

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**ORIGINAL APPLICATION NO 640 OF 2013**

**DISTRICT : PUNE**

Mr Rahul Jaywant Haribhakt, )  
Occ : Nil, R/at Sai Niwas, )  
B-5, Sundar Nagar, )  
Katraj Kondwa Rd, Katraj, )  
Pune-46. )...**Applicant**

**Versus**

1. The Director, )  
Directorate of Information & )  
Public Relations, M.S., )  
New Administrative Bldg, )  
Mumbai 400 032. )
2. The State of Maharashtra, )  
Through the Principal )  
Secretary [Services], )  
G.A.D, Mantralaya, )  
Mumbai 400 032. )



3. Mr Narendra Hiranman Wasnik, )  
 Movie Cameraman Group-C )  
 Working at Director of )  
 Information & Public Relations )  
 17<sup>th</sup> floor, New Administrative )  
 Building, Mumbai 400 032. )  
 R/at New Rachna Park, )  
 M-Wing, Room no. 202, )  
 Chakki Naka, )  
 Kalyan [E] 421301. )...**Respondents**

Shri K.R Jagdale, learned advocate for the Applicant.

Shri A.J Chougule, learned Presenting Officer for the Respondents no 1 & 2.

Respondent no. 3 *absent*

**CORAM : Shri Rajiv Agarwal (Vice-Chairman)**

**Shri R.B. Malik (Member) (J)**

**DATE : 24.02.2016**

**PER : Shri Rajiv Agarwal (Vice-Chairman)**

**ORDER**

1. Heard Shri K.R Jagdale, learned advocate for the Applicant and Shri A.J Chougule, learned Presenting Officer for the Respondents

2. This Original Application has been filed by the Applicant challenging the order dated 2.12.2009 issued by the Respondent no. 1 appointing the Respondent no. 3 on the post of Cameraman Group 'C'. The Applicant is praying that he may be appointed to that post.

3. Learned Counsel for the Applicant argued that by order dated 8.8.2008, the Applicant was appointed as Movie Cameraman by the Respondent no. 1. The Respondent no. 3 made a complaint against the Applicant's appointment to the Respondent no. 2. The complaint was not entertained and the Respondent no. 3 filed O.A no 197/2009 before this Tribunal challenging the appointment of the Applicant to the post of Movie Cameraman. This Tribunal by order dated 30.10.2009 quashed and set aside the order dated 8.8.2008 on the ground that the Applicant was not eligible to be appointed to the post in question as he had crossed the prescribed age limit of 38 years, on the date of advertisement. As a result, the Respondent no. 3 was appointed as Movie Cameraman, after Applicant's services were terminated. The Applicant then collected the relevant information under the Right to Information Act and he found out that his appointment was valid and the upper age limit for one post of Movie Cameraman was 40 years as per the Recruitment Rules notified on 25.4.1953. As such the Applicant was eligible to be appointed as Movie Cameraman. The advertisement for




the post wrongly mentioned the upper age limit as 38 years. Learned Counsel for the Applicant argued that the Applicant was eligible for appointment and there are posts vacant, where he could be accommodated even now. Learned Counsel for the Applicant further argued that the Respondent no. 3 had submitted S.S.C Certificate which is not signed by the Secretary of the Educational Board. Learned Counsel for the Applicant contended that the S.S.C Certificate of the Respondent no. 3 is forged and fabricated. Learned Counsel for the Applicant prayed that the appointment of the Respondent no. 3 may be quashed and set aside on the additional ground that his Caste Certificate is suspect.

4. Learned Presenting Officer (P.O) argued on behalf of the Respondents no 1 & 2 that advertisement no. 1/208 was issued on 28.1.2008 to fill up inter alia, 1 post of Movie Cameraman, which was reserved for Scheduled Caste (S.C) category. The Applicant was appointed to the post by order dated 8.8.2008. His selection was challenged by the Respondent no. 3 on the ground that he was not eligible to be appointed to the post as per the advertisement and the draft recruitment rules. Though the rules dated 24.4.1953 were in force, the Government had framed new draft recruitment rules, which provided for upper age limit of 30 years. In the rules of 24.4.1953, the upper age limit was 40 years. A backward class candidate is eligible for age relaxation by

5 years. The advertisement indicted upper age limit of 33 years for open category and 38 years for Backward Class candidates. Learned Presenting Officer argued that this Tribunal quashed the appointment of the present Applicant on the ground that he was over age as per the advertisement as he crossed the age of 38 years on the date of advertisement. The Applicant contended that the order of this Tribunal was passed in ignorance of recruitment rules dated 24.4.1953 is not correct. Learned Presenting Officer further argued that the contention of the Applicant that S.S.C Certificate of the Respondent no. 3 is false and fabricated is also not correct. The Respondent no. 3 has submitted a duplicate copy of the Secondary School Certificate Mark Sheet which showed that he appeared for the examination in October, 1985 and passed. This Mark Sheet is signed by the Divisional Secretary of the Maharashtra State Board of Secondary and Higher Secondary Education, Pune. Similarly, the Applicant has produced Caste Validity Certificate.

