

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI  
BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 510 OF 2016**

**DISTRICT:- NANDED**

Vijaykumar S/o Haribhau Gade,  
Age: 38 years, Occu. Unemployed,  
R/o. Shivaji Nagar, Taroda (Kd.),  
Malegaon Road Nanded,  
Dist. Nanded.

.. **APPLICANT**

**V E R S U S**

1. The State of Maharashtra  
Through its Secretary,  
Public Health Department,  
Mantralaya, Mumbai-32.
2. The Directorate of Ayurved,  
Maharashtra State Mumbai,  
Office at Government Dental  
College And Hospital Building,  
4<sup>th</sup> Floor, Saint Jorges Hospital  
Vicinity, P. Dimelo Road,  
Fort Mumbai – 400 001.
3. Rahul S/o Purbhaji Hatkar,  
Age Major Occu. Laboratory  
Technician, working at Ayurvedic  
College, Nanded,  
Tq. & Dist. Nanded.

.. **RESPONDENTS**

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APPEARANCE : Shri H.I. Pathan, learned counsel for  
the applicant.

: Mrs. Deepali S. Deshpande, learned  
Presenting Officer for the respondent  
authorities.

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**CORAM : JUSTICE SHRI P.R.BORA, VICE CHAIRMAN  
AND  
SHRI VINAY KARGAONKAR, MEMBER (A)**

**DATE : 12.12.2023**  
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**ORDER**

(Per : Justice Shri P.R. Bora, Vice Chairman)

Heard Shri H.I. Pathan, learned counsel for the applicant and Mrs. Deepali S. Deshpande, learned Presenting Officer for the respondent authorities.

2. In the present Original Application the only grievance of the applicant is that though he was possessing additional qualification of Diploma in Medical Laboratory Technology of Haffkine Institute, in preference to him the candidate i.e. respondent No. 3 viz. Rahul S/o Purbhaji Hatkar, who does not possess such diploma was selected by the respondents.

3. The post of Laboratory Technician was to be filled in for which advertisement bearing No. 1/2012 was issued. The applicant applied for the said post. Total 2 posts were to be filled in; one post was reserved to SC candidate and another was reserved to physically handicapped candidate. The applicant belongs to SC category. In the written examination held, the applicant scored 141 marks; whereas respondent No. 3, who also had applied for the said post, scored 162 marks.

4. Learned counsel for the applicant invited our attention to the relevant Recruitment Rules, which are titled as,

“Laboratory Technician (Group-C), in the Directorate of Health Services, Maharashtra State (Recruitment) Rules, 2011. Rule 3 thereof reads as under :-

“3. *Appointment to the post of “Laboratory Technician” in the Directorate shall be made either,-*

*(a) by promotion of suitable person on the basis of seniority, subject to fitness from amongst the persons holding the post of Laboratory Assistant in the Directorate, who -*

*(i) have passed Secondary School Certificate Examination with Science subject, which shall include physics, Chemistry and Biology and*

*(ii) possess experience of not less than ten years as Laboratory Assistant in the Directorate,*  
OR

*(b) by nomination, from amongst candidates who,-*

*(i) are not more than 33 years of age, provided that, the maximum age limit may be relaxed upto 40 years in case of candidates who have worked as Senior Field Worker or Temporary Laboratory Technician for not less than 180 days,*

*(ii) Possess a degree in Science with Physics or Chemistry or Biology or Botany or Zoology or Microbiology as a main subject :*

*Provided that, preference may be given to the candidates possessing Post Graduate Diploma in Medical Laboratory Technology of the Haffkine Institute or of a Recognized Institute or the Degree in B.Sc. (Applied) (the Bio-Medical Technical Course of the Pune University) or equivalent degree of Statutory University.”*

5. Learned counsel submitted that when it was specifically provided in the said rules and when the qualification so provided appears to be necessary insofar as the nature of

work to be performed by Laboratory Technician is concerned, the respondents must have given preference to the applicant. In the circumstances, the applicant has preferred the present Original Application seeking his appointment on the said post.

6. Original Application is opposed by the learned Presenting Officer appearing for the State authorities.

7. We have considered the submissions advanced on behalf of the applicant. Though learned counsel emphasized on the qualification of D.M.L.T and submitted that the preference as provided in the rules was required to be given to the applicant, the submission so made cannot be accepted. Rule 3, we have reproduced hereinabove. As provided in the said rule, appointment to the said post of Laboratory Technician in the Directorate can be made either by promotion or by nomination. In the present case we are concerned with the appointment by nomination. If the appointment is to be made by nomination, the candidate must possess a Degree in Science with Physics or Chemistry or Biology or Botany or Zoology or Microbiology as a main subject.

8. Proviso to the aforesaid sub-rule speaks that preference may be given to the candidates possessing Post

Graduate Diploma in Medical Laboratory Technology of the Haffkine Institute or of a recognized institute or the Degree in B.Sc. (Applied) (the Bio-Medical Technical Course of the Pune University) or equivalent Degree of Statutory University. The proviso to the aforesaid rule could have been invoked in favour of the applicant, had he received the number of marks equal to respondent no. 3. Respondent no. 3 admittedly has secured 162 marks, whereas the applicant has secured 141 marks. We therefore, see no merit in the O.A. so filed. In the result, the following order is passed :-

**ORDER**

The Original Application stands dismissed however, without any order as to costs.

**MEMBER (A)**

**VICE CHAIRMAN**