

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No. 926 of 2019 (DB)

Smita Pandurang Palaskar,
Aged about 29 years, Occ. Nil,
R/o Ravi Nagar, near Gajanan Mandir, Amravati.

Applicant.

Versus

- 1) The State of Maharashtra,
Food and Drugs Administration,
Mantralaya, Mumbai through its Secretary.

- 2) The Commissioner,
Food and Drugs Administration,
Maharashtra State ,Mumbai at 341, Bandra-Kurla Complex,
Opposite Reserve Bank, Bandra (E), Mumbai.

Respondents.

S/Shri S.G. Jagtap, S.S. Godbole, Sayajee, Advs. for the applicant.

Shri V.A. Kulkarni, learned P.O. for respondents.

**Coram :- Shri Shree Bhagwan,
Vice-Chairman and
Shri Justice M.G. Giratkar, Member (J).**

Date of Reserving for Judgment : 8th April,2022

Date of Pronouncement of Judgment : 19th April,2022.

JUDGMENT

Per : Member (J).

(Delivered on this 19th day of April, 2022)

Heard Shri S.G. Jagtap, learned counsel for the applicant and Shri V.A. Kulkarni, learned P.O. for the respondents.

2. The case of the applicant in short is as under –

The applicant has passed SSC, HSSC examinations. He has also completed Diploma in Education (D.Ed.), degree in B.A. and

course of MS-CIT. She has passed English typing examination with 40 wpm and Marathi typing examination with 40 wpm. She has also passed English Stenography with 80 wpm and Marathi Stenography with 100 wpm.

3. On 5/9/2014, the respondents issued online advertisement for selection and appointment on various clear vacant posts in the establishment of Maharashtra Food and Drugs Administration including three posts of Steno Typist under open category, out of one post was reserved for open (female) category. The applicant applied online for the post of Steno Typist reserved for open (female) category. The applicant appeared in the written examination conducted at Thane. On 27/10/2016, the respondents published online provisional selection list, wherein, the applicant's name appeared having passed in the written examination with 128 marks. On 06/12/2016, the respondents published merit list, wherein, the applicant's name appeared at Sr.No.15 under the open (female) category and stands first in the merit list amongst the open (female) candidates. On 31/03/2017, the respondents appointed first two candidates in the merit list on the two posts of Steno Typist. On 25/4/2017, applicant requested to the respondent, i.e., the Commissioner to appoint her on the post of Steno Typist reserved for Open (female) category as per the merit list. The respondent, i.e., the

Commissioner refused to appoint the applicant as per the merit list, on vexatious and flimsy ground stating that post is not vacant, despite the post was advertised as reserved for Open (female) category.

4. The applicant vide representations requested the respondent /authority to act upon the selection process without any discrimination. The applicant received information under the RTI Act about the appointments made to three posts of Steno Typist in pursuance of the selection process. The act of the respondent denying the appointment to the applicant on the post of Steno Typist reserved for open (female) category is illegal and therefore prayed for direction to the respondents to appoint her on the said post.

5. The application is opposed by the respondents on the ground that there was no vacant post of Steno Typist reserved for Open (female) category and advertisement was wrongly published for the said post. Hence, the application is liable to be dismissed.

6. Heard the learned counsel for the applicant Shri S.G. Jagtap. He has pointed out advertisement issued by the respondents and select list of the applicant. He has submitted that the applicant has passed the said examination and she was the only candidate in merit list having 128 marks in the reserved Open (female) category. The learned counsel has submitted that the respondents cannot say that it was not a vacant post, the post was duly published, the

applicant undergone the examination, she has scored 128 marks, select list was published, but the appointment order is not issued. The learned counsel has pointed out Govt. G.R. dated 25/05/2001 and submitted that the reservation cannot be carried forward in respect of female candidates. At last, prayed to allow the O.A.

7. Heard learned P.O. for the respondents Shri V.A. Kulkarni. He has submitted that it was the mistake of the respondents to advertise the said post. The said post was not vacant. It was wrongly advertised. The person who is responsible is to be dealt with that as per the Maharashtra Civil Services (disciplinary & appeal) Rules. He has pointed out letter dated 18/01/2022. He has submitted that as the post is not vacant, hence the O.A. is liable to be dismissed.

8. There is no dispute that three posts of Steno Typist for Open category were advertised, out of them one post was reserved for open (female) category. The applicant applied for the said post, i.e., reserved for Open (female) category. The applicant has undergone written examination and scored 128 marks. In the advertisement, there is a condition no.2 in respect of reservation, it is specifically mentioned that "efgykd kBh vI yysvkj {k.k} 'kkI u fu.kz] efgyk o cky fodkl foHkkx dz82@2001@eI svk&2000@i z dz415@dk&2] fnuka 25 es2001 o rneurj 'kkI ukus; k l nHkkZ oGh fuxfer dyy; k vkn\$kkud kj jkghy-"

9. The Govt. G.R. dated 25/5/2001 in respect of the reservation policy. As per clause-8 of the said G.R., it is specifically resolved that the reservation in respect of women shall not be carried forward.

10. Now the respondents cannot say that reservation of woman shall be carried forward. The applicant has undergone the examination. She has passed the said examination by scoring 128 marks. As per the provisional selection list, she was the only candidate for the post of Steno Typist in the reserved Open (female) category. Now the respondents cannot say that it was wrongly published. It is the contention of the respondents that at present there is no such post vacant. In that view of the matter, the following order—

ORDER

- (i) The O.A. is partly allowed.
- (ii) The respondents are directed to appoint the applicant on the post of Steno Typist in reserved category of Open (female) as and when the post is available.
- (iii) No order as to costs.

(Justice M.G. Giratkar)
Member(J).

(Shree Bhagwan)
Vice-Chairman.

Dated :- 19/04/2022.

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. & Member (J).

Judgment signed on : 19/04/2022

Uploaded on : 20/04/2022