

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 704 / 2015 (D.B.)

1. Ashok S/o Ganpati Sonkusare,
Aged about 43 Yrs.,
Occupation : Telex operator in the office of Director,
Information & Public Relations, Nagpur,
Amravati Division, Amravati, R/o Plot
No. 9, Lav-Kush Nagar, Ring Road,
Manewada, Post Ayodhya Nagar,
Nagpur-440024.
2. Gajanan S/o Vitthalrao Jadhao,
Aged about 40 yrs.,
Occ. Accountant in the office of Deputy Director (Information),
Amravati, R/o 74, Deep-Kamal Layout Shahu Nagar,
Besa Road, Nagpur-440034.

Applicants.

Versus

- 1) The State of Maharashtra,
Through its Secretary,
General Administration Department,
Mantralaya, Mumbai- 32.
- 2) Director (Administration), Information & Public Relations,
Ground Floor, Mantralaya, Mumbai-32.
- 3) Shri Jayant Laxminarayan Karpe,
Occ. Sub-Editor/ Information Assistant,
C/o District Information Office, Pune.
- 4) Shri Amol Shrikant Mahajan,
Occupation : Sub-Editor/ Information Assistant
C/o District Information office, Jalna.
- 5) Shri Eknath Tukaram Powar,
Occ. Sub-Editor/ Information Assistant,
C/o District Information Office,
Pandharpur, Distt. Solapur.

Respondents

Shri S.C.Deshmukh, the Id. Advocate for the applicant.

Shri P.N.Warjekar, the Id. P.O. for the respondents.

**Coram :- Hon'ble Shri Shree Bhagwan, Vice Chairman &
Hon'ble Shri A.D.Karanjkar, Member (J)**

JUDGMENT

Judgment is reserved on 27th Aug., 2019.

Judgment is pronounced on 19th Nov., 2019.

Heard Shri S.C.Deshmukh, Id. counsel for the applicant and Shri P.N.Warjekar, Id. P.O. for the respondents.

2. In the year 1997, the Recruitment Rules for the post of Sub-Editor, Receptionist and Translators, Group-C under the Directorate of Information and Public Relations came to be published. The posts of Sub-Editor/ Information Assistant were required to be filled in by way of promotion, selection through the limited departmental examination and by nomination in the ratio of 25:25:50. However, the limited departmental examination provided for the departmental candidates does not disclose any criteria or the qualifying marks for passing the said examination.

3. The first limited departmental examination was held in the year 1998, wherein the candidates were selected and appointed as per the marks obtained by them in the said examination. In the limited departmental examination taken in the year 2003 and 2011, the result of the candidates was declared in an arbitrary manner.

4. Circular was issued for the Limited Departmental Examination- 2015, wherein there is no mention regarding the qualifying marks for clearing said examination. The result of the limited departmental examination-2015 was declared, wherein the applicants were shown as failed in an arbitrary manner on 06.04.2015.

5. Respondent Nos. 3 to 5 were selected & appointed on the post of Sub-Editor/Information Assistant on 30.05.2015 on the basis of aforesaid limited

departmental examination. The applicants made representations to the Respondent No.2 against the selection process on 13.04.2015.

6. The representations was answered wherein it was informed that, the recourse to the provisions of Departmental Examination Rules of 1977 and G.R. dt. 27th June, 2008 bearing no. [G.O. Ms. No. 46/2007/13] had been taken to declare the result of limited departmental examination of 2015. It is submitted that, the departmental examination rules of 1977 operates in a totally different field and it is meant for confirmation after passing of the post recruitment departmental examination. Likewise, the G.R. dt. 27/06/2008.

7. Being aggrieved by the arbitrary exercise of powers adopted by respondent No. 2 in the matter of selection & appointment on the post of Sub-Editor/Information Assistant, the applicants approached this Hon'ble Tribunal on 16/10/2015.

8. It is further submitted that, the Directorate General of Information and Public Relations has taken similar limited departmental examinations in the year 1998, 2003 and 2011 as per the said Government instructions. No question was raised regarding the procedure of the limited departmental examination then. While selecting suitable candidate for posts, cut of marks varies from time to time. In the year 2014, the selection committee had decided to select employee for the posts of Sub-editor/Information Assistant/Receptionist-cum-Information Assistant from amongst employees who secured minimum marks 45 in each paper. Hence, the contention of the applicant that no procedure was declared for selection of the candidates before the result of the limited departmental examination has no substance.

