

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.618/2018.

(D.B.)

Dr. Nilesh Kesharao Tumram,
Aged about 37 years,
Occ- Service,
R/o 85, Adarsha Griha Nirman Society,
Anant Nagar, Katol Road, Nagpur-13.

Applicant.

-Versus-

- 1) The State of Maharashtra,
Through its Principal Secretary,
Department of Medical Education & Drugs,
G.T. Hospital Campus Building,
9th floor, Fort,
Mumbai-400 001.
- 2) The Principal Secretary,
Selection Board,
Medical Education & Drugs Department,
G.T. Hospital Campus Building,
9th floor, Fort,
Mumbai-400 001.

Respondents

Shri N.D. Thombre, the learned counsel for the applicant.
Shri H.K. Pande, the learned P.O. for the respondents.

Coram:-Shri Shree Bhagwan, Member (A)
and Shri A.D. Karanjkar, Member (J)

JUDGMENT

Per: Member (A)

(Delivered on this 1st day of February 2019.)

Heard Shri N.D. Thombre, the learned counsel for the applicant and Shri H.K. Pande, the learned P.O. for the respondents.

2. As pleaded by the learned counsel for the applicant, the applicant has passed his MBBS Degree in the year 2002 and Master Degree in Forensic Medicine in June 2009. After passing of these degrees, the applicant also registered with Medical Council of India as per rules. After passing master degree, the applicant was appointed and worked as an Assistant Professor in Forensic Medicine w.e.f. 5.8.2009 to 7.5.2015. Thereafter the applicant was selected through M.P.S.C. on the post of Associate Professor in Forensic Medicine and posted at Indira Gandhi Government Medical College and Hospital (IGGMCH), Nagpur from 8.5.2015 till date (PBP 26). The applicant has worked on the said post till date. The applicant belongs to Tribal and his certificate of validity by Tribal Research and Training Institute, Pune (M.S.) is at page 27, Annexure A-3. The respondent No.2 published an advertisement No. 01/2018 dated 5.5.2018, Page Nos. 30 to 36 (both inclusive), Annexure A-4. In the said advertisement at Sr. No.7, the applicant applied for the post of Professor in Forensic Medicine which is in reserved category of Scheduled Tribe. The applicant was only candidate in that

category. In the advertisement at Page 32 in para 4.6, it is mentioned that experience should be at least three years. In para 8.4 (P.35), last date for depositing fee online was given was 25.5.2018 till 9.00 to 12.00 O'clock or by State Bank of India by challan till 30.5.2018. The applicant was called for scrutiny of documents and he attended on 20.7.2018. Certificate to that effect is attached at page 44. Thereafter the applicant was to attend the interview on 20.8.2018 for the post of Professor in Forensic Medicine. However, the applicant was not called for interview on 20.8.2018 and 21.8.2018. On enquiry, the applicant was told that he lacks one day less in experience duration, which the applicant has mentioned in his representation dated 1.8.2018 (P.5) in para No.6. In reply, the respondents have mentioned in para 3 as reproduced below:-

“As the applicant was not having requisite experience of three years on the post of Associate Professor in Forensic Medicine, the interview for the post of Professor in Forensic Medicine was not conducted by the present answering respondent. For the said reason, the said advertised post was not filled in. The said post will be re-advertised.”

3. The respondents have also placed on record minutes of the meeting dated 22.8.2017 of Selection Committee (P.105) in which following para is mentioned :-

“उमेदवाराच्या अनुभवाप्रमाणे कागदपत्रांच्या पडताळनिकारिता पात्र यादी तयार करण्यात यावी अशा सूचना मा. सचिव यांनी दिल्यात व जाहिरातीच्या दिनांकापर्यन्तचा अनुभव ग्राह्य धरावा असे ठरले.”

