by respondent no.3 dated 24/09/2020. From the perusal of this proposal, it appears that

the proposal was submitted by respondent no.3 to respondent no.1 stating that the applicant be shown in Open category instead of reserved category, but till date the respondents have not considered the same. This Tribunal has already held in O.A.No.338/2004 that the appointment of applicant should have been in the Open category and should not have been in the reserved category. Therefore, the following order is passed –

**ORDER**

- (i) The impugned order dated 31/12/2019 is hereby quashed and set aside.
- (ii) The respondents are directed to treat the applicant in Open category as per the Judgment passed by this Tribunal in O.A.No.338/2004 and after superannuation shall pay all the pensionary benefits to the applicant.
- (iii) The O.A. is disposed of.
- (iv) No order as to costs.

**Dated** :- 01/03/2024.

dnk.

**(Justice M.G. Giratkar)**  
**Vice Chairman.**

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 01/03/2024.\*