

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

**ORIGINAL APPLICATION NO.822 of 2016
(Subject : Appointment)**

DISTRICT : PUNE

Shri Vinod Sudam Chaudhari,)
R/o. 'Sushailya', Bhrahmanali,)
Rajguru Nagar, Tal. Khed,)
Dist. Pune.)

....Applicant.

Versus

1. The State of Maharashtra)
Through Principal Secretary,)
Transport Department,)
Mantralaya, Mumbai 400 032.)
2. The Transport Commissioner,)
M.S., Mumbai having office at)
Administrative Building,)
Government Colony, Bandra (E),)
Mumbai 51.)
3. The Chairman/ Secretary,)
Maharashtra Public Service Commission,)
M.S., Mumbai, MTNL Building,)
Off Cooprage Ground, Mumbai 32.)

.....Respondents.

Shri Uday Warunjikar, the learned Advocate for the Applicant.

Ms. N.G. Gohad, the learned Presenting Officer for Respondents.

CORAM : JUSTICE SHRI A.H. JOSHI, CHAIRMAN
SHRI P.N. DIXIT, MEMBER(A)

RESERVED ON : 13.03.2019.

PRONOUNCED ON : 27.03.2019.

PER : JUSTICE SHRI A.H. JOSHI, CHAIRMAN

J U D G M E N T

1. Heard Shri Uday Warunjikar, the learned Advocate for the Applicant and Ms. N.G. Gohad, the learned Presenting Officer for Respondents.

2. Heard both sides. Perused the record.

3. Applicant herein was a candidate for selection to the post of Assistant Motor Vehicle under the employment of Respondents No.1 and 2. The candidature of applicant was being considered for the recruitment which had commenced in 2014.

4. The eligibility as regards experience as notified in the Advertisement and as prescribed in Recruitment Rules reads as follows :-

(a) "४.५ अनुभव :-

४.५.१ वरील क्रमांक ४.४.२ मधील शैक्षणिक अर्हता संपादक केल्यानंतर, उद्योग संचालनालयाकडे लघु उद्योग म्हणून किंवा इतर कायद्यान्वये लघु उद्योग म्हणून नोंद असलेल्या किंवा ज्यांची वार्षिक उलाढाल रु.३ ते ५ लाख आहे, अशा मोठ्या गॅरेज किंवा कार्यशाळेमध्ये हलके वाहन, जड माल वाहतुक वाहन व जड प्रवासी वाहतूक वाहनाच्या दुरुस्तीचे व परिक्षेचे (मेन्टेनन्स) पुर्ण वेळ कर्मचारी म्हणून प्रत्याक्ष काम केल्याचा १ वर्षाचा अनुभव. प्रस्तुत अनुभव हा अर्ज स्वीकारण्याच्या अंतिम दिनांकास म्हणजे दिनांक १ नोव्हेंबर, २०१३ किंवा त्यापूर्वी प्राप्त केलेला असणे आवश्यक आहे."

(Quoted from page 23, Exhibit-B of the paper book of O.A. which is the text contained in the advertisement)

(b) "3. Appointment to the post of Assistant Inspector of Motor Vehicles, in Motor Vehicles Department, shall be made by nomination on the basis of the result of a competitive examination held by the Commission, in accordance with such rules prescribed in that behalf, from amongst candidates who, -

(a)

(b)

(c)

(d) possess practical experience of repairing and maintenance of light motor vehicles, heavy goods vehicles and heavy passenger vehicles, for a period of not less than one year as full time employee, gained after acquiring the qualification mentioned in clause (c), in big garage or workshop registered as Small Scale Industries Unit under the Directorate of Industries of any other law or any workshop or establishment whose annual turnover is between Rs.3,00,000/- to Rs.4,00,000/-"

(Quoted from point 3 of Motor Vehicles Department (Recruitment) Rules 1997, dated 04.01.1997 which is the text contained in Recruitment Rules, vide Notification dated 04.01.1997)

5. Applicant's candidature was rejected though he was successful in clearing the written tests etc.

6. The rejection was done through communication dated 07.03.2015 which is at Exhibit A, page 22 of paper book of O.A.. The relevant text which consists of the reasons for rejection reads as follows :-

“सहाय्यक मोटार वाहन निरीक्षक परिक्षा - २०१३ च्या जाहिरातीतील परिच्छेद क्रमांक ४.५.१ मध्ये विहित करण्यात आलेल्या अनुभवाच्या अटीच्या संदर्भाने आपण अनुभव घेतलेल्या कार्यशाळेची नोंदणी नसल्याचे तसेच अनुभव कालावधीत कार्यशाळेची आर्थिक वार्षिक उलाढाल रुपये ३ ते ५ लाख असल्याचे सबळ पुरावे सादर केलेले नसल्याने आपण सादर केलेला खुलासा स्विकारार्ह नाही. सबब संदर्भीय क्रमांक (२) च्या पत्रान्वये महाराष्ट्र लोकसेवा आयोगाद्वारे सहाय्यक मोटार वाहन निरीक्षक पदावर करण्यात आलेली आपली शिफारस रद्द करणेबाबत शासनास प्रस्ताव सादर करण्यात आला होता.”