9. The said Government Resolution dated 27.6.2008 is applicable to the process of direct recruitment. Earlier, there was no provision to fill up posts by result

of limited departmental examination from amongst employees holding posts of Teleprinter Operator/Senior Clerk/Clerk-typist. The provision of filling 25% posts through limited departmental examination was made vide Government notification, General Administration Department dated 19.8.1997. To fill up posts either by nomination or limited departmental examination, similar procedure like inviting applications from candidates or employees, scrutinizing the applications received, communicating examination program and syllabus for examination to the eligible candidates or employees, conducting examination at convenient centres, checking of answer sheet, short listing candidates/employees, declaring/publishing merit list of candidates as per marks secured and giving appointment to the successful candidates/employees was adopted. Only passing examination is not sufficient ground for selection. Considering nature of work of particular post and duties and responsibilities of that post, the selection committee can fix minimum marks for passing or cut of marks. In the present case, the selection committee had decided to make applicable the said Government Resolution dated 27.6.2008 in respect of criteria of minimum marks. The case of a person referred by the applicant and who though got less than 45 marks was given appointment is different from the case of the applicant. The said appointment was under nomination category and the post was reserved for ST category. No other candidate was available from that category at that time, consequently, the selection committee had decided to select him though he secured marks less than 45. The Applicant's case is different from the case referred above. The applicant had appeared for limited departmental examination and got 38 marks in first paper and 51 marks in second paper, and, therefore, the applicant was disqualified for the post of Sub-editor/Information Assistant/Receptionist-cum-Information Assistant, Group-C. The candidates who secured minimum 45 marks in each subject were selected and appointed to the said post.

10. While selecting employees through limited departmental examination in the year 2011, the selection committee did not think necessary to make applicable the said G.R., dated 27.06.2008 as out of 9 applications, 5 applicants were found eligible for examination and 02 were selected on the basis of obtained marks more than minimum criteria i.e. 45 marks since as per the respondents, candidates were expected to obtain minimum 45% marks in each paper. Copy of the Mark sheet dated 6/4/2015 which has been signed by the all the Members is on page nos. 41 &42 (Annex-A-10) of the O.A.

11. We have perused the G.R. dated 27/6/2008 (A-7,P-68) in this G.R. at page no.69 para-5 following criteria has been fixed –

^5- menokj xqoRrk i k= Bj.; kl lBhfdeku xqk&

fnukd 19@10@2007 P; k vknš kkrthy i f jPNn dz 5 ¼2½ ; fkyh rjrmhuu kj dk; žkgh djrkuk tsmenokj yfkh i f j {kr fdeku 45 VDdsxuk i klr djrthy v'kk menokjkukp 0; kol kf; d plp.kh nrk ; bžy-

r l p fnukd 19@10@2007 P; k vknš kkrthy i f jPNn dz 5 e/khy v-dž 1 rsv-dž 4 ; fkyh rjrmhuu kj dk; žkgh djrkuk xukoRrk ; knhr varHkžb dj.; kl lBh menokjkus , duk xqkž; k fdeku 45 VDds xqk i klr dj.lk vko'; d jkgthy-**

12. As per this provision of the G.R. dated 27/6/2008 applicant no.2 at sr.no.33 has got 91 marks and has been shown 'Not passed' which is against the provisions of the G.R. dated 27/6/2008.

13. The respondents in their additional affidavit-in-reply dated 12/7/2019 in Para-5 on P.B. page no.137 have mentioned the G.R. dated 27/6/2008 and they have also mentioned minimum criteria of 45 % marks only as per the G.R.

14. In view of discussion in above para it is clear that applicant no.2 has obtained 91 marks i.e. 45% marks and he requires to be declared as passed. In view of this we pass the following order -

ORDER

1. The O.A. is partly allowed
2. It is declared that the applicant no.2 Shri G.V.Jadhao has passed the examination, therefore, he be granted relief as per prayer clause 9(4).
3. No order as to costs.

(Shri A.D.Karanjkar)
Member (J)

(Shri Shree Bhagwan)
Vice Chairman

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Vice Chairman & Member (J).

Judgment signed on : 19/11/2019.
and pronounced on

Uploaded on : 20/11/2019.
