

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.346 OF 2020

DISTRICT : PUNE

Shri Gaurav Suresh Karande)
Aged : 27 years, Occ. Nil.)
R/o. 1182, C/9, Sonal Housing Society)
Sadashiv Peth, Pune 30)

....Applicant

Versus

1. The Transport Commissioner)
M.S. Mumbai, having office at MTNL)
Building, Fountain-2 Building)
5th floor, M.G. Road, Fort, Mumbai 1)
2. The Secretary,)
Maharashtra Public Service)
Commission, M.S. Mumbai)
Having office at Cooperage)
Telephone Nigam Building,)
Maharshi Karve Road, Cooperage,)
Mumbai 21)
3. The State of Maharashtra,)
Through Principal Secretary,)
Transport Department, having)
Office at Mantralaya, Mumbai 400 32)

....Respondents

Mr. Bhushan A. Bandiwadekar, learned Advocate for the Applicant
Ms. K.S. Gaikwad, learned Presenting Officer for the Respondents.

CORAM : **Justice Mridula Bhatkar (Chairperson)**
Ms. Medha Gadgil, Member (A).

DATE : **18.08.2023.**

J U D G M E N T

1. Applicant challenges the order of denial of appointment to the post of Assistant Inspector of Motor Vehicles and specifically orders dated 25.2.2020 & 16.6.2020. The applicant has applied for the post of Assistant Inspector of Motor Vehicle pursuant to the advertisement dated 14.12.2016 for the Preliminary Examination and for the Main Examination pursuant to the advertisement dated 1.7.2017. The applicant belongs to S.C. category. His educational qualification is B.E (Mechanical). Learned Advocate for the applicant submits that the applicant has applied in S.C. category. The applicant secured second place in the State level Kho-Kho competition of 2007-08. His eligibility was refused on the ground that provisions in paragraphs 2.5 and 2.8 of the advertisement dated 01.07.2017 are not fulfilled, as it was beyond the cut-of date, i.e., 15.02.2017. Learned Advocate for the applicant further submitted that applicant applied to the office of Deputy Director, Sports & Youth Services on 21.8.2017 for validation of his Sports Certificate and he got the Sports Certificate validated on 10.10.2017. Thereafter select list was published on 31.03.2018 and final merit list was published on 09.09.2019. Applicant's documents were verified on 22.10.2019. M.P.S.C. recommended the name of the Applicant but on the point of eligibility which was verified by the Respondent No.1 the name of the applicant was excluded from the merit list as he has received validation of his sports certificate after the cut-off date. Learned Advocate Mr. Bandiwadekar has placed reliance on corrigendum dated 11.03.2017 pertaining to 5% reservation for sportsman. Learned Advocate has submitted that the hardship which was faced on account of G.R. dated 01.07.2016 was done away by this Corrigendum dated 11.03.2017. For

the first time by G.R. dated 21.06.2006 5% reservation was provided as per the decision of the State dated 30.04.2005.

2. Learned Advocate has further relied on clause 2 of the Corrigendum dated 11.03.2019 and Clause 6, sub Clause (viii) to (xi) of G.R. dated 01.07.2016. Clause 2 of the corrigendum dated 11.03.2019 reads as below :

“२. खेळाडू उमेदवाराच्या मुलाखतीवेळी तसेच मुलाखती नसणा-या परीक्षांमधून द्यावयाच्या अंतिम नियुक्तीपूर्वी खेळाडूंकडे संबंधित उपसंचालक, क्रीडा व युवक सेवा यांनी प्रमाणित केलेला क्रीडा प्रमाणपत्र पात्रतेचा अहवाल असणे बंधनकारक असेल”

Thus learned Advocate has submitted that this concession of extension of time was given to the candidates for the purpose of validation of date and time of the sports certificate i.e. so he should acquire his validation of the sports certificate before the interview was conducted.

3. While opposing this O.A. learned P.O. has relied on affidavit-in-reply dated 31.03.2021 filed on behalf of Respondents No.1 to 3, through Mr. Jitendra B. Patil, working as Deputy Transport Commissioner (Admn), in the office of the Transport Commissioner, Mumbai. Paragraph 9 of the said affidavit reads as below :

“9. With reference to contents of paragraph No.6.14, I say that, the GR of the School Education and Sports Department dated 01.07.2016 is clause 6(xiii) states that the directions shall stand applicable for all recruitment process initiated after completion of 1 month from the date of issue of the said GR. In the instant case, the final date of submission of the application form for the main examination for recruitment to the cadre of Assistant Inspector of Motor Vehicles was 15.07.2017. Thus, the above-mentioned G.R. dated 01.07.2016 is applicable for the said recruitment. On the other hand, the corrigendum dated 11.03.2019 to the above-mentioned GR in clause 6, clearly states that, the amendments in the said corrigendum will stand applicable for recruitment process

initiated after 11.03.2019. Thus, the claim of the applicant that the said corrigendum dated 11.03.2019 is applicable in the case of the applicant since the final revised results of the said examination were declared on 09.09.2019 i.e. after the issue of corrigendum dated 11.03.2019, is wrongful and baseless and hence denied.”

4. Considered submissions. In corrigendum dated 11.03.2019 sub Clause (x) of Clause 3, Clause 4 and Clause 6 read as below :

“x. यापुढे महाराष्ट्र लोकसेवा आयोग तसेच अन्य सर्व पदभरतीसाठी सादर कार्यपद्धती लागू राहिल.
 ४. संदर्भाधीन दिनांक ०१ जुलै, २०१६ च्या शासन निर्णयातील परिच्छेद क्रमांक ६ मधील अनुक्रमांक (viii), (ix), (x) व (xi) मध्ये नमुद तरतुदी सादर शुद्धिपत्रकान्वये रद्द करण्यात येत आहे.
 ६. उपरोक्त परिच्छेद २ ते ४ नुसार करण्यात आलेल्या सुधारणा सादर शासन शुद्धिपत्रकाच्या दिनांकानंतर होणा-या भरतीस लागू राहतील.” (emphasis placed)

In view of corrigendum dated 11.03.2019, it is true that the period of producing sports validation certificate was extended upto the date of the interview and on the cut-off date i.e. not the date of submission of the application. Clause 4 and Clause No.6 are very important as pointed out in paragraph 9 of the affidavit-in-reply of Mr. Patil which is reproduced above. The provisions of sub clauses (viii) to (xi) of clause 4 are cancelled by the Corrigendum dated 11.03.2019. However, it is specifically mentioned that as per Clause 6 of this amended G.R. will be applicable from the date of the said corrigendum i.e. 11.03.2019 and not to the recruitment process started before it. The advertisement in present case is on 01.07.2017. It is true that though new provision of extension of time for sports validity certificate is made available by the said G.R., it cannot be made applicable for any recruitment which is prior to the corrigendum.

5. There is substance in the submissions of leaned P.O. that after the issuance of advertisement dated 01.07.2017 the applicant has participated in the process and he was fully aware of the condition that

he should hold validation of the sports certificate before the cut-off date. He did not challenge the said condition and therefore in the year 2019 he cannot be allowed to claim any right or benefit under this corrigendum. Hence, O.A. stands dismissed.

Sd/-
(Medha Gadgil)
Member (A)

prk

Sd/-
(Mridula Bhatkar, J.)
Chairperson

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