

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION No.263 of 2016

DISTRICT : MUMBAI

Shri Pranav M. Kutarekar,)
Flat No.221, 2nd Floor, Prabhavati)
Bhavan, Dr. Babasaheb Jaikar Marg,)
Thakur Dwar, Kalbadevi,)
Mumbai 400 002.)

....Applicant

Versus

1. Director, Govt. Transport Service, Sir)
Pochkhanwala Road, Warli,)
Mumbai 400 001.)
2. The Secretary, General Administration)
Department, (Rajshishtachar),)
Mantralaya, Mumbai – 400 032.)
3. The Director, The Vocational Education)
& Training Directorate, M.S. 3,)
Mahapalika Marg, Post Box No.10036,)
Mumbai – 400 001.)
4. The Secretary, Higher & Technical Edu.)
Department, Govt. of Maharashtra,)
Mantralaya, Mumbai – 400 032.)

....Respondents

Shri C. T. Chandratre, Advocate for Applicant.

Smt. Kranti Gaikwad, Presenting Officer for the Respondents

CORAM : SHRI B. P. PATIL, MEMBER (J)
SHRI P. N. DIXIT, MEMBER (A)

DATE : 28th November, 2018

ORAL JUDGMENT

1. The Applicant has challenged the order dated 01.08.2015 issued by the Respondent No.1 terminating his service with immediate effect as well as the communication dated 12.05.2014 issued by the Respondent No.3 and order

dated 24.09.2015 issued by Respondent No.2 rejecting his representation filed against the order dated 01.08.2015.

2. The Applicant has passed the examination in the Trade of Mechanic Motor Vehicle in Artisan to Technocraft Skill level-III conducted by State Council of Vocational Training. The Respondent No.1 had issued an advertisement dated 31.03.2012 and invited the application from the eligible candidates for the appointment on the post of Assistant Mechanic / Junior Mechanic. It is his contention that he was fulfilling the eligibility criteria and, therefore, he applied for the said post. He participated in the recruitment process has been selected on the post of Assistant Mechanic. Therefore, he was appointed by the Respondent No.1 by order dated 13.06.2012 subject to the verification of the required documents. Since then, he was working on the post till his termination from the services by the impugned order dated 01.08.2015. It is his contention that on 16.01.2015, the Respondent No.1 issued notice to him stating that he was not having the required eligibility criteria and not possessing NCTVT certificate in Motor Mechanic Trade and, therefore, he was called upon to furnish necessary information in that regard. The applicant has given reply to the notice explaining that he had passed the Motor Mechanic Trade examination conducted by SCVT. It is his contention that the certificate produced by him is equivalent to certificate issued by the NCTVT. Therefore, he was eligible to be appointed on the said post. After receiving his reply, the Respondent No.1 referred the matter to Respondent No.3. The Respondent No.3 by communication dated 12.05.2014 informed the Respondent No.1 that the certificate produced by the Applicant is not equivalent to the certificate issued by NCTVT and he was not fulfilling the required educational criteria for claiming the appointment on the said post. On the basis of said communication dated 12.05.2014, the Respondent No.1 issued the order dated 01.08.2015 and terminated the services of the applicant with immediate effect.

3. The Applicant has challenged the said order before the Respondent No.2. After considering his representation, the Respondent No.2 informed the applicant that the representation was not maintainable and rejected the representation by communication dated 24.09.2015.

4. The applicant has challenged the said order dated 01.08.2015 issued by the Respondent No.1 and the order dated 24.09.2015 issued by the Respondent No.2 by filing the present O.A. on the ground that the Respondents had not considered the fact that the course conducted by SCVT is equivalent to the course conducted by the NCTVT.

5. The Respondent resisted the contention of the applicant by filing their affidavit-in-reply. It is their contention that they had invited the applications of eligible candidates for the appointment on the post of Assistant Motor Mechanic by publishing notification and according to advertisement the candidates applying for the said post should pass SSC examination and possess ITI certificate in Motor Mechanic Trade or certificate of NCTVT. It is their contention that the applicant has applied for the post of Assistant Mechanic on the ground that he has passed SSC examination and having the certificate issued by the SCVT in Motor Mechanic Trade. It is their contention that the Applicant is not possessing diploma in ITI or certificate issued by the NCTVT in the Motor Mechanic Trade and, therefore, the applicant was not fulfilling the required eligibility criteria. He was appointed on the post subject to verification of documents. But later on it was revealed that the applicant was not possessing required educational qualification, therefore, his services has been terminated by the Respondent No.1 by impugned order dated 01.08.2015. It is their contention that the representation made by the Applicant has been rejected by the Respondent No.2 on the same ground as the Applicant is not possessing required qualification and has not possessed certificated issued by the NCTVT in Motor Mechanic Trade. It is their

contention that there is no merit in the O.A. and, therefore, they prayed to dismiss the same.

4. Heard Shri C.T. Chandratre, learned Advocate for the Applicant and Smt. Kranti Gaikwad, learned Presenting Officer for the Respondents. We have perused the documents placed on record by both parties.