(Quoted from page 22, Exhibit-A of the paper book of O.A.)

7. Learned Advocate Shri Uday Warunjikar for the Applicant submitted during arguments that his reliance is solely on one document which is seen to be without any date, annexure at page 131 of the paper book of O.A.) to the affidavit-in-reply of the State.

“सहाय्यक मोटार वाहन निरीक्षक पदावरील भरतीबाबत
अनुभव प्रमाणपत्र पडताळणी अहवाल

अ.क्र	तपशिल	अहवाल
१.	उमेदवाराचे नांव	श्री. विनोद सुदाम चौधरी
२.	कार्यशाळेचे नांव	चैतन्य ट्रेक्टर्स अँड ऑटोमोबाईल्स, राजगुरुनगर, ओतूर, जि. पुणे.
३.	महाराष्ट्र राज्याच्या उद्योग संचालनालयाकडे लघुउद्योग म्हणून कार्यशाळेची नोंदणी झाल्याचा क्रमांक	आहे. क्र.एमपीए-७३५३४
४.	कार्यशाळेची वार्षिक उलाढाल दर्शविणारे चार्टर्ड अकाउंटंट प्रमाणपत्र	नाही. प्राप्तीकर खात्याचा फॉर्म आयटीआर-व्ही ची प्रत सोबत जोडली आहे.
५.	उमेदवाराने कार्यशाळेत प्रत्यक्ष काम केले आहे काय ? त्याबाबतचा दैनिक हजेरी पट	होय, सोबत हजेरीपटाची प्रत जोडली आहे.
.	उमेदवारास मासिक वेतन देण्यात आले होते त्याबाबतचा पुरावा	होय, सोबत पगारपत्रकाची प्रत जोडली आहे.
७.	कार्यशाळेमध्ये हलकी वाहने, जड माल वाहतूक वाहन व जड प्रवासी वाहतूक वाहने यांचे दुरुस्तीची कामे व देखभालीची कामे करण्यात येतात काय	सदर कार्यशाळेस प्रत्यक्ष भेट दिली असता, सदर ठिकाणी ट्रेक्टरची दुरुस्ती व देखभाल केली जात असल्याचे दिसून आले.

सही/-
(अजित शिंदे)
उप प्रादेशिक परिवहन अधिकारी,
पिंपरी चिंचवड”

(Quoted from page 131 of the paper book of O.A.)

8. Based on annexure at page 131 on the paper book of O.A., the learned Advocate for the Applicant has further argued as follows :-

(A) Conditions prescribed in the advertisement (texts whereof is quoted in foregoing paragraph (4) consisting of two conditions as to experience namely :-

A candidate should have acquired experience, after securing educational eligibility, in either of amongst the establishment namely :-

(a) The Industry which is registered as Small Scale Industry (SSI) with the Directorate of Industries or under any other law.

OR

(b) The workshop / establishment must have annual turnover of Rs.3,00,000/- to Rs.5,00,000/-.

- (B) Eligibility as regards establishment of venue of experience, is to have the experience in either of the two, establishments which is eloquent from the word "OR" / "(किंवा)" appearing in clause 4.5.1 of the advertisement which is quoted in foregoing paragraph No.4.
- (C) Learned Advocate Shri Uday Warunjikar has then argued that the clause 4.5.1 contained in advertisement prescribing experience lays down that 'experience needed could be in an establishment which possess an Small Scale Industry (S.S.I.) Registration or should be an establishment having turnover between Rs.3 to 5 lakhs /-', and now it is proved from report of ARTO (copy whereof is at Page 131 of the paper book of O.A.), that the establishment where applicant has worked for securing the experience possess registration as a Small Scale Industry, and hence solitary mandatory requirement is duly fulfilled.
- (D) In view of the documents and positions admitted on the part of the Respondents, reasons of rejection contained in the impugned order that an establishment where applicant had acquired experience (quoted in the impugned communication), not being registered as Small Scale Industry, is falsified and hence the impugned order is totally erroneous.

