

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 362/2015

Laxmikant Sambhaji Khade,
Aged about 34 years,
R/o C/o Baburaoji Wadbudhe,
Plot No.82, Mahakali Nagar,
Near Kawle Hardare,
Nagpur.

-----**Applicant.**

Versus

1. The State of Maharashtra,
Through its Secretary, Higher
Education Deptt.,
Mantralaya, Mumbai.

2. The Maharashtra Public Service Commission,
Cooperage Telephone Exchange Building,
8th Floor, Maharshi Karve Road,
Cooperage Mumbai, through
its Chairman.

-----**Respondents.**

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1. Shri S.P. Palshikar, Advocate for the applicant.
2. Shri A.P. Sadavarte, Presenting Officer for the Respondents.

CORAM : B. Majumdar : Vice Chairman
and

S.S. Hingne : Member (J)

DATE : 6th April, 2016

ORDER**PER VICE-CHAIRMAN**

The applicant's grievance is that he has not been interviewed for the post of Superintendent , Group-B in the Directorate of Higher Education.

2. The MPSC (R/2) issued an advertisement on 13/8/2013 for 27 posts of Superintendent, Group-B in the Directorate of Higher Education. The prescribed experience for the post as stated in the advertisement is as below :-

४.४ अनुभव :-

४.४.१:- “ कार्यालयीन प्रशासनाचा पाच वर्षांचा प्रत्यक्ष अनुभव आवश्यक . त्यापैकी किमान तीन वर्षांचा अनुभव शासकीय विभागातील किंवा शासनाने स्थापन केलेल्या स्थानिक प्राधिकरण किंवा वाणिज्यीक आस्थापना किंवा महामंडळ किंवा मंडळ यातील पर्यवेक्षकीय क्षमतेच्या पदावरील आवश्यक आणि,”

3. The applicant applied for the post and he was called for interview. On 18/5/2015 he appeared for interview but was not interviewed. Hence he has filed this O.A.

4. It is the applicant's submission that he had worked as a Talathi, Cadestal ^{Surveyor} Supervisor and as a Senior Clerk. His work as Talathi and Sr. Clerk involved supervision. Hence he fulfills the eligibility condition of 3 years' experience in a Supervisory capacity.

5. MPSC (R/2) submits that the applicant was called for interview as he had scored higher than the cut off marks in the screening test. In the call letter issued to the applicant it was stated that he was held eligible for interview on the basis of information he had provided in the application form, and if the scrutiny of his documents revealed that he did not qualify for the post, he would not be interviewed and his candidature would be cancelled. The respondent in para 12 further submits as follows :-

“ With reference to Para 4.11 I say and submit that, while verifying the documents it was noticed that applicant has claimed experience on the posts of Surveyor, Talathi and Senior Clerk. Surveyor and Senior Clerk posts are shown as supervisory whereas talathi as of

clerical nature. This entire experience is more than five years and accepted as कार्यालयीन प्रशासनाचा पाच वर्षांचा प्रत्यक्ष अनुभव, however since, these posts are not of a supervisory nature, applicant does not possess the required three years experience on a supervisory post. Hence the applicant was held ineligible for the interview."

6. Shri S.P. Palshikar, Id. Counsel for the applicant submitted that the applicant fulfills the prescribed condition of having 3 years' experience in a supervisory capacity on the basis of the following :-

- a) His certificate of experience dtd. 11/5/2015 issued by the Dy. Director of Land Record, Nagpur states that during 21/9/2006 to 7/7/2009 his posting as Surveyor cum Lipik Tanklekhak was supervisory in nature;
- b) The certificate of Education Officer (Secondary) Z.P., Nagpur dtd. 5/5/2015 states that he has been holding the post of

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Sr. Clerk from 31/5/2012 to till date and the nature of post was supervisory.

Thus, the experience of these two posts put together is more than of 5 years in a supervisory capacity and hence the MPSC has wrongly disqualified him.

7. Shri A.P. Sadavarte, Id. P.O. relying on the affidavit of MPSC submitted that the post of Sr. Clerk and Surveyor can in no way be considered to be of supervisory level.

8. We find that the applicant's candidature for the post of Superintendent, Group-B was rejected by MPSC and he was not interviewed only for the reason that he was not found to have a minimum of 3 years' experience of work of supervisory capacity as stipulated in the advertisement. The applicant has relied on the certificates dtd. 11/5/2015 and 5/5/2015 to claim that he in fact does have such experience.

9. As we have already stated above, the certificate dtd. 5/5/2015 issued by the Education Officer (Secondary)

Z.P., Nagpur states that his work as Sr. Clerk was of supervisory nature. The applicant has also relied on the certificate dtd. 13/5/2015 issued by the Principal, Govt. Polytechnic, Bramhapuri (page-50 of PB) which states that during 9/7/2009 to 17/1/2012 the applicant held the post of Sr. Clerk and the nature of work of the post was clerical. The applicant however, has not explained whether the nature of his work in the post of Sr. Clerk in these two govt. organizations ^{was} ~~are~~ different to the extent that the post in the office of Education Officer, Z.P. , Nagpur involved supervision while the same post in the Govt. Polytechnic, Bramhapuri involved clerical duties. He has also not provided any evidence to demonstrate what kind of supervisory work a Senior Clerk is required to perform. As regards the certificate dtd. 11/5/2015 issued by the Dy. Director of Land Record, Nagpur, it states that the post held by the applicant is " Surveyor cum Lipik Tanklekhak", i.e., Surveyor-cum-Clerk Typist . Thus, the post is obviously of the level of a Clerk-

Typist and hence, it can in no way be considered as involving work which is supervisory in nature.

10. In view of the above, we find no reason to differ with the conclusion reached by MPSC that the applicant does not fulfill the condition of experience as stipulated in the advertisement. Hence the O.A. is devoid of any merit and stands rejected.

sd/-

(S.S. Hingne)
Member (J)

sd/-

(B. Majumdar)
Vice-Chairman.

Skt.