

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
NAGPUR BENCH, NAGPUR.

ORIGINAL APPLICATION NO.665/2015.

Premanand Sudamrao Lonkar,

Aged about 29 years,

Occupation: Nil,

R/o A t Post Pingli Rly. Station, Tah & Dist.

Parbhani.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Agriculture,
Mantralaya, Mumbai-32.

2. The Commissioner of Agriculture (M.S.),
Central Building, Pune.

3. The Joint Director of Agriculture,
Amravati Division, Amravati.

Respondents.

ORIGINAL APPLICATION NO.666/2015.

Anand Balasaheb Kamble,

Aged about 29 years,

Occupation: Nil,

R/o A t Post Nhava, Taluka Palam,

Distt. Parbhani.

Applicant.

-Versus-

1. The State of Maharashtra,
Through its Secretary,
Department of Agriculture,
Mantralaya, Mumbai-32.

2. The Commissioner of Agriculture (M.S.),
Central Building, Pune.

3. The Joint Director of Agriculture,
Amravati Division, Amravati.

Respondents.

Shri S.P. Palshikar, Ld. Advocate for the applicants.
Smt. M.A. Barabde, Ld. P.O. for the respondents.

**Coram:- B. Majumdar, Vice-Chairman and
S.S. Hingne, Member (J)**

Dated:- 9th June, 2016.

Order

Per:Vice-Chairman

As the facts and legal issue involved in both the O.As are common, they are disposed of through this common order.

2. The applicants' grievance is that they have not been appointed to the post of Agriculture Assistant even though they were selected.

3. The Commissioner of Agriculture (M.S.), Pune (R.2) on 19.6.2013 issued an advertisement for filling up of the posts of Agriculture Assistant in different Divisions. The applicants applied for the post from Amravati Division from the category of SC (General). There were 10 posts in that category. In the written test based on which the select list was prepared, the applicants scored 145 and 143 marks respectively out of 200. The select list was published on 31.1.2014. In this list, the applicants have been shown as selected from the category of SC by de-reserving 2 posts from the category of ex-serviceman. Respondent No.2 on 11.11.2014 permitted the

Divisional Joint Director of Agriculture, Amravati (R.3) to de-reserve the posts in different categories originally meant for ex-servicemen, as no candidate from that category was available. On 14.12.2015, the Backward Classes Cell of Divisional Commissioner, Amravati Division, Amravati informed the respondents that against a total of 186 posts reserved for the category of SC, 203 posts have been filled up, i.e., by an excess of 17 posts. Hence there was no backlog from that category.

4. It is the grievance of the applicants that they have been selected from the category of SC after the posts meant for ex-serviceman were de-reserved. Hence the respondents could not have denied them appointment.

5. The Divisional Joint Director of Agriculture, Amravati (R.3) in para 9 of his reply submits as follows:

“It is most respectfully submitted that a proposal was submitted by the office of answering respondent No.3 dated 3.12.2014 to the office of Assistant Commissioner, Backward Class Cell, Amravati for verification of Roster. The said office submitted the Roster on 14.12.2015 after verifying the Roster Point. On verification, it came to the notice that for SC category, total approved posts are 186 & 203, posts are occupied by the SC category employees. Thus total 17 posts are already filled in excess of permitted quota. The copy of the roster is annexed herewith as Annexure-R. Therefore, at present no post of

SC category is available with the respondent No.3 in order to appoint the applicant on the post of Agriculture Assistant.”

6. Thus according to the respondents, as no vacancy was available in the category of SC, there being a surplus of 17 occupants of the posts from that category, there was no scope for granting appointment to the applicants.

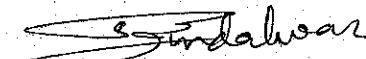
7. Shri S.P. Palshikar, the learned counsel for the applicants submitted that while issuing the advertisement, the respondents have clearly declared that 10 posts were available from the category of SC (General) and 5 from the category of SC (ex-serviceman). The applicants were selected from the category of SC on merit, after the posts meant for ex-serviceman were de-reserved as no suitable candidates were available. Now belatedly the respondents cannot deny them appointment on the ground that there was no backlog available from the category of SC.

8. Smt. M.A. Barabde, the learned P.O. for the respondents reiterated the submission made by respondent No.3.

9. We find that even though the applicants were selected from the category of SC after de-reserving the posts meant for ex-servicemen, they could have been appointed only if the posts were available from that category. It was certified by the Backward Class Cell of the Divisional Commissioner, Amravati that there was an over

representation from the category of SC. Thus, there being no backlog from this category, the respondents were not in a position to appoint the applicants. It is the settled law that a selected candidate has no right to the appointment only if a vacancy is available. In view of the above factual situation, we find that the respondents were not in a position to appoint the applicants as no vacancy was available. Thus, the O.As are without any merit and stand rejected. No order as to costs.

True Copy


Assistant Registrar 15/6/2016
Maharashtra Administrative Tribunal
Nagpur