

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
MUMBAI**

ORIGINAL APPLICATION NO.565 OF 2023

DISTRICT: Kolhapur

Subject: Appointment

1. Shri Pradeep Babasaheb Sakate)
R/o. 1044, A Ward, Firangi, Galli)
Shivaji Peth Kolhapur.)

VERSUS

- 1] The State of Maharashtra through its)
Principal Secretary, Public Health Dept.)
Mantralaya, Mumbai 32.)
- 2) The Maharashtra Public Service -)
Commission, through its Secretary,)
Five 1 / 2, 7 and 8 1/2 floor cooperage,)
Telephone Exchange Building, Maharashi,)
Karve Marg, Cooperage, Mumbai 400021.)..**RESPONDENTS**

Smt. Amita Chaware, learned Advocate for the Applicant.

Ms S. P. Manchekar, learned Chief Presenting Officer for the Respondents.

**CORAM : Justice Mridula Bhatkar, Chairperson
Shri Debashish Chakrabarty, Member-A**

DATE : 30.11.2023

JUDGEMENT

1. Heard Smt. Amita Chaware, learned Counsel for the Applicant and Ms S. P. Manchekar, learned Chief Presenting Officer for the Respondents.

2. The Applicant is working as Junior Account Officer with Pradhan Mantri Gram Sadak Yojana (hereinafter referred to as 'PMGSY'). The Respondent No.2 – M.P.S.C. published Advertisement No.47/2014 dated 07.02.2014 for Appointment to 10 posts of Chief Administrative Officer (General State Service Group A) (S 20 Pay scale) under Respondent No.1 - Public Health Department. The Screening Test for said post was conducted on 03.08.2014. Accordingly, the result of Screening Test was declared by Respondent No.2- MPSC on 27.03.2015. As per the result, total 32 candidates were called for Personal Interview on 14.05.2015 out of which 1 candidate was absent and 5 candidates were declared ineligible. Hence, Personal Interview of total 26 candidates were conducted by Respondent No.2-MPSC out of which the experience of 14 candidates was found doubtful. Hence, the queries were raised by MPSC to State Government vide their letter dated 30.05.2015. As per said letter, State Government forwarded the compliance to Respondent No.2-MPSC by letter dt.13.07.2015 by which experience of 13 candidates was found inadequate and they were declared ineligible. Accordingly, the candidature of these 13 candidates was cancelled by Respondent No.2-MPSC on 05.09.2015. The Respondent No.2-MPSC also asked the State Government about the veracity of experience of remaining 13 candidates vide letter dated 05.07.2019. Accordingly, 11 candidates were found ineligible by State Government. Hence, out of these 13 candidates only 2 candidates were held to be eligible by State Government. However, the State Government has still not appointed the 2 candidates who were declared eligible for post of Chief Administrative Officer (General State Service Group A) (S 20 Pay scale).

3. The learned Counsel for the Applicant prays that this Tribunal be pleased to declare that the Applicant is eligible to be appointed as 'Chief Administrative Officer' as he holds the requisite qualification and possesses executive and administrative experience or both of 7 years. The learned Counsel for the Applicant in support this claim pointed out Clause 4.5 (ii) of M.P.S.C. Advertisement No.47/2014, dated 07.02.2014 which pertains to

education qualification and experience. Clause 4.5.(ii) being relevant is reproduced as under:-

