IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, AURANGABAD, BENCH AT AURANGABAD

ORIGINAL APPLICATION NO.580 OF 2016
(Subject : Selection D.E.)

DISTRICT : DHULE

1) Mayuresh Ramkrishna Lohar,)
18, Krishnakunj, Sudar Galli,)
Nardana, Tq. Sindkhede,)
District Dhule.)**...APPLICANTS**

VERSUS

1) The State of Maharashtra,)
Through its Secretary,)
Water Resources Department,)
Mantralaya, Mumbai 32)
(Copy to be served on the C.P.O.)
M.A.T. Aurangabad))

2) The Secretary,)
Maharashtra Public Service)
Commission,)
Bank of India Building,)
3rd floor, M.G. Road,)
Hutatma Chowk, Mumbai 400 001.)**...RESPONDENTS.**

Shri S.D. Dhongade, learned Advocate for the Applicants.

Smt. Resha S. Deshmukh, learned Presenting Officer (P.O.) for the Respondents.

CORAM : SHRI RAJIV AGARWAL, VICE-CHAIRMAN (A)
SHRI B.P. PATIL, MEMBER (J)

DATE : 16.08.2017.

PER : SHRI RAJIV AGARWAL, VICE-CHAIRMAN (A)

J U D G M E N T

1. Heard Shri S.D. Dhongade, learned Advocate for the Applicants and Smt. Resha S. Deshmukh, learned Presenting Officer for the Respondents.

2. The Applicant has applied for the post of Deputy Engineer (Mechanical), Water Resources Department, pursuant to the advertisement issued by the Respondent No.2 on 30.08.2013. His candidate was cancelled on the ground that he did not produce non-creamy layer (N.C.L.) certificate as per the conditions of the aforesaid advertisement.

3. Learned Counsel for the Applicant argued that the Respondent No.2 viz. Maharashtra Public Service Commission (M.P.S.C.) had issued advertisement on 30.08.2013 to fill a total of 28 posts of Deputy Engineer (Mechanical) in Water Resources Department, (the Respondent No.1). One post was reserved for N.T.-B candidate. The Applicant had applied from

N.T.-B category. Such candidates were required to file N.C.L. certificate. The Applicant was called for interview on 19.07.2014. In the call letter, it was mentioned to bring N.C.L. certificate at the time of interview. No specific period for which N.C.L. certificate was required was mentioned. The Applicant produced N.C.L. certificate dated 12.03.2011 which was valid for 2008-09, 2009-10 and 2010-11. However, the Respondent No.2 did not accept the same and did not allow the Applicant to be interviewed. The Applicant submitted N.C.L. certificate for 2014-15 on 22.07.2014. But the same was also not accepted by the Respondent No.2.

4. Learned Counsel for the Applicant argued that the Respondent No.2 had issued advertisement on 31.08.2013. Before that date on 17.08.2013, the Government of Maharashtra had issued a G.R. which provides for issuance of NCL certificate for 3 years. The Respondent No.2 was bound to accept the certificate issued as per the provisions of G.R. dated 17.08.2013. New NCL certificate produced by the Applicant on 22.07.2014 should have been accepted by the Respondent No.2 as per condition No.1.3.3.9.

5. Learned Presenting Officer (P.O.) argued on behalf of the Respondents that the Applicant is seeking appointment to the post of Deputy Engineer (Mechanical). However, the Applicant was not allowed to participate in the selection process as he failed to produce requisite NCL certificate. The question of giving him appointment does not arise. Learned

Presenting Officer argued that M.P.S.C has issued general guidelines for the candidates, who participate in the selection process for various posts. As per condition no. 2.2.3.4, a candidate belonging to, inter alia, NT-B category, is required to produce NCL Certificate valid for the financial year prior to the financial year in which advertisement is issued. The advertisement was dated 30.8.2013, so it was issued in the financial year 2013-14. NCL Certificate for the year 2012-13 was required. Learned Presenting Officer argued that G.R dated 17.8.2013 would not make any difference, as it has not made Certificate issued earlier as invalid. It only provides for validity of NCL Certificate to be for 3 years. Learned Presenting Officer contended that condition no. 2.3.7 made it clear that a candidate was required to bring all original documents at the time of interview. No extension of time was permissible. As the Applicant did not produce NCL Certificate for the year 2012-13 at the time of interview, his candidature was rejected.

