

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.794 OF 2020

1. Mr. Nayan Nivas Chavan)
R/at. A/P Bhilawadi, Tal Palus,)
Dist. Sangli 416 303)
2. Apasana Ahamadali Patel,)
R/at. A/P. Peth, Naykalwadi,)
Tal. Walwa, Dist. Sangli 415 407)
3. Varsha Sampat Bebale,)
R/at. A/P. Durandewadi,)
Post Bilashi, Tal. Shirala,)
Dist. Sangli 415 402)

....APPLICANTS

VERSUS

1. Secretary/ Chairman)
Maharashtra Public Service)
Commission, through its Secretary,)
Having Office at 5, 7 & 8 floor,)
Cooprej Telephone Nigam Bldg,)
Maharshi Karve Road, Cooprej,)
Mumbai 32)
2. The State of Maharashtra,)
Through Principal Secretary,)
Finance Department, Mantralaya,)
Mumbai 32)
3. The Commissioner,)
State (Sales) Tax Department,)
GST Bhavan, Mazgaon, Mumbai 10)

4. The State of Maharashtra,)
Through Principal Secretary,)
General Administration Department,))
Mantralaya, Mumbai 32)
5. Chaitrali Dagadu Pawar)
R/at. Sawangi, Post : Lasur Station)
Tal Gangapur, Dist. Aurangabad)
-RESPONDENTS.**

Mr. A.S. Pawar with Mr. S.D. Patil and Mr. Digvijay Kachare, learned Counsel for the Applicants.

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

**CORAM : Justice Mridula Bhatkar, Chairperson
Ms. Medha Gadgil, Member (A)**

DATE : 13.02.2024.

J U D G M E N T

1. The three applicants seek direction against Respondents No.1 to 3 that they should consider candidature of the Applicants on vacant posts in Open Female Category for the post of Sales Tax Inspector, Finance Department, Maharashtra State pursuant to advertisement No.52/2016 dated 03.11.2016. Further the Applicant also challenges Sub Rule 8(ii) of Rule 10 of the Maharashtra Public Service Commission Rules of Procedure, 2014 (hereinafter referred as 'MPSC Procedure Rules 2014' for brevity). This O.A. is filed on 24.12.2020.

2. Learned Counsel for the Applicant has submitted that the result of this Recruitment process for the post of Sales Tax Inspector was declared on 14.12.2017 and on the same day the list of the recommended

candidates was published. The names of the applicants were not mentioned in the said list. Learned Counsel has relied on application/ letter dated 23.01.2019, Exhibit-H which is forwarded by Mr. Balasaheb Deshmukh, Deputy Commissioner, State Tax, Mumbai under the RIT Act. Learned Counsel has submitted that in the said letter dated 23.01.2019 it is stated that total 42 posts were vacant after verification of the documents. Recommendation list is published on dated 14.12.2017 and hence the wait list lapsed on 13.12.2018.

3. The letter at Exhibit-H reveals that the Government had made a demand of 15 candidates who were not interested in joining and so also 42 remained absent for verification of documents. Our attention is drawn to M.P.S.C. reply to the letter dated 14.12.2020 by learned C.P.O. wherein the RTI Officer, Finance informed that in case of applicant No.2 of this O.A. the result of the said impugned examination was declared on 14.12.2017 and recommendation list was published on 27.12.2017. Further, Sales Tax result was declared on 02.05.2018 and recommendation was made on 07.05.2018 and therefore in view of letter dated 29.11.2018 wait list is lapsed.

4. Learned Counsel has submitted that his application of delay was allowed therefore whatever delay was there on merit in seeking relief is also condoned. He has submitted that the State Government failed to communicate the vacancy of 48 posts within a period of one year when the wait list was alive. M.P.S.C. also failed to communicate that they are going to declare result of subsequent examination to the State. Due to this the wait list was not exhausted and hence 48 posts remained vacant

when the O.A. was filed. Hence, O.A. is to be allowed and the applicant is to be accommodated on the said post.

5. Learned C.P.O. while contesting this O.A. has submitted that communications dated 14.02.2020 and 29.11.2018 issued by the Under Secretary, M.P.S.C. to the Finance Department wherein M.P.S.C. has given reply to the letter dated 12.11.2018 whether the Government has asked for the candidates from the wait list of the impugned recruitment of 2016. It was informed that in between the period the result of 2017 examination was declared on 02.05.2018. M.P.S.C. is recommended the candidates for said post of the 2017 examination, so it lapsed and hence wait list lapsed as per Sub Rule 8(ii) of Rule 10 of the MPSC Procedure Rules 2014. She has further submitted that it is not binding on the Government to fill up all the posts vacant though the vacancies are available. Learned C.P.O. has submitted that it is not binding on M.P.S.C. to consult the State of Maharashtra before declaring the result as it is an independent governing body.

6. Learned Counsel by way of reply has submitted that on 02.05.2018 M.P.S.C. declared result of subsequent examination on that date they have not consulted that the State Government whether any vacancy arose in the list of 2016 recruitment process. It reflects from the communication dated 23.01.2019, Exhibit-H. The State has sent requisition letter of 48 posts on 03.12.2018, having no knowledge about the declaration of the result of subsequent examination which was declared on 02.05.2018 and if the M.P.S.C. would have communicated the result of May 2017 examination the State should not have written this letter to M.P.S.C. making requisition of the posts.

7. In view of the chronology of declaration of result and Rule 10(8)(ii) of the MPSC Procedure Rules 2014 the submissions of learned Counsel on this point are irrelevant. Learned Counsel did not argue on the constitutionality and validity of Rule 10(8)(ii) of the MPSC Procedure Rules 2014 and the prayer of declaration of result so also applicant has challenged results of 2017, 2018 and 2020. It is not true that the Government is the only authority to take decision how many posts are required to be filled up and how many are to be kept vacant. It is not binding on the Government to fill up all the vacancies. It is made clear that in any matter when the application for condonation of delay is allowed it does not mean that the O.A. should not be dismissed on the ground of laches and delay so far as merit of the matter is concerned.

8. In view that there is not merit and no substance in the case, O.A. stands dismissed.

SD/-
(Medha Gadgil)
Member (A)

SD/-
(Mridula Bhatkar, J.)
Chairperson

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