

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.389 OF 2019

**DISTRICT : MUMBAI
SUBJECT : SELECTION**

Mr. Suraj Amrut Jaykar)
At Post : Pimpode Budruk,)
Taluka Koregaon, District Satara)
Pin Code 415 525)
And)
C/o. Vijay Amrutjaykar,)
B 109/7, Government Colony,)
Bandra (E), Mumbai 400 051) ... **Applicant**

Versus

- 1) Maharashtra Public Service)
Commission, through Secretary,)
Having office at 5-1/2, 7th &)
8th floor, Cooprej Telephone Nigam)
Building, Maharshi Karve Road,)
Cooprej, Mumbai.)
2. Revenue and Forest Department,)
Through Principal Secretary,)
Mantralaya, Mumbai 400 032)
3. General Administration Department)
Through Principal Secretary,)
Mantralaya, Mumbai 400 032)... **Respondents**

Shri H.H. Jagtap, learned Advocate for the Applicant.

Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

**CORAM : JUSTICE MRIDULA BHATKAR (CHAIRPERSON)
MRS MEDHA GADGIL (MEMBER) (A)**

DATE : 03.02.2023.

PER : JUSTICE MRIDULA BHATKAR (CHAIRPERSON)

JUDGMENT

1. Heard Shri H.H. Jagtap, learned Advocate for the Applicant and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondents.

2. Learned Advocate seeks direction to the Respondents to consider the Applicant for the post from the Forest Science Graduate Reserve Category for the post of Range Forest officer, Group B. Advertisement is issued on 06.04.2017 bearing No.4/2017. Directions are to be given to the Respondents to furnish list of disqualifying non eligible candidates from the list of eligible recommendation on 16.04.2018 and also furnish the waiting list. Learned Advocate for the Applicant further submits that he is at Sr. No.35 as another candidate is disqualified and the Applicant is first in waiting list. Learned Advocate for the Applicant relies on Para 8 & 9 of the order passed by this Tribunal on 12.04.2019 which is as follows:-

“8. Pendency of O.A. shall not come in the way of the Government for sending fresh requisition before the date of expiry of wait list.

9. The State shall be free to take affirmative action if they wish. However, it shall not be open to M.P.S.C. as well as State Government later on to argue that the Applicant has no right on account of lapse of time of list.”

3. Learned C.P.O. relies on Clause No.6. of Advertisement dated 10.08.2017 for Main examination. Learned C.P.O. submits that this is a Multi Cadre post, hence no waitlist is maintained by the MPSC. Learned C.P.O. submits that result was declared on 16.04.2018 and the O.A. was filed on 12.04.2019.

4. Preliminary Examination was conducted on 04.06.2017. The Applicant cleared Main examination conducted on 15.10.2017. Result was declared on 16.04.2018 and the merit list was published on same day i.e. 16.04.2018. The Applicant's name is in the merit list at Sr. No.117 from OBC category securing total marks of 214. He has applied for Forest Science graduation. The Applicant holds a degree of Science Graduate (Forest). Shri Nikam Amar Babaso who was at Sr. No.35 was disqualified on the ground that he could not fulfil criteria of physical examination. Learned Advocate for the Applicant relied on the Clause No.5.4 regarding physical standard in the Advertisement No.04/2017 dated 10.08.2017. He pointed out that in Para 5.4.3, 25 Km are to be completed within 4 hours by walking. Learned Advocate for the Applicant further relies on the procedure at Pg 67 (viii) which is reproduced as below:-

“(viii) For certain recruitment, the physical test may have to be held. Passing in the Physical test in accordance with the scheme shall be obligatory. Where such physical test is to be conducted, the number of candidates shortlisted for physical test, shall be four times the number of vacancies. The candidates who do not pass the Physical test shall not be called for the interview.”

5. We have considered the facts of the case, Rules and Clauses in the advertisement. It was advertisement for Multi Cadre post. Hence, admittedly no waitlist is maintained by the M.P.S.C. Therefore, even though the Tribunal by order dated 12.04.2019 has observed that the claim of the Applicant would remain intact if the waitlist is lapsed; it is not helpful to the Applicant as the waitlist itself is not maintained. Further, the result was declared on 16.04.2018 and one year thereafter O.A. was filed. Hence, there is delay and the case of the Applicant cannot be considered at this Stage.

6. In view of above, O.A. is dismissed.

Sd/-
(Medha Gadgil)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place: Mumbai
Date: 03.02.2023
Dictation taken by: N.M. Naik.