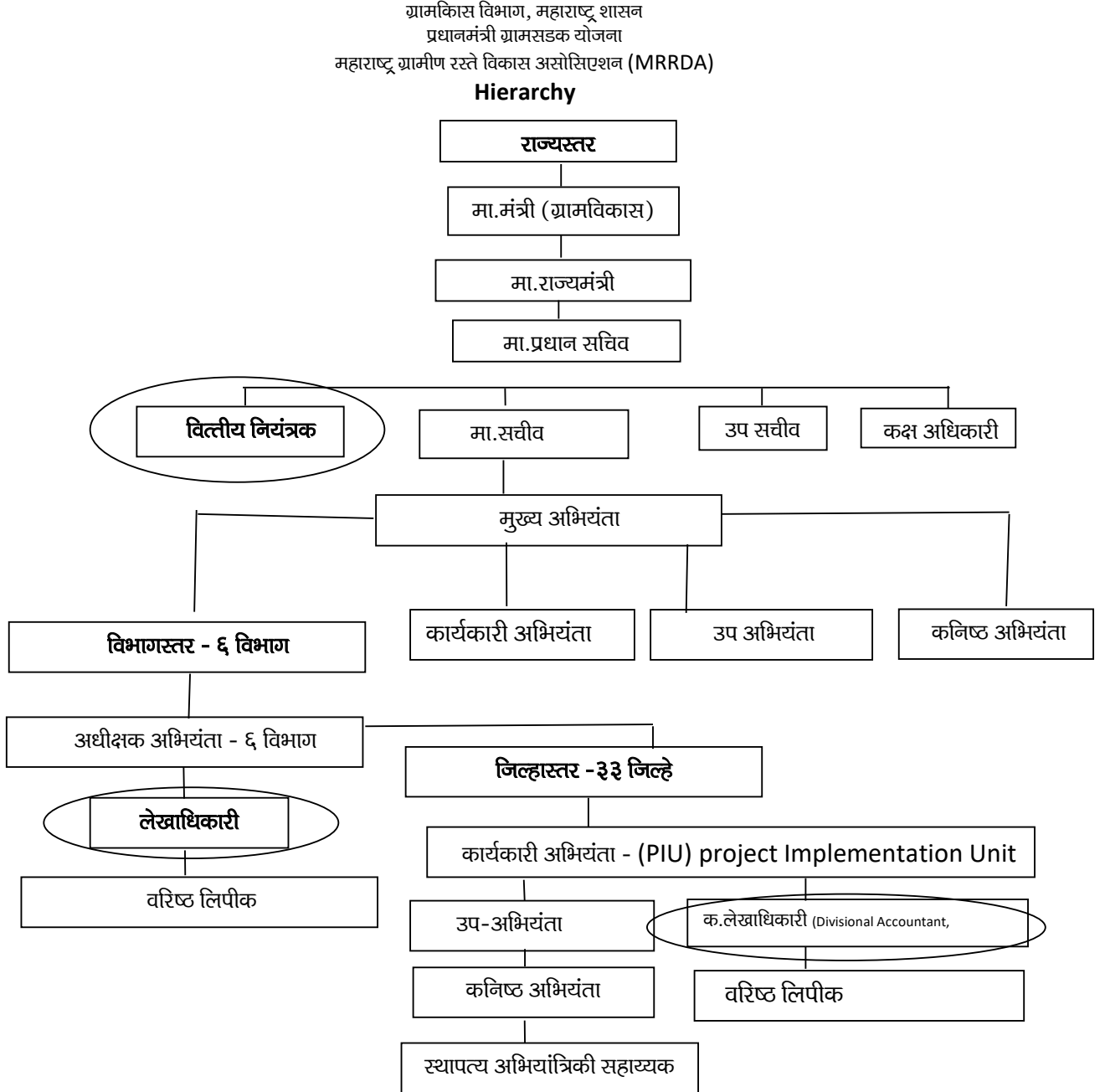
*“4.5 (ii) Possess executive or administrative experience or both, for a period of not **less than seven years**, gained after acquiring the qualification mentioned in sub clause (i) above, in a Government Department, Commercial concern, Local Authority or a Corporation or Board established by the Government; and.....”*

4. The learned Counsel for the Applicant submits that objection raised by the Respondent No.1 – Public Health Department and Respondent No.2- M.P.S.C. that Applicant is not having requisite executive or administrative experience or both of 7 years is illegal. Learned Counsel for Applicant relied on ‘Certificate of Experience’ dated 07.05.2015 issued by Executive Engineer, PMGSY, MRRDA Kolhapur. In said ‘Certificate of Experience’, the nature of duties of Junior Accounts Officer is mentioned as ‘Administrative Duties’. She also relied on Affidavit in Reply of Smt. Karuna Sarvade, Chief Administrative Officer, Respondent No.1, dated 19.07.2023 and Respondent No.2 filed by Shri Sanjay Sherkar, Under Secretary, M.P.S.C., dated 06.09.2023.

5. The learned Counsel tendered letter dated 13.10.2023 which was sent by Shri Prashant Patil, Under Secretary, Maharashtra Government to Executive Engineer, PMGSY, MRRDA, Kolhapur. In that letter, it is mentioned that the post of ‘Divisional Accountant’ and ‘Accountant’ are at District Level offices of ‘PMGSY’ which are filled on ‘Contractual Basis’ or ‘Deputation’ and is ‘Administrative Post’. The incumbent discharges the role and responsibilities as mentioned in ‘PMGSY Accounts Manual’ in Chapter 5: Relations with Accounts Officer. The learned Counsel for the Applicant accordingly submits that the post of Junior Accounts Officer is, therefore, equivalent to ‘Divisional Accountant’ although nowhere the post of Junior Accounts Officer is mentioned under the term of ‘Divisional Accountant’ in Paragraph 5.2.1 of Chapter 5 of PMGSY: Accounts Manual.