5. We find that the Applicant is seeking two fold reliefs viz. (a) that he was fully eligible to be appointed as Movie Cameraman, as the upper age limit for the post under the recruitment rules dated 24.4.1953 was 40 years. He seeks appointment in a vacant post, and (b) the Respondent no. 3 was not eligible to be appointed to that post as he had submitted a false and fabricated S.S.C Certificate and Caste Certificate.



6. In para 7.5.2 of the Original Application, the Applicant has stated that:-


“7.5.2: On 30.10.2009, the Respondent no. 3 had succeeded on the available material. Now under R.T.I Applicant had obtained the vital information which provides that 40 years as upper age limit and not 38 years for the post of Movie Cameraman. This information goes to the root of the matter.”

In O.A no 197 of 2009, the present Respondent no. 3 was the Applicant and he had challenged the selection of the present Applicant to the post of Movie Cameraman. In para 12 of the judgment dated 30.10.2009 this Tribunal has observed:-

“12. It is an admitted position that the advertisement prescribed maximum age of 33 years for open category and 38 years for Scheduled Caste category. As per this, Respondent No.3 was not eligible since he was more than 38 years even when the first advertisement was issued on 10.8.2006, having been born on 27.5.1968. The stand of Respondent No.2 that as per 1953 rules, Respondent No 3 was eligible since he was under 40 years cannot be accepted, for the simple reason that many others between the age of 38 and 40 years may not have applied after the advertisement

mentioned the maximum age of 38 years. Hence, it is clearly not open for Respondents 1 & 2 to travel beyond the advertisement and to that extent consideration of the application of Respondent No.3, who was beyond the age of 38 years even at the time of first advertisement, cannot be sustained. The advertisement is clearly expected to be in consonance with the recruitment rules. If it is not so, the competent authority has either to follow the advertisement or issue a corrigendum. It is not open to change the rules of the game after advertising a post, without informing all concerned. Even the certificate dated 14.7.2008 was submitted at the stage of appointment of Respondent No.3 after the written, proficiency and oral tests had been conducted. Thus, the impugned order will clearly have to be set aside.”

It is quite clear that the fact that as per the recruitment rules dated 24.4.1953, the upper age limit for the post was 40 years was brought to the notice of this Tribunal. As per new draft recruitment rules, the age limit was 30 years, relaxable by 5 years for backward class candidates. All these facts were considered by the Tribunal. However, it was held that the age limit in the advertisement should be adhered to. The Applicant's claim that the fact that age limit was 40 years is



disclosed only now, has no basis, and the Applicant cannot succeed on this ground.

7. As regard the S.S.C Certificate of the present Respondent no. 3, the Applicant has stated in para 6.22 of the O.A that:-

“It is pertains to note here that the Applicant for the first time received the documents relating to the qualification of the Respondent no. 3, in which it reveals that the Respondent no. 3 is not even a SSC passed candidate, i.e. he has not even obtained the basic qualification of the said post. The school leaving certificate issued by the Amravati high school dated 21.6.1989 discloses that the Respondent no. 3 is failed in March 1983 in the SSC examination. Moreover the mark list submitted by the Respondent no. 3 is unsigned by the Divisional Secretary of the Board rather the said mark list explicitly demonstrates that it is fake and fabricated and it proves that the Respondent no. 3 made forgery and got employment though he was not having required qualification. Hereto annexed and marked as Exhibit V-Colly. i.e. true copy of the mark list and school leaving certificate.”



