

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 615 of 2017 (D.B.)

- 1) Manoj Chavahan,
Aged about 29 years, Occ. Nil,
R/o Amravati.
- 2) Nilesh Pachkhande,
Aged about 35 years, Occ. Job,
R/o Amravati.
- 3) Prashant Pise,
Aged about 29 years, Occ. Nil,
R/o Amravati.
- 4) Rahul Kakade,
Aged about 28 years, Occ. Nil,
R/o Amravati.
- 5) Sandip Ingole,
Aged about 28 years, Occ. Nil,
R/o Amravati.
- 6) Rahul Kembhor,
Aged about 27 years, Occ. Nil,
R/o Amravati.
- 7) Samarjeet Ghogare,
Aged about 28 years, Occ. Nil,
R/o Amravati.
- 8) Ashok Malve,
Aged about 27 years, Occ. Nil,
R/o Amravati.
- 9) Rinkesh Harihar,
Aged about 26 years, Occ. Nil,
R/o Amravati.

Applicants.

Versus

- 1) The State of Maharashtra,
through its Secretary,
Ministry of Home, Transport Department,
Mantralaya, Mumbai-32.
- 2) The Maharashtra Public Service Commission,
through its Secretary, Mumbai,
having its office at 3rd floor, Bank of India Building,
Mahatma Gandhi Road, Fort,
Mumbai-400 001.

Respondents

S/Shri P.J. Mehta, A.S. Tiwari, Advocates for the applicant.

Shri S.A. Deo, Id. C.P.O. for the respondents.

**Coram :- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J).**

JUDGEMENT

(Delivered on this 6th day of December,2017)

Heard Shri P.M. Mehta, Id. Counsel for the applicants and Shri S.A. Deo, Id. C.P.O. for the respondents. The O.A. is heard finally with consent of Id. counsel for parties.

2. The applicants in this O.A. have prayed for a declaration that the recruitment process initiated by the respondent nos. 1&2 for the recruitment of Assistant Inspector of Motor Vehicles, Group-C be held illegal and bad in law and direction be issued to respondent nos. 1&2 to quash and set the entire recruitment process as per the advertisement nos. 2/2017 and 48/2017 issued by respondent no.2 as

the same is being conducted in an illegal manner and vitiated by serious irregularities.

3. The applicants responded to the advertisement dated 30/1/2017 issued by respondent no.2 for filling up 188 vacant posts of Assistant Motor Inspector. The said posts were further enhanced to 833 and out of which 35 posts were reserved in parallel reservation for the Sports category. As already stated, the applicants participated in the examination and the applicant no.1 was declared successful, whereas the applicants' nos. 2 to 9 were unsuccessful.

4. According to the applicants, the respondent no.1 has published "the Assistant Inspector of Motor Vehicles, Group-C, in the Motor Vehicle Department (Recruitment), Rules,2016" (for gravity rules of 2016) relaxing the minimum qualification. The said relaxation is against the provisions of Section 213 of the Motor Vehicle Act. Relaxing the qualification is therefore illegal and hence this application.

5. The respondent no.1 has filed the reply-affidavit and justified the process. The preliminary objection taken by the respondent no.1 is that the applicants have participated in the recruitment process and therefore they cannot challenge the process. The application is filed because most of the applicants are declared

unsuccessful in the preliminary examination. It is further stated that the qualification for the post of Assistant Inspector of Motor Vehicles, is prescribed as per section 213 of the Motor Vehicle Act,1988, but the recruitment in this case pertains to the State of Maharashtra and the State of Maharashtra has every right to frame Recruitment Rules for the appointment of Assistant Inspector of Motor Vehicles. The respondent no.1 has therefore framed the Recruitment Rules of 2016 and those rules are framed as per the provisions of Article 309 of the Constitution of India. The qualification prescribed is as per the recruitment rules.

6. The learned counsel for the applicants has invited my attention to the provisions of Section 213 of the Motor Vehicle Act as regards minimum qualification for Assistant Inspector of Motor Vehicles. The said requirement is as under :-

***“INSPECTOR AND ASSISTANT INSPECTOR OF MOTOR VEHICLES
MINIMUM QUALIFICATIONS***

S.O 443(E) dated June 12, 2989,- 1. *In Exercise of powers conferred by sub-section (4) of section 213 of the Motor Vehicles Act,1988(59 of 1988), the Central Government hereby prescribes that the minimum qualification for the class of officers consisting of the category of Inspector of Motor Vehicles or Assistant Inspector of Motor Vehicles (by whatever names called) shall be as under-*

Qualification-

*(1) Minimum general educational qualification of a pass in X standard;
and*

(2) A diploma in Automobile Engineering (3 years course) or a diploma in Mechanical Engineering awarded by the State Board of Technical Education (3 years course); and

(3) Working experience of at least one year in a reputed automobile workshop which undertakes repairs of both light vehicles, heavy goods vehicles and heavy passenger motor vehicles fitted with petrol and diesel engines; and

(4) Must hold a driving license authorizing him to drive motor cycle, heavy goods vehicles and heavy passenger motor vehicles.