6. The learned Counsel for the Applicant was, therefore, directed to show the hierarchy of posts from ‘Junior Accounts Officer’ to Senior Accounts

Officer as per the Chapter 5 of 'PMGSY Accounts Manual' and she submitted an 'Organogram' Certified by Executive Engineer, PMGSY, MRRDA, Kolhapur which shows the hierarchy of officers from 'Junior Accounts Officer' to 'Senior Accounts Officer' This 'Organogram' shows posts of (i) "वित्तीय नियंत्रक" at State Level (ii) लेखाधिकारी at Regional Level and (iii) क. लेखाधिकारी (Divisional Accountant) at District Level:-



7. The learned Counsel argued that the post of 'Junior Account Officer' was created later on in 2007 at the District Level offices of PMGSY. Hence, Junior Accounts Officer is to be considered as equivalent to 'Divisional Accountant' in Paragraph 5.2.1 of Chapter 5 of PMGSY: Accounts Manual. Therefore, the Applicant who is holding the post of 'Junior Accounts Officer' is eligible and possessing administrative and executive experience or both of 7 years. Learned Counsel submits scrutiny and verification done in respect of experience by the Respondent No.1-Public Health Department and Respondent No.2- MPSC is illegal & erroneous. Therefore, Applicant is to be considered and recommended for appointment to post of 'Chief Administrative Officer' (General State Service Group A) (S 20 Pay Scale).

8. The learned C.P.O. opposes the 'Organogram' produced on behalf of Applicant which is certified by Executive Engineer, PMGSY, MRRDA, Kolhapur. On instruction, she submits that so far as work content of the post of Junior Account Officer is concerned, it does not involve any administrative or executive work or both. It is purely related to work of Account Keeping. The candidates to be eligible for post of 'Chief Administrative Officer' (General State Service Group A) (S 20 Pay Scale) at least must be from the category of the Sr. Accounts Officer, Account officer etc. and have experience as a 'DDO' (Drawing and Disbursing Officer) which is considered by Respondent No.1-Public Health Department as having executive and administrative experience or both. So far as the Applicant is concerned, he been working as 'Junior Accounts Officer' and does not held the post of 'DDO' and thus he is doing work only in respect of Account Keeping. Learned C.P.O. further submits that nowhere the post of Junior Accounts Officer is mentioned under the term of 'Divisional Accountant' in Paragraph 5.2.1 of Chapter 5 PMGSY :Accounts Manual. She also relied on Affidavit in Reply of Smt. Karuna Sarvade, Chief Administrative Officer of Respondent No.1 – Public Health Department, dated 19.07.2023 and Respondent No.2- MPSC filed by Shri Sanjay Sherkar, Under Secretary, dated 06.09.2023.

9. We have considered the submission of learned Counsel for the Applicant and also learned C.P.O. and analysed the 'Organogram' produced before us and marked as court 'Exhibit-1' which is certified by the Executive Engineer, PMGSY, MRRDA, Kolhapur. This 'Organogram' shows the posts of (i) "वित्तीय नियंत्रक" at State Level (ii) लेखाधिकारी at Regional Level and (iii) क.लेखाधिकारी (Divisional Accountant) at District Level.

10. The Paragraph No. 5.2.1. of Chapter 5 of 'PMGSY Accounts Manual' uses the term "Divisional Accountant" which includes "Senior Accounts Officer, Account Officer, Divisional Accountant and Accounts Manager. Hence only candidates who have worked as 'DDO' or occupied such posts categorized under "Divisional Accountant" may have been considered to be eligible by State Government.

11. The post of 'Junior Account Officer' is not mentioned under the term 'Divisional Accountant' in Paragraph No.5.2.1 of Chapter 5 of PMGSY Accounts Manual. Further the promotional post of 'Jr. Account Officer' is 'Account Officer'. Therefore, Applicant being Junior Account Officer cannot be treated as equal to Accounts Officer which is included in the term 'Divisional Accountant'. The Executive Engineer, PMGSY, MRRDA, Kolhapur has no authority to decide equivalence of the post of 'Junior Account Officer' to the post 'Divisional Accountant' mentioned in Para 5.2.1 of Chapter 5 of 'PMGSY Accounts Manual' as he has attempted to do because such equivalence of posts is to be decided only by State Government or by Central Government which are implementing the "Pradhan Mantri Gram Sadak Yojna". No such document or order of State Government or Central Government has been produced before us for authentication of equivalence of post of 'Junior Account Officer' with the post of 'Divisional Accountant' in Para 5.2.1 of Chapter 5 of 'PMGSY Accounts Manual'. In such situation, we find no merit in the claims of Applicant

12. In view of above, Original Application is dismissed with no order as to costs.

Sd/-
(Debashish Chakrabarty)
Member (A)

Sd/-
(Mridula Bhatkar, J.)
Chairperson

Place: Mumbai
Date : 30.11.2023
Dictation taken by: VSM
D:\VSM\VSO\2023\ORder & Judgment\Judgments 2023\O.A.565 of 2023 Appointment.doc