

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 282/2020
WITH CIVIL APPLICATION No.188/2020 (D.B.)

Vaibhav Ramesh Yadao,
aged about 28 years, Occ. Nil,
R/o Sushant Colony, Jawahar Nagar,
Navsari Road, Near Shiv Gajanan Temple,
Amravati – 04.

Applicant.

Versus

- 1) State of Maharashtra,
through its Principal Secretary (Transport),
Department of Home, Mantralaya, Mumbai-32.
- 2) Maharashtra Public Service Commission,
through its Chairman, 7 and 8th floor, Cooperage
Telephone Building, Maharshi Karve Road,
Cooperage, Mumbai-21.
- 3) Commissioner of Transport,
(Administration), Administrative Building,
4th floor, near Dr. Ambedkar Garden,
Govt. Colony, Bandra (East), Mumbai-51.
- 4) Vivek Vasant Shende,
aged 28 years, Occ. Nil,
Shindewadi, Tahsil Kagal, Dist. Kolhapur.

Respondents.

Shri R.V. Shiralkar, Advocate for the applicant.

Shri A.M. Ghogre, P.O. for respondent nos.1 to 3

Shri P.J. Mehta, Id. counsel for respondent no.4.

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

Date of Reserving for Judgment : 7th December,2020.

Date of Pronouncement of Judgment : 8th January,2021.

JUDGMENT

(Delivered on this 8th day of January,2021)

Per : Anand Karanjkar : Member (J).

Heard Shri R.V. Shiralkar, Id. counsel for the applicant, Shri A.M. Ghogre, Id. P.O. for respondent nos.1 to 3 and Shri P.J. Mehta, Id. counsel for respondent no.4.

2. The applicant is challenging the decision of respondent no.3, dated 30/01/2020. The facts in brief are as under –

3. It is case of the applicant that the advertisement was published by the respondent no.2 MPSC for filling the post of Assistant Inspector (Motor Vehicle). The applicant applied for the post of Assistant Inspector (Motor Vehicle) which was reserved for general open candidate in Sport quota. It is contended that the applicant was Soft Boll Player and he was possessing the expertise certificate. The applicant appeared in the preliminary examination and the main examination, he was successful. The applicant submitted verification report of Sport Certificate and his name was recommended by the respondent no.2 to the respondent no.1. It is contended that some candidates who were aggrieved by the result declared by the MPSC approached the Maharashtra Administrative Tribunal and ultimately

revised select list was prepared by the MPSC. In that list also the applicant was declared successful and consequently the MPSC recommended name of the applicant for the appointment on the post of Assistant Inspector (Motor Vehicle) to the respondent no.1.

4. It is grievance of the applicant that on 18/10/2019 the respondent no.3 issued show cause notice to the applicant why his recommendation should not be cancelled for the reason that the applicant was not possessing the verification of the Sport Certificate on the date mentioned in the advertisement. It is submitted that the applicant gave reply to the show cause notice and informed that his health was not good and due to family difficulties he was unable to apply for verification of the Sport Certificate to the Competent Authority before 15/7/2017. It was informed by the applicant that as per the letter, it was informed by the Deputy Secretary that as per corrigendum dated 18/8/2016, it was necessary for him to submit verification report of the Sport Certificate issued by the Competent Authority before his appointment. It is submitted that without considering all these aspects the respondent no.3 take decision that the applicant was not holding essential Sport Certificate as per the advertisement and consequently cancelled recommendation of his name.

5. It is contention of the applicant that production of the verification report of the sport certificate issued by the Competent Authority was not in control of the applicant, this condition in the advertisement was directory and it was not fault of the applicant. It is submitted by the applicant that in similar matters in O.A.No. 635/2018 decided on 19/11/2018, O.A.No.732/2018 decided on 4/1/2019, O.A.No. 554/2018 decided on 1/2/2019 relief was granted to the applicant and therefore the impugned order Annex-A-14, dated 30/1/2020 be quashed and set aside and direction be given to the respondent no.1 to issue appointment order to the applicant.