9. Learned Presenting Officer Ms. N.G. Gohad for the Respondents has in turn argued as follows :-

- (a) After the report from ARTO relied on by Applicant, (copy whereof is at page 131 of the paper book of O.A.), information was sought by Deputy Commissioner Transport (Administration) Mumbai from Regional Transport Office, Pune about nature of work carried out in M/s. Chaitanya Tractors and Automobiles, Rajguru Nagar, Pune. Text of the said letter reads as follows :-

“तातडीचे / ईमेलद्वारे

दूरध्वनी क्रमांक ०२२-२६४१४९००

फॅक्स क्रमांक - ०२२-२६४१४९०१/२६४४१४२३

E Mail : dvcommr.admiin@gmail.com

क्रमांक : मलोआ-१११४/का.८(३) /भरती-१४ / यादी क्र.१८/जा.क्र.१६/६६

परिवहन आयुक्त यांचे कार्यालय,

प्रशासकीय इमारत, ४ था मजला,

शासकीय वसाहत, वांद्रे (पूर्व),

मुंबई - ४०० ०९१

दिनांक : 27 AUG 2014.

प्रति,
प्रादेशिक परिवहन अधिकारी,
प्रादेशिक परिवहन कार्यालय,
पुणे

विषय : सहाय्यक मोटार वाहन निरीक्षक पदावर भरती
अनुभव प्रमाणपत्राची पडताळणी

संदर्भ : १. या कार्यालयाचे पत्र क्रमांक मलोआ-१११४/का.८(३)/भरती-१४/(यादी क्र.
५८)/जा.क्र.८३१६, दिनांक १३ जुन २०१४.

२. आपले पत्र जा.क्र.६६९/प्रापअ/पुणे/२०१४, दिनांक २७.०६.२०१४.

उपरोक्त संदर्भ क्रमांक (२) अन्वये श्री. विनोद सुदामा चौधरी याली सादर केलेल्या मं. चैतन्य ट्रॅक्टर अँड ऑटोमोबाईल्स, राजगुरुनगर, पुणे या कार्यशाळेच्या अनुभव प्रमाणपत्राचा पडताळणी अहवाल प्राप्त झाला आहे. सादर अहवालात कार्यशाळेत ट्रॅक्टरची दुरुस्ती व देखभाल केली जात असे कळविण्यात आले आहे.

याबाबत आपणास सुचीत करण्यात येते की, संबधीत कार्यशाळेत जड माल वाहतुक वाहन व जड प्रवासी वाहतुक वाहने यांचे दुरुस्तीचे कामकाज होते किंवा कसे याबाबतचा आपला स्वयंस्पष्ट अहवाल फोटोंच्या व इतर पुराव्यासह त्वरीत या कार्यालयास सादर करावा.

सही/-

परिवहन उप आयुक्त (प्रशासन),

महाराष्ट्र राज्य, मुंबई”

(Quoted from page 130 of the paper book of O.A.)

(b) Said letter dated 27.08.2014 was replied by ARTO, Pune with following text :-

“जा.क्र.२१६५/आस्था/पिं.चिं/२०१४

उप प्रादेशिक परिवहन कार्यालय,

पिंपरी - चिंचवड, पुणे

दिनांक :- ५/९/१४

प्रति,

मा.परिवहन उप आयुक्त (प्रशासन)

महाराष्ट्र राज्य, मुंबई

विषय :- सहा. मोटार वाहन निरीक्षक पदावर भरती प्रमाणपत्राची पडताळणीबाबत.

संदर्भ :- १. आपले पत्र मलोआ/१११४/का.८(३) / भरती/१४ यादी क्र.५८ जा.क्र.
१६१६६ दिनांक २७/०८/२०१४.

२. प्रादेशिक परिवहन अधिकारी, पुणे यांचे पत्र क्र.६६९/प्रापअ/पुणे/२०१४
दिनांक २७/०६/२०१४.

मा. महोदय,

उपरोक्त संदर्भकित पत्र क्र.१ अन्वये श्री. विनोद सुदाम चौधरी यांनी केलेल्या मे. चैतन्य ट्रॅक्टर अँड ऑटोमोबाईल्स, राजगुरुनगर, पुणे या कार्यशाळेचा अनुभव प्रमाणपत्राचा पडताळणी अहवाल स्वयंस्पष्ट पाठविण्यांत यावा असे कळविण्यांत आले होते.

यानुसार दिनांक १४/०९/२०१४ रोजी मी मे. चैतन्य ट्रॅक्टर अॅन्ड ऑटोमोबाईल्स, राजगुरुनगर, पुणे येथील मुख्य कार्यालयास भेट दिली असता सदर ठिकाणी ३४ x २० फुट या लांबी रुंदीचे वर्कशॉप आढळून आले. ज्याची उंची १० फुट इतकी आहे. या ठिकाणी ट्रॅक्टरस सदृश्य वाहनांची दुरुस्ती होत असल्याचे मी आपणांस यापूर्वीच कळविले होते. (कृप्या संदर्भ क्र.२ चे पत्र पहावे.) या भेटीच्या वेळीसुद्धा वर्कशॉपमध्ये फक्त ट्रॅक्टरसदृश्य वाहनेच दुरुस्त केली जातात व जड वाहनांची दुरुस्ती केली जात

(Quoted from page 129 of the paper book of O.A.)

