

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 428 OF 2014

DISTRICT : MUMBAI

Shri Ganesh Shegoji Warkhede,)
Occ : Service, R/o: Lonere,)
Tal : Mangaon, Dist-Raigad.)
Add for service of notice :)
Shri A.V Bandiwadekar, advocate)
Having office at 9, "Ram Kripa",)
Lt Dilip Gupte Marg, Mahim,)
Mumbai 400 016.)...**Applicant**

Versus

The Transport Commissioner,)
Having office at Administrative Bldg,)
Government Colony, Bandra [E],)
Mumbai 400 051.)...**Respondents**

Shri A.V Bandiwadekar, learned advocate for the Applicant.

Shri A.J Chougule, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

Shri R.B. Malik (Member) (J)

DATE : 29.03.2016

PER : Shri Rajiv Agarwal (Vice-Chairman)


ORDER

1. Heard Shri A.V Bandiwadekar, learned advocate for the Applicant and Shri A.J Chougule, learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicant challenging the order dated 9.10.2013 denying him appointment to the post of Assistant Inspector of Motor Vehicles (AMVI) for not producing a genuine certificate of experience required under the recruitment rules.

3. Learned Counsel for the Applicant argued that the Applicant has applied for the post of Assistant Motor Vehicles Inspector (AMVI) pursuant to the advertisement issued by the Maharashtra Public Service Commission (M.P.S.C) in the year 2011. The Applicant participated in the selection process and by letter dated 4.7.2012, he was informed by M.P.S.C that he has been recommended for selection to the post of AMVI and he was asked to fill the Attestation Form online and submit the same to the Government. The Applicant was called by the Respondent (Transport Commissioner), who is the appointing authority, to produce original documents of his previous

experience before issuing the appointment letter. The Applicant was asked on 27.2.2013 to explain the inconsistency in respect of his period of experience. The Applicant submitted his explanations on 1.3.2013 and 5.10.2013. However, by the impugned order dated 9.10.2013, he was informed that he had produced a different Certificate for his experience for the period 1.11.2000 to 31.12.2001 in 2003 when he appeared for M.P.S.C's Assistant Motor Vehicles Inspector Examination-2003 and now for the same period, another experience Certificate is produced. Learned Counsel for the Applicant argued that the impugned order is without authority and jurisdiction. The State Government had entrusted the job of selection of AMVI to M.P.S.C, who had recommended the Applicant. The State has no powers to verify documents, once the M.P.S.C has recommended the Applicant for appointment after verifying documents. Learned Counsel for the Applicant contended that M.P.S.C or State Government had not raised any doubts about the genuineness of the experience Certificate produced by the Applicant. This Certificate is not held to be bogus or false. The phrase 'full time employee' is not defined in the Recruitment Rules. On that basis, it is not proper to hold that the Applicant did not have requisite experience. There is no legal bar that a person, after his duty hours in the day, cannot work in the evening on full time basis. Learned Counsel for the Applicant stated that the Respondent did not make inquiries with the garages/workshops, where the Applicant had worked and submitted experience Certificate. Learned Counsel for the Applicant contended that his experience certificate was duly examined by the Interview



Committee, which had additional Transport Commissioner as one of the Members. It is, therefore, not proper to doubt the veracity of his experience certificate at a later stage.

4. Learned Presenting Officer (P.O) argued on behalf of the Respondent that the Applicant was recommended by M.P.S.C for appointment to the post of Assistant Motor Vehicle Inspector, pursuant to Assistant Motor Vehicles Inspector Examination, 2011. He had submitted experience Certificate showing that he had worked in Narayan Motors, Chandrapur from 1.1.2001 to 25.6.2002. Earlier, he had submitted experience Certificate in 2003 when he had appeared for AMVI Examination-2003, which showed that he had worked for the period from 1.11.2000 to 31.12.2001 in Sohan Auto Centre, Nagpur. These two Certificates showed that there were discrepancies which were almost impossible to reconcile. The Applicant's experience certificate was therefore not considered valid and it was held that he did not have requisite experience. Learned Presenting Officer contended that the Applicant was informed accordingly by impugned order dated 9.10.2013 which is legal and proper.

5. Learned Presenting Officer contended that the recommendations of M.P.S.C does not mean that all the documents are verified by them before sending recommendations. If there are doubts about genuineness of any Certificate, the appointing authority is well within its powers to verify the same. In the present case, the Applicant had submitted an experience Certificate in 2003. When he appeared for the Examination conducted by M.P.S.C in 2011,

he produced another Certificate, covering the period covered by earlier Certificate. It was, therefore, necessary to conduct inquiry into genuineness of experience Certificate submitted by the Applicant. Learned Presenting Officer argued that the contention of the Applicant that the Respondent has no jurisdiction to verify genuineness of a Certificate has no legal basis.

