IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

ORIGINAL APPLICATION NO.534 OF 2015

DISTRICT : PUNE

Shri Ramdas Arunrao Kulkarni,)
B-302, Tanish Icon, Dighi, Pune 411015)..Applicant

Versus

1. The State of Maharashtra,)
Through Chief Secretary,)
Mantralaya, Mumbai 400 032)

2. Additional Chief Secretary,)
Home Department, Mantralaya,)
Mumbai 400032)

3. The Chairman,)
Maharashtra Public Service Commission,)
Fort, Mumbai)

4. Commissioner of Transport,)
4th floor, Administrative Building,)
Govt. Quarters, Bandra (E), Mumbai-51)..Respondents

Smt. Punam Mahajan – Advocate for the Applicant

Smt. K.S. Gaikwad – Presenting Officer for Respondents No.1, 2 & 4

Shri D.B. Khaire – Special Counsel for Respondent No.3

CORAM : Shri Rajiv Agarwal, Vice-Chairman
Shri R.B. Malik, Member (J)

DATE : 16th February, 2016

PER : Shri Rajiv Agarwal, Vice-Chairman

JUDGMENT

1. Heard Smt. Punam Mahajan, the learned Advocate for the Applicant, Smt. K.S. Gaikwad, the learned Presenting Officer for Respondents No.1, 2 & 4 and Shri D.B. Khaire, the learned Special Counsel for Respondent No.3.

2. This OA has been filed by the Applicant seeking direction to prepare revised merit lists on the basis of marks obtained by only the eligible candidates after verifying the eligibility of recommended candidates. It also seeks deletion of name of Shri S.H. Gadewad, Shri Pramod C. Lad, Shri Nitin N. Ghodake, Shri Satish M. Tikkas and Smt. Sharvari P. Mahajan from the list of selected candidates as they are unwilling to join. The Applicant also seeks directions to the Respondent No.3 to

recommend names of eligible candidates and directions to the respondent no.4 to appoint such candidates including the Applicant.

3. Learned Counsel for the Applicant argued that the Applicant had applied for appointment to the post of Assistant Motor Vehicle Inspector (AMVI) in response to the advertisement issued by the Respondent no.3 on 11.10.2013 to fill up 215 posts of AMVI. The Applicant had applied from open category. The selection list was published on 29.3.2014. Cut off marks for open category was fixed at 149. The Applicant had secured 139 marks. Learned Counsel for the Applicant stated that the list of recommended candidates was prepared without verifying their eligibility. As a result, a large number of recommended candidates were found ineligible for appointment. The Respondent no.2 (the State Govt.) by letter dated 4.2.2015 requested the Respondent No.3 (Maharashtra Public Service Commission) to send 41 names from the waiting list. Learned counsel for the Applicant contended that the Respondent No.3 had not maintained a waiting list and the names are sent from the general list on the basis of marks obtained by the candidates. It is seen from the letter send by the Respondent No.4 to the Respondent No.2 that names of 41 candidates have been deleted from the selection list, as they are not found eligible. Verification process for 12 candidates is still pending. The Applicant may become eligible if the verification

of all candidates already recommended is completed and if some of them are found ineligible, names of the candidates from the waiting list are recommended. Learned counsel for the Applicant contended that in addition to 41 candidates initially found ineligible, 11 more candidates were found ineligible later and verification of 8 candidates is pending and 5 candidates are unwilling to join. Out of 215 posts, only 155 have been filled as on date. Learned counsel for the Applicant contended that the Respondent No.4 may be directed to complete verification of 8 candidates, which is pending with him and also seek replacement of 5 candidates who are not willing to join.

4. Learned Presenting Officer (PO) argued on behalf of the Respondents No.1, 2 and 4 that from amongst the 215 recommended candidates, 41 were found ineligible. The names of candidates from the waiting list were called from the Respondent No.3 to fill these 41 posts. From the report of the Respondent No.4, dated 16.10.2015, it is seen that out of these 41 candidates, 4 candidates did not submit documents and 3 were found ineligible. Only 2 cases have remained for re-verification. It can be seen that only 7 persons have been found ineligible/not submitted documents out of 41 replacement candidates. Learned PO contended that the original selection list was published on 29.3.2014. A selection/waiting list is valid only for one year. Now almost two years are over. It is, therefore, not possible to act upon that list.

5. Learned Special Counsel Shri D.B. Khaire, argued on behalf of the Respondent No.3 that the advertisement for the post of AMVI was published on 11.10.2013. The result was declared on 29.3.2014. Learned Special Counsel stated that the Commission may consider to recommend candidates from the waiting list, if the Government sends request within one year of the declaration of the result or till the next advertisement is published, whichever is earlier. In the present case, one year period is over and the waiting list has already lapsed. Learned Special Counsel stated that the Applicant does not even claim that he is eligible for appointment. This OA is, therefore, not maintainable.

6. We find that there is no agreement about the number of persons, who were recommended initially and were found ineligible and the candidates recommended as replacement and who have actually been found eligible. The situation is necessarily fluid and number may not remain constant. However, from the Exhibits R-1 and R-2 appended to the affidavit in reply filed on behalf of the Respondents No.1, 2 and 4 dated 16.12.2015 it is seen that 7 replacement candidates could not submit documents for verification or were found ineligible. Verification in respect of 2 candidates was in progress. Looking into the complexities of the verification process (one candidate was sent to J.J. Hospital, other's

experience certificate was to be verified) it will not be proper for us to give any time limit in this matter. The Applicant claims that 5 candidates listed in relief clause 9(a) are not willing to join. The Applicant has prayed that their names may be deleted from the list. These persons have not been made a party in this OA. Obviously, such a prayer is not tenable at all.

7. From this OA, we find that the Applicant is not claiming that he is eligible to be selected for the post of AMVI. He is claiming that if two open-general post and one open-woman post is directed to be filled from waiting list, he may be selected. We have to consider the fact that the list of recommended candidates was published by MPSC on 29.3.2014. A period of one year and 10 months is already over. No doubt, as held by the Hon'ble Supreme Court in the case of **STATE OF JAMMU AND KASHMIR AND OTHERS VERSUS SAT PAL, 2013(2) SLR 601(SC)** that the waiting list can remain valid, for one year after the last recommended candidate. However, in that case, the person concerned was undoubtedly eligible, if the waiting list was operated. In the present case, the Applicant himself is not sure, whether he would be eligible for appointment. He wants this Tribunal to give instructions to delete the names of those who are unwilling to join but such persons are not made a party to this OA. Applicant wants this Tribunal to give instructions to prepare a list only of eligible candidates and recommend such candidates

within two weeks and to de-reserve one open-woman post. We are unable to accept all these demands of the Applicant. The selection list was published on 29.3.2014. The process of verification of documents etc. is a time consuming process. While deciding to delete names of those who are found ineligible or was unwilling to join, it is to be ensured that no injustice is caused to them. A selection list cannot be allowed to remain valid indefinitely. In the present case, the Applicant has failed to show that he is eligible to be appointed as AVMI if the waiting list is operated. His claim is based on 'ifs' and 'buts'. We find no reason to accept the prayers in this OA.

8. Having regard to the aforesaid facts and circumstances of the case, this OA is dismissed with no order as to costs.

Sd/-
(R.B. Malik)
Member (J)
16.2.2016

Sd/-
(Rajiv Agarwal)
Vice-Chairman
16.2.2016

Date : 16th February, 2016
Dictation taken by: S.G. Jawalkar.
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