

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

ORIGINAL APPLICATION NO 564 OF 2014

DISTRICT : NASIK

Smt Sujata Manohar Ahire,)
Occ : Nil, R/o Nasik.)
Add for service of Notice :)
Shri A.V Bandiwadekar, advocate)
Having office at 9, "Ram Kripa",)
Lt Dilip Gupte Marg, Mahim,)
Mumbai 400 016.)...**Applicant**

Versus

1. The Chairman)
Regional Selection Committee)
Cum Chief Engineer,)
North Maharashtra Region,)
Water Resources Department,)
Nasik.)
2. The Secretary,)
Womer. & Child Development)
Department, having office at)
Mantralaya, Mumbai 400 032.)

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3. The Principal Secretary,)
General Administration Dept,)
Mantralaya, Mumbai 400 032.)...**Respondents**

Shri A.V Bandiwadekar, learned advocate for the Applicant.

Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

Shri R.B Malik (Member) (J)

DATE : 05.01.2016

PER : Shri Rajiv Agarwal (Vice-Chairman)

ORDER

1. Heard Shri A.V Bandiwadekar, learned advocate for the Applicant and Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

2. This Original Application has been filed by the Applicant seeking a declaration that one post of Clerk-typist should have been reserved for Scheduled Caste Women candidates as per G.R dated 1.4.1994 read with

G.R dated 25.5.2001 in the advertisement issued by the Respondent no. 1 on 24.8.2013.

3. The Respondent no. 1, viz. Chairman, Regional Selection Committee and Chief Engineer, North Maharashtra Region, Water Resources Department, Nasik had issued an advertisement dated 24.8.2013 to fill a total of 49 posts of Clerk-typists. Learned Counsel for the Applicant argued that there is 15% vertical reservation for Scheduled Caste and as such 7 posts should have been reserved for Scheduled Caste candidates. There is 30% horizontal reservation for women candidates in each vertical reservation category and 2 posts should have been reserved for S.C-Woman category as per G.R dated 1.8.1997 and G.R dated 25.5.2001 issued by the Responder t no. 2. Even if the number of posts for S.C shown as 4 in the aforesaid advertisement are considered, one post should have been reserved for S.C-Woman as 30% reservation is therefor Women. As the Applicant obtained highest marks in S.C-Woman category, she was eligible to be selected.

4. Learned Presenting Officer (P.O) argued on behalf of the Respondents that the Respondent no. 1 is not the appointing authority in respect of the posts advertised. He is only the coordinating authority for selection of suitable Group 'C' and 'D' employees for Nasik Regional for Water Resources Department. In fact,

the concerned Superintending Engineers are the appointing authorities. Learned Presenting Officer contended that vertical and horizontal reservation is decided by the appointing authority in each of the office, depending upon the total number of posts and vacancies to be filled. Vertical reservation is decided on the basis of total number of posts while horizontal reservation is provided on the number of vacancies to be filled. While the vertical reservation is to be carried forward, same is not the case with horizontal reservation. Learned P.O contended that 20 offices have sent the requirement of posts to be filled to the Respondent no. 1 and vertical and horizontal reservation for each of the offices was worked out separately. The posts were filled in two stages in 2012 and 2013. The posts which could not be filled in 2012, were filled in 2013. In addition, Government had given permission to fill 3% of the sanctioned posts in various offices as there were many vacancies and all were not to be filled at the same time. In 2012, Government had permitted to fill up 90% of the vacant posts as on 30.6.2011. Remaining 10% of the vacant posts as on 30.6.2011 and 3% of sanctioned posts were filled in 2013 for which the advertisement was issued on 24.8.2013. Learned P.O argued that the horizontal reservation for posts advertised in 2013 was as per Government Circular dated 16.3.1999 and G.R dated 25.5.2001 (for Woman).

5. We find that two issues are raised in this Original Application viz; (a) whether horizontal reservation could be carried forward when the posts were to be filled in two sages – 90% of vacant posts as on 30.6.2011 in 2012 and 10% in 2013 and (b) whether the horizontal reservation for women was required to be calculated clubbing posts of 20 Circles in North Maharashtra for which recruitment was being made. It appears that the Respondents have worked out Circle wise reservation, both horizontal and vertical, for vacancies which were to be filled in 2012 and 2013 together. After deducting the vacancies filled in 2012, the remaining vacancies (plus 3% of sanctioned posts) were filled in 2013, keeping the vertical and horizontal reservation intact, as it was worked out for all vacancies. The issue regarding carry forward of horizontal reservation is not relevant in this C.A while considering the claim of the Applicant. Her claim is that in 2013, 4 posts of Clerk-typists were reserved vertically for S.C candidates and 30% reservation for Woman would have resulted in 1 post being reserved for S.C Woman candidate. This will be true, if the Respondent no. 1 was the appointing authority for all the posts, which were advertised. However, the Respondent no 1 in his affidavit dated 10.12.2015 has in paras 3.2 and 3.3 stated that the Respondent no. 1 has collected requirement of posts to be filled from 20 Circle Offices. It means that there were 20 different appointing authorities. Reservation,

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both vertical as well as horizontal, is worked out for each offices separately. Each Circle Office, headed by a Superintending Engineer is a separate office and has to maintain separate roster Register. Every office has to work out horizontal reservation for the vacancies to be filled in each of the selection cycle. The requirement of posts from 20 Circles was combined and a total of 4 posts from S.C category were required to be filled which were as follows:-

Sr No	Office	S.C posts
1.	Superintending Engineer, Dhule	1
2.	Superintending Engineer, Jalgaon	2 (1 from 2012 + 1 from 3%)
3.	Administrator, C.A.D.A, Jalgaon	1
	TOTAL	4

None of these posts were horizontally reserved for Woman S.C candidates. If 30% reservation is calculated, on this vacancy position, no post could be reserved for Woman. The Applicant's claim is based on the premise that reservation should be worked out on the total number of posts advertised. However, if the selection authority (Respondent no. 1 in the present case) is different from appointing authority, that will not be possible. Horizontal (as well as vertical) reservation has to be worked out office-wise and not clubbing offices together.

If the claim of the Applicant is accepted, logically the reservation should be calculated for the State Government as a whole, which is obviously not the case. The Applicant's claim is clearly untenable. It is not necessary for us to examine whether the horizontal reservation was correctly worked out by the Respondent no. 1, carrying forward vacancies in 2013, as that has not been challenged in the present Original Application.

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

Sd/-

(R.B. Malik)
Member (J)

Sd/-

(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai
Date : 05.01.2016
Dictation taken by : A.K. Nair.