2. Nothing contained in the notification shall apply to an officer appointed to such post before the first day of July, 1989 and to an officer appointed to discharge functions of non-technical nature.

3. This notification shall come into force on the first day of July, 1989.”

7. According to the learned counsel for the applicants, the State cannot change this minimum qualification. However it is to be noted that as per the provisions of the Constitution of India, the Central as well as State has authority to frame their respective rules for recruitment and in view thereof the Government of Maharashtra has framed the Rules of 2016. Section 3 of the said rules, prescribed the minimum qualification required for appointment to the post of Assistant Inspector of Motor Vehicles, Group-C and the relevant rules reads as under :-

“(3) Appointment to the post of Assistant Inspector of Motor Vehicles Group ‘C’ in Motor Vehicle Department, shall be made by nomination on the basis of the result of a competitive examination held by the Commission from amongst the following candidates who –

(i) are not less than nineteen years of age and not more than thirty eight years of age:

Provided that, the upper age limit may be relaxed by five years for a candidate belonging to Backward Class Category:

(ii) Possess minimum three years diploma in Automobile Engineering or in Mechanical Engineering or qualifications declared by the Central or State Government to be equivalent thereto, after passing Secondary School Certificate Examination:

Provided that, candidates possessing degree or higher educational qualifications in Automobile Engineering or in Mechanical Engineering or qualifications declared by the Central or State Government to be equivalent thereto, are also eligible; and

(iii) possess practical experience of repairing and maintenance of light motor vehicles, heavy goods vehicles and heavy passenger vehicles, for a period of not less than one year gained after acquiring the qualifications mentioned in clause (ii), in workshop run by a Central or State Government undertaking or Department or in a institution recognised by Government from time to time. The experience as trainee or apprentice shall be counted towards requisite experience:

Provided that, if a person not possessing practical experience of one year as above on the last date of submission of application for admission to the competitive examination held by Commission shall obtain such experience before completion of the period of probation in workshop run by a Government undertaking or Department or in a institution recognised by Government, from time to time; and

(iv) Possess a valid driving license authorizing him to drive motor cycle with gears, light motor vehicles and transport vehicles, (heavy good vehicles and heavy passenger vehicles) issued by the Competent Authority on the last date of submission of the application for the admission to the competitive examination held by the Commission:

Provided that, if a person not holding a valid license for heavy goods vehicles or heavy passenger vehicles, as the case may be, or both heavy good vehicles and heavy passenger vehicles on the last date of submission of application for admission to the competitive examination held by the Commission, shall obtain such driving license before completion of the period of probation, failing which, he shall be liable to be discharged from the service.

He shall renew the driving license from time to time, without break' and

(v) possess following physical standards, namely :-

(a) for male candidates –

Height – not less than 163 cms.

Chest – minimum 79 cms., without expansion, with minimum expansion of 5 cms.

(b) for female candidates –

Height – not less than 155 cms.

Weight – not less than 45 Kgs.

(vi) Possess good vision with or without spectacles and is not colour blind.

(vii) should have good knowledge of reading, writing and speaking, Marathi.”

8. Thus it will be crystal clear that the State Government has framed the Recruitment Rules in view of the provisions of Article 309 of the Constitution of India and as per the said rules the advertisement has been issued and therefore it cannot be said that the State has

amended the rules of recruitment or has changed the qualification clause for recruitment of the post of Assistant Inspector of Motor Vehicles. In any case, it is material to note that the applicants have participated in the recruitment process in view of the advertisement no.2/2017 and in the said advertisement the qualification was prescribed and when the applicants have participated in the recruitment process, they have no locus standi to challenge the said advertisement or the subsequent advertisement for the said posts. It is material to note that those candidates, who are held successful having secured requisite bench marks in the preliminary examination as per advertisement no.2/2017, are only eligible for the main examination to be conducted as per advertisement no.48/2017. It makes no difference as to whether the number of posts to be filled as per the preliminary examination is increased or decreased in the subsequent advertisement. Only one applicant has been held successful in the preliminary examination and therefore he will not face any difficulty because of the enhancement of the posts for which main test is to be held, but on the contrary he will be benefited because as per earlier advertisement only 188 posts were available, whereas, as per advertisement no.48/2017, 833 posts are available and therefore the chances of applicant who succeeded in the preliminary examination will be more bright and no prejudice will be

caused to such candidates. So far as the candidates who are unsuccessful and therefore not qualified for the main examination, will have no locus standi to challenge the subsequent advertisement no.48/2017. Thus in any case the applicants have no locus standi to challenge either of the advertisements once they have participated in the recruitment process. In view thereof, the following the order :-

ORDER

The O.A. stands dismissed with no order as to costs.

Dated :- 06/12/2017.

dnk.

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