6. Learned Presenting Officer contended that contrary to the averments of the Applicant that the inquiries were not made with the concerned Garage/Workshop, the Regional Transport Officer, Nagpur was asked by the Respondent to conduct on the spot inquiries. The report of the Regional Transport Officer is on record and it clearly shows that even Certificate submitted by the Applicant in 2003 was not for experience required for L.M.V but for two Wheelers, which is not as per recruitment rules. The latter Certificate also does not fulfill the requirements of the recruitment rules and the Applicant was, therefore, held ineligible for appointment to the post of AMVI.

7. Learned Presenting Officer had made available the concerned file for our perusal. It is seen that for the post of AMVI, the requirement is:

“ उद्योग संचलनालयाकडे लघुउद्योग म्हणून किंवा इतर कायदान्वये लघुउद्योग म्हणून नोंद असलेल्या मोटया गॅरेज किंवा कार्यशाळेमधील हलके वाहन, जड मालवाहतूक व जड प्रवासी वाहतूक वाहनाच्या दुरुस्ती व मेन्टनन्सचा पूर्ण वेळ कर्मचारी म्हणून प्रत्यक्ष काम केल्याच्या 9 वर्षांचा विहित अनुभव.”

In addition, such garage was required to have annual turnover of Rs. 3.00 to 3.50 lakhs. In this application form dated 11.11.2003, the Applicant has indicated that he had experience from 1.11.2000 to 31.12.2001 at Sohan Auto Centre. From the copy of the Certificate on record, it is seen that this Certificate is dated 10.2.2003. The Certificate reads:-

“ प्रमाणित करण्यात येते की, श्री गणेश सेगोजी वरखडे यांना सोहन ऑटो सेंटर या मोठ्या गॅरेज/कार्यशाळेमध्ये हलके वाहन, जड माल वाहतूक वाहनाच्या दुरुस्तीचे मेंटेनन्स पूर्ण वेळ कर्मचारी म्हणून दिनांक १/११/२००० ते ३१/१२/२००१ पर्यंत प्रत्यक्ष काम केल्याचा अनुभव आहे.”

The Applicant's certificate of experience, was verified by the R.T.O, Nagpur. In his report dated 8.6.2005, it is stated by R.T.O, Nagpur that:-

“ सोहन ऑटो सेंटर, रामदासपेठ नागपूर या कार्यशाळेची तपासणी केली असता तेथे फक्त दुचाकी वाहनांची दुरुस्ती होत असल्याचे दिसून आले आहे. मात्र पूर्वी २०००/२००१ मध्ये चारचाकी वाहनांची दुरुस्ती होत असल्याबाबत छायाचित्र सेंटर मालकाने दिले आहे. मात्र सेंटर मालक अथवा उमेदवार जड वाहन अथवा तत्सम प्रकारची वाहने दुरुस्ती बाबत कोणतेही कागदपत्रे दाखवू शकली नाही.”

The Applicant was given a notice on 20.9.2005 informing that his experience certificate from Sohan Auto Centre was verified and it was found that only two Wheelers were repaired there and the annual turnover was Rs. 50000-55000. He was asked to submit his written explanation. The Applicant submitted his written submission on 23.9.2005. After considering his reply, and making further inquiries, the State Government by letter dated 21.5.2007, accepted the report of the Respondent

that the Applicant did not fulfil the condition of having one year's experience of repairs of Light Motor Vehicles or Heavy Motor Vehicles. This letter apparently was not sent to the Applicant. There is nothing to indicate that the Applicant was informed by the Respondent that his experience Certificate was held to be invalid. However it is also a fact that the Applicant did not challenge the inaction on the part of the Respondent in not giving him appointment, though by letter dated 23.11.2004, the Applicant was recommended by M.P.S.C to be appointed on the post of Assistant Motor Vehicle Inspector.

