

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL,**

**NAGPUR BENCH, NAGPUR**

**ORIGINAL APPLICATION NO.600/2017. (D.B.)**

Anupam Rajendrakumar Sharma,  
Aged about 37 years,  
Occ-In service of Municipal Council, Akot,  
R/o Behind Akshay Apartment, Ujwal Nagar,  
Akot, Distt.Akola.

**Applicant.**

**-Versus-**

1. The State of Maharashtra,  
Through its Principal Secretary,  
Department of Municipal Administration,  
Mantralaya, Mumbai-32.
2. The Director of Municipal Administration,  
Having its office at 3<sup>rd</sup> floor. Sir Pochkhanwala Marg,  
Worli, Mumbai-30.
3. The Collector,  
Akola.

**Respondents**

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Shri R.V. Shiralkar, the Ld. Advocate for the applicant.  
Shri A.P. Potnis the Ld. P.O. for the respondents.

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**Coram:-Shri J.D. Kulkarni,**  
**Vice-Chairman (J) and**  
**Shri Shee Bhagwan, Member (A)**

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**ORAL ORDER**

(Passed on this 27<sup>th</sup> day of August 2018.)

**Per: Vice-Chairman (J)**

Heard Shri R.V. Shiralkar, the learned counsel for the applicant and Shri A.P. Potnis, the learned P.O. for the respondents.

2. The applicant has claimed following reliefs in this O.A.:-

(i) Hold and declare that the applicant is eligible and qualified to be appointed on the post of Auditor and Accountant, Grade-C which was reserved for municipal employees and consequently,

(ii) Direct respondent No.3 to consider the case of the applicant for appointment on the post of Auditor and Accountant, Grade-C for the post reserved for municipal employees in pursuance of his selection

OR

(iii) Direct respondents to consider the representation of the applicant dated 15.6.2016 for absorption on the post of Auditor and Accountant, Grade-C in view of rules of absorption of 2006 and 2010.”

3. Applicant was initially appointed as Assistant Auditor in 2003 and was absorbed in the Municipal Council vide order dated 21.9.2010. In response to the advertisement dated 17.6.2016 (Page 13), the applicant applied for the post of Auditor and Accounts Officer. Total 4 posts were to be filled in. Out of 4, 2 posts were reserved for Open including Female, 1 was reserved for SC candidate and 1 for ST candidate. Clause 7 (2) of the advertisement reads as under:-

“लेखा संवर्गातील पदाकरिता नगर परिषदेमधील कर्मचार्यांनी परीक्षा देऊन उत्तीर्ण झालेल्या कर्मचार्यांमधून २५% पदे राखीव राहतील. तथापि नगर परिषद कर्मचारी उपलब्ध न झाल्यास सरळ सेवेतून भरण्यात येईल.”

4. 25% posts were reserved for those employees serving in the Municipal Councils and who have passed written examination. Qualification clause as per advertisement is mentioned in para 5 (Page 18) which as under:-

अ.क्र.	पदाचे नाव व वेतनश्रेणी	राज्य संवर्ग सेवा शर्ती नियम, २००६ मधील APPENDIX-III नुसार सरळ सेवेकरिता नमूद शैक्षणिक पात्रता व अर्हता
५	महाराष्ट्र नगर परिषद लेखापरीक्षण व लेखा सहाय्यक लेखापरीक्ष (श्रेणी-क) वेतनश्रेणी 9300-34800 ग्रेड पे 4200	<p>१) मान्यताप्राप्त विध्यापिठाची वाणिज्य शाखेची पदवी आणि Member of Institution of Cost and Works Account (I.C.W.A.) किंवा सनदी लेखापाल (Chartered Accountant) असणे आवश्यक</p> <p>२) MS-CIT परीक्षा उत्तीर्ण/ शासन निर्णयानुसार विहित मुदतीत उत्तीर्ण करणे बंधनकारक राहिल.</p> <p>३) मराठी भाषेचे पुरेसे ज्ञान आवश्यक.</p>

However, this clause was as per the Recruitment Rules of 2006.

5. The learned counsel for the applicant submits that the Recruitment Rules of 2006 have been amended (Annexure A-11, Page 67) as per notification dated 28.1.2010. As per Clause-D, follow clause was mentioned as regards qualification (Page 70), which reads as under:-

“(D) In sub-entry (d), in column (3), for the portion beginning with the words “municipal service” and ending with the words, “the existing post”, the following shall be substituted, namely:-

“Municipal service should,-

- (i) Hold a Degree in Commerce (B.Com.)
- (ii) Have passed MSCIT Examination, or a certificate in computer specified in the Directorate of Information Technology;
- (iii) Have not less than five years' experience on any class-III post
- (iv) In entry at Sr. No.4.”

6. Thus, it seems that as per earlier clause qualification, the Rules of 2006, experience of three years on the post of Accountant was necessary. However, as per amended clauses, five years' experience was in any Class-III post is sufficient. The applicant was qualified as per said clause and he was the only person coming from reserved category as an employee of Municipal Council and, therefore, he should have been considered for the post. The respondents, however, could not consider the said criteria. It is stated that some other Collectors of the State have issued corrigendum amending the qualification clause for the post.

7. The learned counsel for the applicant submits that the applicant has filed number of representations such as dated 15.6.2016, 2.12.2016 and 26.12.2016 and requested the competent

authority to consider his case as a candidate from Municipal Council. However, no decision has been taken on his representation. The learned counsel for the applicant drew our attention to Annexure A-13 (Page Nos. 92 & 93) i.e. G.R. dated 7.3.2017, from which it seems that the respondent No.2 i.e. the Director of Municipal Administration, Mumbai is authorized to deal with such situations i.e. the representation of the applicant. The learned counsel for the applicant, therefore, submits that application may be disposed of by giving directions to respondent No.2 to take a decision on the representation of the applicant within a stipulated period.

8. The learned P.O. submits that in the online form, the applicant has not mentioned that he has applied as an employee of Municipal Council. However, on record, it seems that the applicant has obtained permission to participate in the process of recruitment from the competent authority and admittedly the applicant is an employee of Municipal Council.. The respondent No.2, therefore, may take this into consideration. In view of this, we proceed to pass the following order:-

**ORDER**

- (i) The O.A. stands disposed of with directions to respondent No.2 to take a decision on the representation filed by the applicant dated 15.6.2016 as per its own merits within a period of six weeks from the date of this order.
- (ii) No order as to costs.

(Shree Bhagwan)  
Member (A)

(J.D.Kulkarni)  
Vice-Chairman (J)

**Dated:-** 27.8.2018.

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