

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.274/2018. (D.B.)

Laxmikant Sambhaji Khade,
Aged about years,
Occ- Service,
R/o Plot No.19, C/o Sudhakar Kawade,
Shivshakti Nagar, Chikhali Road, Nagpur-34.

Applicant.

-Versus-

- 1) The State of Maharashtra,
Through its Secretary,
Department of Public Health,
Mantralaya, Mumbai-400 032.
- 2) The Maharashtra Public Service Commission,
Through its Secretary,
Cooprej Telephone Exchange Building,
Maharshi Karve Marg, Cooprej,
Mumbai-21.

Respondents

Shri N.R. Saboo, the learned counsel for the applicant.
Shri P.N. Warjekar, the learned P.O. for respondents.

**Coram:-Shri Shree Bhagwan, Vice-Chairman and
Shri Anand Karanjkar, Member (J)**

Judgment is reserved on 25th April 2019.

Judgment is pronounced on 26th June 2019.

JUDGMENT

(Delivered on this 26th day of June 2019.)

Per:-Member J)

Heard Shri N.R. Saboo, the learned counsel for the applicant and Shri P.N. Warjekar, the learned P.O. for the respondents and perused the documents filed on record.

2. The respondent No.2 published advertisement No. 47/2014 dated 7.2.2014 for filling 10 posts of Chief Administrative Officer, General State Service, Group-A. As per the advertisement, candidate must possess a degree or any other qualification recognized by the Government equivalent to a degree and must possess executive or administrative experience or both for a period not less than 7 years, gained after acquiring educational qualification, in a Government Department, Commercial Concern, Local Authority or a Corporation or Board established by the Government. According to the applicant, he was possessing educational qualification and experience as per the advertisement. Therefore, he submitted application under quota reserved for OBC (General) category. The applicant was called upon to appear for screening test. Thereafter, interviews were conducted.

3. The applicant received communication dated 13th May 2015 from respondent No.2 by which the respondent No.2 raised doubt about eligibility of the applicant. The applicant attempted to

satisfy the officials of respondent No.2. It was informed by the applicant that he was holding educational qualification and required experience as per advertisement, but it was in vain and the respondent No.2 did not accept the submission of the applicant and held that the applicant was not qualified to apply for the post. Being aggrieved by this decision of respondent No.2, the present O.A. is filed by the applicant.

4. The applicant is placing reliance on the judgment in case of **Sub-Inspector Rooplal and another V/s Lt. Governor through Chief Secretary, Delhi and others reported in (2000) 1 SCC 644** and a judgment in case of **R.S. Bhat V/s Gujarat Public Service Commission and others in Special Civil Application No.7580/2000 decided on 29.1.2016 by Gujarat High Court.** It is submission of the applicant that the applicant was in service of the Government, he worked as Surveyor from 21.9.2006 to 7.7.2009, then as Senior Clerk from 9.6.2009 to 17.1.2012, then as Talathi from 18.1.2012 to 31.5.2015 and Sr. Clerk from 31.5.2012 to 7.2.2014. It is submission of the applicant that, his duty as Surveyor and Senior Clerk was in supervisory capacity and his duty as Talathi was in clerical capacity and by serving on all these four posts, he had sufficient administrative experience as contemplated in the

advertisement. It is submitted that without considering this aspect, the respondent No.2 mechanically held that the applicant was not possessing an experience as per advertisement and, therefore, this approach of the respondent No.2 was contrary to law.

5. The respondent No.2 submitted reply which is at page 43. The respondent No.2 had justified its action on the ground that one of the candidates viz. Shri S.G. Kale had filed O.A. No. 497/2015 in Maharashtra Administrative Tribunal at Mumbai seeking direction in similar situation. In that matter, order dated 1.9.2015 was passed. The respondent No.2 prepared a list on the basis of marks obtained in screening test. Accordingly, the respondent No.2 called opinion of the Government about experience of 62 candidates including the applicant. The Government gave its opinion on 3.5.2017 and it was informed by the Government that the applicant was rightly held ineligible as he was not possessing requisite administrative experience as per advertisement.