5. Admittedly, the Respondent No.1 issued the notification / advertisement dated 31.03.2012 inviting applications from eligible candidates for appointment on the post of Asst. Mechanics / Junior Mechanics. Admittedly the Applicant filed an application online for the appointment on the post of Asst. Mechanics / Junior Mechanics. The Applicant has passed SSC examination. He has also passed the course conducted by the SCVT in Motor Mechanic Trade and obtained certificate in the Trade of Mechanic in Artisan to Technocraft, Skill level-III. Admittedly, as per the advertisement, the Respondent No.1 invited the application for the post of Assistant Mechanic / Junior Mechanic from the candidates who have passed SSC examination and who are holding ITI certificate in the Motor Mechanic Trade or possessing certificate issued by the NCTV in the said Trade. Admittedly, the applicant participated in the recruitment process and he was selected and thereafter he was appointed on temporary basis as Assistant Mechanic. Admittedly, on complaint, a show cause notice has been issued to the applicant calling explanation regarding certificate in Motor Mechanic Trade. The Applicant had filed his reply to it. After considering the said reply, the Respondent No.1 terminated his service by impugned order dated 01.08.2015 on the ground that the applicant was not possessing required educational qualification. Admittedly, the applicant made representation against the order dated 01.08.2015 before the Respondent No.2 but his representation has been rejected by the Respondent no.2 by communication dated 24.09.2015.

6. Learned Advocate for the applicant has submitted that the applicant has passed SSC examination. He has completed the course in Motor Mechanic Trade conducted by SCVT and therefore, he applied for the appointment on the post of Assistant Motor Mechanic / Junior Mechanic in pursuant of the advertisement issued by the Respondent No.1. He has submitted that certificate issued by the SCVT is equivalent to the certificate issued by the NCTVT and, therefore, the Respondents ought to have considered the said fact and ought to have held that the applicant has fulfilled the required educational criteria for his appointment on the post of Assistant Mechanic/Junior Mechanic. He has submitted that the Respondent No.1 had terminated the services of the applicant without considering this aspect. The Respondent no.1 has also not considered the said aspect while deciding the representation of the applicant and, therefore, he prayed to quash the termination order dated 01.08.2015 issued by the Respondent No.1 and the communication dated 24.09.2015 issued by the Respondent No.2 rejecting the representation of the applicant by allowing the O.A.

7. Learned P.O. for the Respondents has submitted that while inviting the applications of the candidates for appointment on the post of Assistant Mechanic / Junior Mechanic, the Respondent No.1 has specifically mentioned in the said advertisement that the candidates must pass SSC examination and he should possess diploma in Motor Mechanic from ITI or certificate issued by the NCTVT in the said trade. There is no mention in the said advertisement that the certificate issued by the equivalent institute can also be considered. She has submitted that the applicant has not possessed the required qualification at the time of his appointment. He was possessing the certificate issued by the SCVT in the Motor Mechanic Trade and he was not possessing the certificate issued by the NCTVT in Motor Mechanic Trade. Therefore, the Respondent no.1 has terminated his appointment and there is no illegality in it. She has submitted that the Respondent No.2 has considered all these

aspects while rejecting the representation of the applicant and there is no illegality in it also. Therefore, she prayed to dismiss the O.A.

8. We have gone through the notification / advertisement dated 31.03.2012 issued by the Respondent No.1 inviting applications of the eligible candidates for the appointment on the post of Assistant Mechanic / Junior Mechanic. On perusal of the same, it reveals that the applications of the aspiring candidates have been called upon and it was specifically mentioned therein that the candidate must pass SCC examination. He should possess certificate issued by ITI or the certificate issued by the NCTVT in Motor Mechanic Trade. Admittedly, the applicant was not holding the certificate issued by the NCTV. But he was possessing the certificate issued by the SCVT. The Applicant was not fulfilling the required educational criteria for the appointment on the post of Assistant Mechanic/ Junior Mechanic. He was appointed on temporary basis. But thereafter it was revealed that he did not possess the required qualification. Therefore, a show cause notice was issued to him. In reply to the notice, the applicant has admitted that he is not possessing the certificate issued by the NCTVT but he is possessing certificate issued by SCVT. The Respondent no.1 had sought guidance from the Respondent No.3 in the matter. The Respondent No.3 by communication dated 12.05.2014 informed the Respondent No.1 that the applicant was not possessing the required qualification and therefore he was not eligible to appoint on the said post. On the basis of the said communication, the Respondent no.1 issued the termination order dated 01.08.2015 and terminated the services of the applicant on the ground that he was not possessing the required qualification for the appointment on the said post.

9. On perusal of the record, it reveals that there is no illegality in the impugned order dated 01.08.2015 issued by the Respondent No.1. By this impugned order, the services of the applicant had been terminated as he was not fulfilling the required educational criteria as mentioned in the

advertisement dated 31.03.2012. The Applicant has challenged the said order before the Respondent No.2 by making representation. But the Respondent No.2 has also rejected his representation by communication dated 24.09.2015 on the ground that he was not possessing the required qualification.

10. We do not find any illegality in the impugned order dated 01.08.2015. The applicant was not fulfilling the required educational criteria. Therefore, the Respondent no.1 has terminated the services of the applicant by impugned order dated 01.08.2015. Likewise there is no illegality in the communication dated 24.09.2015 issued by the Respondent No.2 rejecting the representation of the applicant. Therefore, no interference in the said orders called for. There is no merit in the Original Application. Consequently, the same deserves to be dismissed.

11. In view of the above, the Original Application stands dismissed with no order as to costs.

Sd/-
(P. N. DIXIT)
MEMBER (J)

Sd/-
(B. P. PATIL)
MEMBER (J)

Place : Mumbai
Date : 28.11.2018
Dictation taken by : V.S. Mane
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