

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**

**ORIGINAL APPLICATION NO. 352/2021 (D.B.)**

Manik Madhavrao Mehkarkar,  
Aged 38 Years, Occ. Ex-Servicemen,  
R/o at post Mana,  
Tah. Murtizapur,  
District Akola.

**Applicant.**

**Versus**

- 1) The State of Maharashtra,  
Through its Secretary,  
Public Health Department,  
Mantralaya, Mumbai-32.
- 2) The Deputy Director of Health Services,  
Akola Circle, Akola.

**Respondents**

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**Shri S.N.Gaikwad, Id. Advocate for the applicant.**

**Shri A.M.Khadatkar, Id. P.O. for the respondents.**

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**Coram :- Hon'ble Shri Shree Bhagwan, Vice-Chairman &  
Hon'ble Shri M.A.Lovekar, Member (J).**

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**JUDGMENT**

**Judgment is reserved on 30<sup>th</sup> Nov., 2022.**

**Judgment is pronounced on 09<sup>th</sup> Jan., 2023.**

**(Per:-Vice Chairman)**

Heard Shri S.N.Gaikwad, learned counsel for the applicant  
and Shri A.M.Khadatkar, learned P.O. for the Respondents.

2. Case of the applicant is, in brief, as follows.

3. The applicant is Ex-Serviceman. Respondent no. 2 published advertisement dated 22.02.2019 to fill up various vacancies (A-1, PP. 9 to 28). In the advertisement 17 posts of Senior Clerk in the Pay Scale of 5,200-20,200/- (G.P. 2400/-) were advertised. Total 17 posts were identified with details of vertical reservation and horizontal reservation. As per Government Policy and G.R. dated 16.03.1999, P. 55 horizontal reservation for Ex-Servicemen is 15%. When 17 posts were to be filled, 2 posts should have been reserved for Ex-Servicemen. Subsequently, as per directions received from government the number of posts were reduced from 17 to 9 (A-3, P. 31).

4. The Id. Counsel for the applicant has relied on G.R. dated 16.03.1999 (P. 55) and submitted that against 17 posts, horizontal reservation for Ex-Servicemen should have been 2 posts. Ld. Counsel for the applicant has also submitted written notes of arguments on 09.11.2022.

5. Respondent no. 2 has filed reply on 23.09.2021, PP. 39 to 43 and in para no. 6 on P. 41 it is mentioned that due to Covid-19 situation G.A.D. gave permission to fill up only 50% of vacant posts. So, number of posts were reduced from 17 to 9. Even if 9 posts were to be filled, 15% of 9 will be 1 post for Ex-Servicemen quota. In para no. 7 of reply, respondent no. 2 has relied on application of applicant at A-2, PP. 29 & 30 to submit that since the applicant has filled the form in General

Category and has not mentioned the Ex-Serviceman category, respondents only considered the applicant from Open Category. We have perused the online application of the applicant attached at A-2, PP. 29 & 30. On P. 29 in category column he has filled General but at the same time on P. 30 he has specified as under-

Question 1:- Are you an Ex-Servicemen?

Answer:- Applicable.

Question 2:- Retired Ex-Servicemen?

Answer:- Applicable.

Question 3:- Year of service (Ex-Servicemen)?

Answer:- 17.

6. Hence, perusal of his form at A-2, PP. 29 & 30, clearly shows that the applicant has disclosed that he is an Ex-Serviceman person and respondent no. 2 while advertising the post did not mention in the advertisement quota of Ex-Serviceman in horizontal reservation as prescribed by Government G.R. dated 16.03.1999. Even after revision of number of posts from 17 to 9 this was not done.

7. Ld. Counsel for the applicant has filed result sheet of the examination in which name of the applicant appears at Sr. No. 377. In the

last but one column it is mentioned that he is an Ex-Serviceman and total marks obtained is mentioned as 148.

8. In view of these submissions, the defence taken by respondents in reply para no. 7 at P. 41 cannot be accepted since in the result sheet they have accepted the candidate as Ex-Serviceman and in the form also at P. 30 the applicant has mentioned about he being an Ex-Serviceman. The applicant has not been selected in the Senior Clerk Post because erroneously respondent no. 2 has failed to provide horizontal reservation of Ex-Serviceman either at the time of filling 17 posts or 9 posts. Even from the 9 posts, one post should have been reserved for Ex-Serviceman as per Government policy and G.R. dated 16.03.1999.

9. In view of above submissions, the applicant is required to be appointed against the Ex-Serviceman quota of horizontal reservation as per G.R. quoted above. Original application deserves to be allowed in terms of prayer clause (iii). Hence, following order:-

### **O R D E R**

- i) The respondents are directed to issue appointment order to the applicant from Ex-Serviceman category to the post of Senior Clerk with reference to advertisement dated 22.02.2019 **within three months from date of receipt of this order.**

ii) No order as to costs.

**(M.A.Lovekar)**  
**Member(J)**

aps

Dated - 09/01/2023

**(Shree Bhagwan)**  
**Vice Chairman**

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Vice Chairman  
& Hon'ble Member (J).

Judgment signed : 09/01/2023.  
on and pronounced on

Uploaded on : 10/01/2023.