6. We have perused Exh.R-3. The copy of application submitted by the applicant in pursuance of advertisement, it is at page 62. On page 63, experience details are given by the applicant which are as under:-

- (i) In the office of Taluka Inspector of Land Records, designation as Surveyor from 21.9.2006 to

7.7.2009

- (ii) The Govt. Polytechnic, Bramhapuri, designation as Sr. Clerk from 9.6.2009 to 27.1.2012.

After minutely reading the period of service in both the offices, it seems that the period of about one month is overlapping. It is mentioned that the applicant was in service in the office of Taluka Inspector of Land Records till 7.7.2009 and similarly it is mentioned that the applicant was in service of Government Polytechnic, Bramhapuri from 9.6.2009 to 27.1.2012. How it is possible that one person can be in service of two Govt. offices that too for a period of one month. Under these circumstances, *prima facie* it is clear that wrong information was given by the applicant while filling the application.

7. Secondly, the learned counsel for the applicant is harping and placing reliance on the judgment delivered by Gujarat High Court in case of **R.S. Bhat V/s Gujarat Public Service Commission and others in Special Civil Application No.7580/2000 decided on 29.1.2016** (supra). Here, we would like to point out that the Govt. of Maharashtra has framed the rules for regulating recruitment to the post of Chief Administrative Officer, Group-A, Administrative Officer, Group-B in State General Service in

the Directorate of Health Services under Public Health Department of Government of Maharashtra. The said rules are placed on record at Annexure R-2. As per Rule 3, Clause (b) (iii), a candidate must possess the executive or administrative experience or both for a period not less than 7 years, gained after acquiring educational qualification mentioned in sub-clause (ii) above in a Government Department, Commercial Concern, Local Authority or a Corporation or Board established by the Government.

8. Similarly, under clause-IV (b) (iii), following provision is made:-

“Possess experience in office administration for a period of not less than five years of which at three years experience should be in a supervisory capacity in a post comparable to that of Superintendent or Head Clerk under Government or under a Local Authority or Commercial establishment or a Corporation or Board established by Government.”

9. This experience mentioned in para 7 above is required to apply for a post of Administrative Officer, Group-B. As per requirement to apply for a post of Administrative Officer, Group-B, a person must possess experience in office administration for a period not less than five years, of which at least three years experience should be in a supervisory capacity in a post comparable to that of

Superintendent or Head Clerk under Government or under a Local Authority or Commercial establishment or a Corporation or Board established by Government. It is also clear that by the rules the post of Chief Administrative Officer, Group-A can be filled either by promotion of a suitable person from the cadre of Administrative Officer, Group-B or by nomination. After reading the qualification and experience prescribed for Group-A and Group-B Chief Administrative Officers, it seems that to apply for the post of Group-B Administrative Officer, minimum experience shall be 3 years service on the post of Superintendent or Head Clerk. In the present case, the applicant never worked on the post of Superintendent or Head Clerk. The post of Chief Administrative Officer, Group-A is promotional post in comparison to the post of Administrative Officer, Group-B. Therefore, definitely the required experience i.e. executive or administrative must be on a superior level. After reading the information in Exh. R.3 submitted by the applicant, he worked as Surveyor, Senior Clerk and the Talathi and all these three posts were below the rank of Superintendent and even the post of Head Clerk. If this criteria is applied, then inference is to be drawn that the service rendered by the applicant was not administrative work as contemplated in the rules. After considering these aspects and overlapping period of

service, i.e. wrong information submitted by the applicant in his application, we are compelled to say that the experience of the applicant serving as Surveyor, Senior Clerk and the Talathi was not a purely administrative work as contemplated under the rules and, therefore, the Government has rightly held that the applicant was not possessing required experience. In view of this discussion, we hold that there is no substance in the O.A. In the result, we proceed to pass the following order:-

ORDER

- (i) The O.A. stands dismissed.
- (ii) No order as to costs.

(Anand Karanjkar)
Member (J)

(Shree Bhagwan)
Vice-Chairman

Dt. 26th June 2019.

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