

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION NO.436 OF 2016

District : Kolhapur

Miss Kalyani Vilas Kalekar)
As Assistant Executive Engineer (WRD))
Dudhganga Canal Divn. No.1, Kolhapur)
Having office at Warna Bhavan,)
Tarabhai Park, Kolhapur.)
Residing at : Plot No.76, Shahu Co-op,)
Hsg. Society, Tal. Kagal, Dist. Kolhapur) **....Applicant**

Versus

1. The Chairman/ Secretary,)
Maharashtra Public Service)
Commission, having office at 5th)
Floor, Cooperage Telephone Nigam)
Bldg., Mumbai 400 021)
2. State of Maharashtra, through)
The Principal Secretary,)
Water Resources Department,)
Having office at Mantralaya,)
Mumbai 400 032) **....Respondents**

Mr. Bhushan A. Bandiwadekar, learned Advocate for the Applicant.

Ms. K.S. Gaikwad, learned Presenting Officers for the Respondents

DATE : 25.07.2023

CORAM : JUSTICE MRIDULA BHATKAR, CHAIRPERSON

MS. MEDHA GADGIL, MEMBER(A)

J U D G M E N T

1. The Applicant has applied for the post of Assistant Executive Engineer, Group B and Assistant Engineer, Grade-1, Group-A in the Government Department pursuant to the advertisement dated 13.09.2013.

2. Learned Advocate for the Applicant has submitted that the Applicant has applied in the Open Sports Category as the Applicant has represented the Nagpur District in Volley Ball and has achieved first position in the State Women Competition held at Divisional Sports Complex, Nagpur. Applicant cleared the written examination and also interview. In the first recommendation list dated 23.10.2015 the Applicant's name is figured at Sr. No.19 as she secured 228 marks and the last candidate in Open Sports Category has secured 163 marks. The cut-off marks for Open General Category is 277 marks and for Open Female Category is 190 marks. Applicant was directed to get her Sports Certificate Verified. Applicant's appointment order was issued by the Respondent No.2 on 14.12.2015. She joined the Government service on the post of Assistant Executive Engineer, Group-A on 01.01.2016. On 28.04.2016 the Respondent issued revised list of recommended candidates and naturally for want of valid certificate the Applicant's name was deleted. Her certificate was declared valid on the next date i.e.

19.04.2016. Therefore, the Applicant approached the Tribunal. By order dated 18.05.2016 passed in O.A.No.436/2016 this Tribunal has protected her service and thus she continued w.e.f. 01.01.2016. Applicant is still working and thus today she has completed nearly 8 years in the service.

3. Learned Advocate has submitted that the Applicant was holding valid sports certificate and which was issued only one day after the revised list was published in which her name was deleted. He prays that order dated 28.04.2016 passed by the Respondent No.1 be quashed and set aside. The Applicant in fact played volley ball in the year 2014 i.e., prior to her interview which was held on 21.07.2015.

4. Learned P.O. has submitted that the Applicant was not holding the valid sports certificate when the revised list was published and therefore her name was rightly deleted and so her service was rightly terminated.

5. We are of the view that the applicant was not holding the valid Sports Certificate so she should not have been given appointment initially. However, the Government has issued the appointment order and considered her eligible on the post recommended by the M.P.S.C. She joined the service and thereafter her service was protected by interim order of this Tribunal and as we have stated that the applicant is working though she has not submitted the valid sports certificate and two revised list was published. It is the fact that the Sports Certificate of the Applicant is genuine and she has in fact played tournaments of Volley ball.

6. In view of the above we passed the following order :

O R D E R

- (A) Original Application is allowed.
- (B) Order dated 28.04.2016 passed by the Respondent No.1 is hereby quashed and set aside.
- (C) We direct the Respondent to continue the service of the Applicant.

Sd/-

(Medha Gadgil)
Member (A)

Sd/-

(Mridula Bhatkar, J.)
Chairperson

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