4. They have also submitted a letter No.जा.क्र. निवड मंडळ/७८७/२०१९ dated 31.1.2019 (P.107). The learned counsel for the applicant challenged the above para in the minutes of the meeting dated 15.5.2018 (P. 105) and submits that in case of All India Institute of Medical Sciences (AIIMS) on page 90, para 3, it is mentioned that age and all other qualifications will be counted on the last date of submission of application. Similarly, in case of MPSC, rules attached from page Nos. 52 to 71, relevant para is at Page 56. Para 1.6.2 (1) , it is mentioned that, “संबंधीत पदाच्या जाहिरात / अधिसूचनेमध्ये नमूद केल्यानुसार अर्ज स्वीकारण्याच्या अंतिम दिनांकास अथवा त्यापूर्वी विहित शैक्षणिक अर्हता / अनुभव / पात्रता धारण करणे आवश्यक आहे.”

5. The learned counsel for the applicant has also placed on record an advertisement of UPSC at page Nos. 72 to 88. On page No.76, in tabular form, following para is mentioned :-

“Date for determining the eligibility of all candidates in every respect shall be prescribed closing date for submission of online recruitment application (ORA). The applicants are advised to fill in all their particulars in the online recruitment application carefully as submission of wrong information may lead to rejection through computer based shortlisting apart from debarment by the Commission,”

6. The respondents have placed a letter No. जा.क्र. निवड मंडळ/७८७/२०१९ dated 31.1.2019 today at page 107, in which in para No.2, they have mentioned that normally candidates are not interested in doing work on this post and that is why, lot of time takes place for filling the posts and many times extension of time is given. However, in para 3, they have mentioned the following arguments:-

Para No.2:- “विविध वेगवेगळ्या निवड मंडळे व आयोगांद्वारा वैद्यकीय महाविद्यालयातील रिक्त असलेली अध्यापकीय संवर्गातील पदे भरण्याकरिता यापूर्वी करण्यात आलेल्या प्रक्रीयांवरून असे निदर्शनास आले होते कि, वैद्यकीय क्षेत्रातील तज्ञ व्यक्ती शासकीय वैद्यकीय महाविद्यालयातील अध्यापकीय संवर्गातील पदावर काम करण्यास इच्छुक नसतात त्यामुळे अशा प्रकारच्या भरती प्रक्रियेसाठी खूपच कमी प्रमाणात अर्ज प्राप्त होतात त्यामुळे अर्ज भरण्याचा दिनांकास बऱ्याचदा मुदतवाढ द्यावी लागते.

Para No.3: महाराष्ट्र लोकसेवा आयोगाच्या धर्तीवर शैक्षणिक अर्हता व अनुभव ग्राह्य धरण्यासाठी अर्ज भरण्याचा शेवटचा दिनांक ग्राह्य धरल्यास भरती प्रक्रिया ही किचकट होऊन आरोप प्रत्यारोप होण्याची शक्यता नाकारता येत नाही या सर्व बाबींचा विचार करता व अर्ज भरण्याच्या दिनांकास मुदतवाढ द्यावी लागत

असल्यामुळे प्रक्रिया एकसंध ठेवण्याच्या दृष्टीने या निवड मंडळाद्वारा राबविण्यात येणाऱ्या भरती प्रक्रियेमुळे निवड मंडळाच्या जाहिरातीचा दिनांक बदलता येत नसल्यामुळे शैक्षणिक अर्हता व अनुभव ग्राह्य धरण्यासाठी जाहिरातीचा दिनांक अंतिम ठेवण्यात आला होता. सदर बाबत निवड मंडळाच्या बैठकीमध्ये एकमताने निर्णय घेण्यात आला होता."

7. These two paras of this letter are self contradictory. The respondents ought to have followed the procedure adopted in the advertisement of MPSC or UPSC or AIIMS. Their contentions appear to be illogical and baseless. Their argument about the decision in the minutes of the meeting dated 22.12.2017 was not transparent and not in public domain. While discharging public duty, every authority is expected to take a decision in a very transparent and objective manner. It shall be in public interest. In view of this, we pass the following order:-

ORDER

- (i) The respondents are directed to call the applicant for interview for the post of Professor in Forensic Medicine, for which he had applied, as they were expected to take his interview on 20.8.2018 and take necessary decision as per merits of the candidate.
- (ii) No order as to costs.

(A.D. Karanjkar)
Member (J)

(Shree Bhagwan)
Member (A)

Dt. 1.2.2019.

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