Exhibit 'V' is at p. 64 of the Paper Book. In the affidavit in reply of the Respondents no 1 & 2 dated 15.7.2014, in para 8, it is stated that:-

"I say that though the School Leaving Certificate of the Respondent no. 3 shows he had left the Secondary school in the year March 1993 remain SSC failed, the Mark sheet shows that he had appeared for the SSC examination with exemptions through "Shrimati Kamalabai Lahothi Mahavidyalalay" Amravati and passed in the year October 1985. The said SSC Mark sheet was attested as "True Copy" by the Principal Shrimati Kamalabai Lahothi, Amravati. This copy of the Mark sheet was enclosed with the Original Application on page no 64 and the School Leaving Certificate was enclosed on page no. 65. He also obtained Duplicate Mark Sheet mentioned the result passed out from Maharashtra State Board of Secondary and Higher Secondary Education, Pune. His examination details, i.e. seat no. H104803, Centre no. 0091, Dist & School no. 02-186 etc were mentioned on that Certificate and also signed and authorized by the Divisional Secretary MSBSHSE. A copy of duplicate mark sheet was enclosed with the Original Application on page no. 79. I reiterate that the Applicant had appeared for HSC examination in the year March 1992 and failed. A copy of HSC mark

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sheet was enclosed with the Original Application on page no 76. It is crystal clear that the Respondent no. 3 had passed the SSC examination, took an admission in 11<sup>th</sup> std and passed out and appeared for 12<sup>th</sup> std. Until and unless a candidate passed SSC examination never gets an admission in 11<sup>th</sup> std and further in a routine process.”

From this it appears that the claim of the Applicant that the SSC Certificate submitted by the Respondent no. 3 is ~~not~~ false is not established. The Applicant had produced a copy of mark list signed by the Secretary of the Board.

8. As regards Caste Certificate submitted by the Respondent no. 3, the Applicant has stated in para 7.5.4 of the Original Application that:-

“7.5.4 As well as the applicant had applied under RTI on 2.11.2014 seeking the certified copy of caste certificate of Respondent no. 3 (which was furnished by the Respondents in RTI to the Applicant and the same is annexed at page 66). In that turn on 11.11.2014 it was communicated to the Applicant that as here was no document number to the said caste certificate thus there is no record of the same in their office and hence Applicant’s RTI application was rejected. Even the caste certificate produced by Respondent no. 3 dated 26.6.1980 (pg 66) is forged

and fabricated and the information furnished by the Tahsildar Morshi dated 11.11.2014 proves that the Tahsil office did not issue such type of certificate. These vital informations will support the claim of the Applicant to succeed finally. Hereto annexed and marked as Exhibit AG colly, i.e. true copy of the RTI application dated 2.11.2014 & information furnished dated 11.11.2014.

The letter of Resident Naib Tahsildar, Morshi, Dist-Amravati dated 11.11.2014 states that it was not possible to give copy of the Caste Certificate of the Respondent no. 3 issued by Tahsildar, Morshi in absence of case number. In our opinion this letter does not prove that the Respondent no. 3 did not have a valid Caste Certificate. Tahsildar, Morshi might have issued a large number of such certificates to different persons. Case number is required to locate the concerned file. It is generally given at the top of the Certificate. In the affidavit in reply to amended O.A dated 15.9.2015, the Respondent no. 1 has stated in para 10 that:-

“10. With reference to amended para 7.5.4 of the Original Application, I say and submit that the Applicant's application under RTI Act is rejected as it was not in prescribed format and he did not mention case number of such caste certificate. He was directed by the Public Information Officer and



Residential Naib Tahsildar, Morshi to submit detail application in prescribed format vide letter No. Ka.li/Ma.Aa/Kavi/2014 dated 11.11.2014. Copy of the said letter dated 11.11.2014 is already placed on record by the Applicant at Page no. 15 of Miscellaneous Application No. 97 of 2015 for amendment in Original Application No. 640 of 2013. Hence, the contention of the Applicant that as there was no document number to the said caste certificate thus there is no record of the same in their office is not acceptable and tenable. I further say and submit that the caste certificate produced by Respondent No. 3 dated 26.6.1980 is bearing seal of the Executive Magistrate, Morshi and it is verified by the Caste Certificate Verification Committee, Amravati Division, Amravati vide letter No. Visakaa/Aam/Japrapa/3764/Nirnaya, dated 31.10.2003. Hence the contention of the Applicant that the Tehsil office did not issue such type of certificate is not acceptable and tenable.”

It is clear that the Tahsildar, Morshi has not given copy of the Caste Certificate of the Respondent no. 3 as in the absence of case number it was difficult to locate the concerned file. That cannot be construed to mean that no such certificate was issued. In fact, the Respondent no. 3 had produced Caste Validity Certificate, which

conclusively proves that he belongs to S.C category. The claim of the Applicant in this regard has to be rejected.

9. To sum up, the Applicant has not been able to establish that SSC Certificate or Caste Certificate of the Respondent no. 3 is not genuine. On the contrary, the Respondent no. 1 had verified these Certificates and found them to be valid. The challenge to appointment of the Respondent no. 3 as Movie Cameraman must fail.

10. 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 : 24.02.2016**  
**Dictation taken by : A.K. Nair.**