8. The Applicant again appeared for the AMVI Examination held by M.P.S.C in 2011 and was again recommended for appointment by letter dated 4.7.2012, which is at Exhibit 'F' of this Original Application. The Applicant now submitted another experience certificate from Narayan Motors, Chandrapur dated 25.6.2002, stating that he was working as Repair and Maintenance Engineer from 1.1.2001 to 25.6.2002 at Chandrapur. As the earlier Certificate indicated that the Applicant was working at Sohan Auto Garage, Nagpur for the period from 1.11.2000 to 31.12.2001 the Applicant was asked by letter dated 27.2.2013 to explain the discrepancy. The Applicant has submitted two certificates, one showing that he was working full time at Sohan Auto Garage, Nagpur from 1.11.2000 to 31.12.2001 and another showing he was working full time from 1.1.2001 to 25.6.2002 at Narayan Motors, Chandrapur. That means that the Applicant was working full time from 1.1.2001 to 31.12.2001 at two establishments, one at Nagpur

and another at Chandrapur. The Applicant submitted his explanation that he was working at Sohan Auto Garage, Nagpur in evening from 1.1.2001 to 31.12.2001. He further claims that he was working for Narayan Motors, Chandrapur at Nagpur only as that firm had obtained some work at Nagpur. The claim of the Applicant is difficult to accept. The Applicant had not explained why he did not submit certificate from Narayan Motors, Chandrapur dated 25.6.2002 when he applied to M.P.S.C in 2003. Prima facie, if Certificate dated 25.6.2002 from Narayan Motors, Chandrapur and Certificate dated 10.2.2003 from Sohan Auto Centre, Nagpur and juxtaposed, it is quite clear that the Applicant was working full time at two establishments for the period from 1.1.2001 to 31.12.2001. This claim appears to be unbelievable. The Applicant has explained this by obtaining yet another certificate from Sohan Auto Centre, Nagpur dated 2.3.2013 that he was working in the evenings in their establishment from 1.1.2001 onwards. This is obviously an afterthought. Similarly, claim of the Applicant that he was employed by Narayan Motors, Chandrapur, but was actually working at Nagpur is just that, i.e. a claim not supported by any evidence. If he was making that claim, it was for him to substantiate that claim, as he was seeking an important post under the Government on the strength of that claim. The Applicant could not substantiate his claim that he in fact was working at Nagpur while employed by Narayan Motors, Chandrapur by producing any evidence at all, except a mere letter from the firm. The Respondent had asked Regional Transport Officer, Chandrapur to inquire into this matter. R.T.O has obtained a copy of muster rolls of Narayan Motors,

Chandrapur for the period from January 2001 to December, 2002. The Applicant has signed on the muster every day till June 2002. The Register is maintained by Narayan Motors, Chandrapur, and it is nowhere mentioned that it was for the works done by the firm at Nagpur. It is a muster kept at Chandrapur, which will tend to show that the Applicant was actually working at Chandrapur for the period from 1.1.2001 to 31.12.2001, while he had claimed that for this period he was working at Sohan Auto Garage, Nagpur. The claim of the Applicant is difficult to believe and the Respondent cannot be faulted for rejecting the experience certificate of the Applicant dated 25.6.2002 from Narayan Motors, Chandrapur. The claim of the Applicant that the Respondent has no jurisdiction to ascertain genuineness of any certificate submitted by him has to be firmly rejected. In public employment, only the persons having necessary qualifications can be recruited. The employer has every right to satisfy himself that the documents, on the basis of which a candidate is seeking employment, are valid. M.P.S.C, nodoubt, scrutinizes documents at the time of interview, but such scrutiny does not preclude the Respondent from independently verifying all the documents. In the present case, there were more than adequate reasons to verify the experience certificate of the Applicant when he had submitted two certificates for the same period, one from Nagpur and another from Chandrapur. The Applicant did not challenge his non-appointment on the same post, when he was recommended by M.P.S.C in 2004 also. He decided to submit a new certificate in 2011, not insisting that his earlier certificate may be considered. He has not mentioned in his



Original Application that he was recommended by M.P.S.C for appointment to the same post in 2004 also. There is, therefore, no pleadings regarding why he chose to keep quiet and not challenge that decision of the Respondent. When the Applicant was submitting a new Certificate from a different firm in 2011, he should have submitted particulars to establish his claim that he was holding two jobs simultaneously and he was working for Narayan Motors, Chandrapur at Nagpur. It is his responsibility to clear the ambiguity. He was heard by the Respondent before decision was taken not to offer him employment. We do not find that the Applicant has been able to make out a case that he is eligible to be appointed for the post of Assistant Motor Vehicles Inspector when his experience certificate has been held to be invalid, correctly in our view.

9. Having regard to the aforesaid facts and circumstances of the case, this Original Application is dismissed with no order as to costs.

Sd/-

(R.B. Malik)
Member (J)

Sd/-

(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai

Date : 29.03.2016

Dictation taken by : A.K. Nair.