6. We find that the Applicant in para 6(d) of O.A has admitted that he had produced an NCL Certificate dated 12.3.2011, which was for the years 2008-09, 2009-10 and 2010-11. The Applicant had stated in para 6(e) that he produced NCL Certificate for 2014-15 on 22.7.2014, while he was called for interview on 19.7.2014. The advertisement for the post for which the Applicant had applied was issued on 30.8.2013. M.P.S.C has issued general guidelines for all the

candidates, who apply to participate in various selection processes. Condition no. 2.3.7 reads:-

> "२.३.७ मुलाखतीच्या दिवशी उपरोक्त सर्व मूळ कागदपत्रे सादर करणे आवश्यक रहील. ती सादर करू शकत नसेल तर त्यास कोणतीही मुदतवाढ दिली जाणार नाही व मुलाखत घेतली जाणार नाही. या कारणामुळे उमेदवार अपात्र ठरत असेल. तर संबंधित परीक्षेची उमेदवारी तात्काळ रद्द करण्यात येईल व त्याची संपूर्ण जबाबदारी उमेदवाराची राहील. उशा प्रकरणी अनुज्ञेय प्रवास भता देय राहणार नाही. तसेच, याची संगणकीय प्रणालीद्वारे नोद घेण्यात येईल. अशा बाबतीत प्रकरणपरत्वे उमेदवारास ब्लक लिस्ट करण्याची अथवा आयोगाच्या निवड प्रक्रियेतून कायमचे प्रतिरोधीत करण्याची कार्यवाही होऊ शकते याची उमेदवाराने नोंद घ्यावी."

The Applicant was aware that he was required to bring all documents, including valid NCL Certificate at the time of interview, which he failed to do.

7. Condition no. 2.2.3.4 reads as follows:-

> "२.२.३.४ उन्नत व प्रगत गटात मोडत नसल्याचे विहित प्रमाणपत्र आयोगातर्फे विज्ञापना ज्या वितीय वर्षात (एप्रिल ते मार्च) दिलेली असेल, त्यापूर्वीच्या वितीय वर्षातील प्रमाणपत्र सादर करणे आवश्यक आहे. त्याआधीचे प्रमाणपत्र आयोगाकडून ग्राहा धरण्यात येणार नाही."

This condition is regarding the period for which NCL Certificate was required. The advertisement was issued in the financial year 2013-14, so NCL Certificate for 2012-13 was required. The advertisement was issued on 30.8.2013 and the Applicant had ample time to get NCL Certificate for the year 2012-13 before he was called for interview on 19.7.2014. However, the Applicant did not produce the NCL Certificate for

the year 2012-13 at the time of interview and his candidature was cancelled by the Respondent no. 2. We do not find anything wrong in the action taken by the Respondent no. 2.

8. The Applicant has stated that interview letter did not mention the year for which NCL Certificate was required. This argument is difficult to accept. The Applicant was required to carefully read instructions for candidates issued by M.P.S.C and had he done so, it would have been clear that NCL Certificate for the year 2012-13 was required. The Applicant is relying on Government Circular dated 17.8.2013 which is at Annexure A-9 (page 46). This Circular reads as follows:-

> "१. ज्या विद्यार्थी/उमेदवारांच्या पालकांचे मागील सलग तीन वर्षतील प्रत्येक वर्षाचे उत्पन्न हे जर रू.६ लक्षापेक्षा कमी असेल तर अशा विद्यार्थी/उमेदवारांना तीन वर्षाच्या कालावधीकरीता नॉन क्रिमिलेअरचे प्रमाणपत्र देण्यात यावे.
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> २. ज्या विद्यार्थी/उमेदवारांच्या पालकोच मागील तीन वर्षाच्या उत्पन्नापैकी कोणत्याही दोन वर्षाचे उत्पन्न हे जर रू.६ लक्षापेक्षा कमी असेल तर अशा विद्यार्थी/उमेदवारांना दोन वर्षाच्या कालावधीकरीता नॉन क्रिमिलेअरचे प्रमाणपत्र देण्यात यावे.
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> ३. ज्या विद्यार्थी/उमेदवारांच्या पालकोच मागील तीन वर्षाच्या उत्पन्नापैकी एक वर्षाचे उत्पन्न हे जर रू.६ लक्षापेक्षा कमी असेल तर अशा विद्यार्थी/उमेदवारांना एक वर्षाच्या कालावधीकरीता नॉन क्रिमिलेअरचे प्रमाणपत्र देण्यात यावे."

9. We do not see how this Circular would make any difference in the situation when the Applicant had failed to produce NCL Certificate for 2012-13. If income of his parents were less than prescribed income for any one (or two or three)

of the past years, he would have got NCL Certificate. The fact remains that the Applicant did not produce requisite NCL Certificate at the time of interview and his candidature was rejected by the Respondent no. 2. We uphold the decision of the Respondent no. 2.

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

Sd/- Sd/-

(B.P. PATIL) **(RAJIV AGARWAL)**
MEMBER(J) **VICE-CHAIRMAN(A)**

Place : Aurangabad
Date : 16.08.2017
Typed by : A.K Nair

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