6. The respondent nos.1&3 have filed their reply which is at page no.122 of the P.B. It is contention of these respondents that the condition in the advertisement was inserted in terms of the G.R. dated 1/7/2016 and it was specifically informed to the candidates that they must possess the verification certificate issued by the Competent Authority relating to the Sport on or before 15/7/2017. It is contention of the respondents in the present matter the applicant himself was negligent, he did not apply to the Competent Authority before 15/7/2017 to verify his Sport Certificate. It is submitted that in O.A. on which reliance is placed by the applicant, the material fact was that the respective applicants had applied to the Competent Authority for verification of the Sport Certificate, but delay was caused by that

Authority and therefore view was taken that it was not in province of those applicants to secure the verification certificate, they did not commit default in applying for verification in time and consequently they were granted relief. It is contention of the respondent nos.1&3 though the applicant has relied on Corrigendum Annex-A-16, but in fact the applicant cannot take advantage of this Corrigendum for the reason that the Corrigendum is prospective and not retrospective.

7. It is submitted by the respondent nos.1&3 that the O.A. is without any merit and hence liable to be dismissed.

8. We have heard oral submissions on behalf of the applicant and the respondents. We have perused the documents on which the reliance is placed by both the sides. After perusal of the advertisements which are at Annex-A-2 and A-4. It is cleared that the conditions nos. 2.6,2.7 & 2.8 were incorporated in the advertisement as per the G.R. dated 1/7/2016. As per these conditions, in order to apply in Sport category, the candidate must possess the verification certificate issued by the Competent Authority. As per the advertisement the last date to submit the application was 15/7/2017. We have also perused the Corrigendum dated 11/3/2019. In para-6 of the Corrigendum, it is specifically cleared that the corrections made vide Paras-2 to 4 would apply since the date of issuing Corrigendum to the future recruitment process. After reading para-4, it seems that

decision was taken by the Government to repeal Clause nos. (viii), (ix), (x) and (xi) of para-6 in G.R. dated 1/7/2016. In view of this specific language of the Corrigendum, it is not permissible to accept that operation of this Corrigendum was retrospective.

9. We have perused the orders passed in O.A.Nos. 635/2018, 732/2018 and 554/2018. The Mumbai Bench framed the question whether the conditions contained in Clause no. 4 (v) of G.R. dated 1/7/2016 requiring the candidate to possess validation certificate regarding his participation in Sport before the last date fixed for submitting application amounts to denial of opportunity to apply for public employment. The Bench ultimately held that the imposition of condition of possession of certificate by candidate before the last date fixed for submitting application cannot apply to the candidates whose claim for verification or getting the Sport Certificate were pending before the Competent Authority and the candidate is not responsible for the delay.

10. It is important to note that in all the O.As. on which reliance is placed by the applicant, the facts were that those applicants had applied to the Competent Authority for verification of their Sport Certificates, but there was delay on the part of the Sport Authority to verify the Certificate and issue the report. In the present case, the matter is altogether different. Even in the reply to the show

cause notice dated 20/10/2019, it was candidly stated by the applicant as under –

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11. After reading this, it is clear that as per the advertisement the applicant was bound to possess the Certificate till 15/7/2017. Even as per the orders passed by the MAT, it was necessary for the applicant to apply to the Competent Authority for verification of his Sport Certificate before the closing date to submit his application and that date was 15/7/2017. It is undisputed that the applicant did not apply to the Competent Authority for verification of his Sport Certificate before 15/7/2017, but infact the applicant applied lateron. In O.A., it is contended that on 4/9/2017 the Sport Association verified the Certificate, i.e., Form no.3 and handed over it back to the applicant, then on 5/9/2017 the applicant approached the Deputy Director of Sports, Nagpur for the verification and report. On 6/9/2017, the Deputy Director of Sports, Nagpur verified the Sport Certificate and issued the report. The said report is at Annex-A-8. After considering this material, inference cannot be drawn that the Competent Authority or Sport Association had committed any default in issuing the

verification certificate to the applicant. On the contrary, no steps were taken by the applicant till 4/9/2017 for obtaining the verification report from the Competent Authority. In this regard, we would like to point out that the applicant himself was diligent and for his laches, he cannot blame the respondents. The legal position is settled that only on grounds of unemployment or poverty, provisions of law cannot be relaxed or diluted for giving relief to such person. In the present case, as the applicant has himself committed default, he did not apply in time to the Competent Authority for verification of Sport Certificate, therefore, in our opinion no relief can be granted to the applicant. Hence, the following order-

ORDER

The O.A. along with C.A. stand dismissed. No order as to costs.

(Anand Karanjkar)
Member(J).

(Shree Bhagwan)
Vice-Chairman.

***Dated** :- 08/01/2021.

dnk.

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 V.C. and Member (J).

Judgment signed on : 08/01/2021.

Uploaded on : 08/01/2021.

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