- (c) Clause 4.5.1 shall have to be read in following manner :-
- (i) Candidate must possess educational eligibility.
 - (ii) Experience must be such that it is gained by the candidate after acquiring requisite degree.
 - (iii) The experience must be secured in Small Scale Industry or Garage or Workshop which has turnover of Rs.3,00,000/- to Rs.5,00,000/-.
 - (iv) The experience must be in relation to repair and maintenance of Light Motor Vehicle or Heavy Motor Vehicle or Heavy Passenger Vehicle.
 - (v) The experience must be for the duration of one year preceding from 01.11.2013.
 - (vi) The experience for tenure as apprentice or trainee shall not be taken into account.
- (d) Therefore, experience of applicant in terms of Clause 4.5.1 of advertisement is not proved to be supported by reliable evidence.
- (e) Reading of clause 4.5.1 by the learned Advocate for the Applicant is incomplete and half-hearted.

10. In view of rival submissions, this Tribunal has to examine the documents on record, contents whereof are not disputed.

11. Letter dated 27.08.2014 is written by the Deputy Commissioner of Transport called report from the RTO, Pune asking him to verify as to whether the work of repair of Heavy Motor Vehicle or Passenger Vehicles was actually carried out in the workshop concerned. Copy of this letter is at page 130 of the paper book of O.A..

12. Copy of report at page 131 which does not bear date, (full text whereof is quoted in foregoing paragraph No.7, is a report made by Deputy Regional Transport Officer, Shri Ajit Shinde who has visited the workshop has reported in his observation, paragraph No.7 that :-

“७.	कार्यशाळेमध्ये हलकी वाहने, जड माल वाहतूक वाहन व जड प्रवासी वाहतूक वाहने यांचे दुरुस्तीची कामे व देखभालीची कामे करण्यात येतात काय	सदर कार्यशाळेस प्रत्यक्ष भेट दिली असता, सदर ठिकाणी ट्रॅक्टरची दुरुस्ती व देखभाल केली जात असल्याचे दिसून आले.”
-----	--	---

(Quoted from page 131, point 7 of the paper book of O.A.)

13. Perusal of reply dated 05.09.2014, at page 129 of the paper book of O.A. reveals the following :-

- (a) During visit he (ARTO, Pune) did not find any evidence showing that activity of repairs of tractors was conducted in the establishment of M/s. Chaitanya Tractors and Automobiles, Rajgurunagar, Pune.
- (b) At the time of inspection it was not found that the tractor or any heavy vehicle were being repaired.
- (c) Photograph of the garage was forwarded.
- (d) The owner Shri Vinayak Tambe informed that the garage has been demolished for reconstruction.
- (e) The owner could not produce any evidence to demonstrate that the work of repair and maintenance of heavy vehicles was being done during relevant time.
- (f) The owner requested for grant of further time for production of evidence.

14. It shall be necessary to read the relevant clause of Recruitment Rules which prescribes the eligibility criteria. The said definition clause is quoted in foregoing paragraph No.4 (b).

15. Perusal of Rule 3(d) of Assistant Inspector of Motor Vehicles, Group 'C' in the Motor Vehicles Department (Recruitment) Rules, 1997, and the text contained in advertisement in paragraph 4.5.1, are concurrent as regards mandatory requirements.

16. The requirement of “Experience of repair and maintenance of Light Motor Vehicle or Heavy Motor Vehicle or Heavy Passenger vehicles” is an essential rather mandatory requirement.

17. It thus transpires that Applicant’s entire reliance document at page 131 is totally based on half-hearted reading thereof and hence it is totally erroneous and is misplaced. The evidence relied upon by the Applicant does not support the Applicant at all, irrespective of whatever is stated in page No.131 relied upon by applicant.

18. It is thus evident that the objection on which applicant’s candidature was rejected, is found to be well supported by the record and on sound and legitimate reasons.

19. The Advertisement and Recruitment Rules have to be read together and in totality, and in following order, as mandatory conditions of eligibility namely :-

- (a) Experience must be post qualification.
- (b) Experience must be of one year.
- (c) Experience must be in the job of repair and maintenance of Light Motor Vehicle or Heavy Motor Vehicle or Heavy Passenger vehicles.
- (d) The establishment must have been acquired in a workshop or establishment which is having Small Scale Industries or an establishment which is having annual turnover between Rs.3 to Rs.5 lakhs.

20. In the process of arguments applicant has consciously or innocently connived at the mandatory condition culled and described in foregoing paragraph No.19.

21. In the result, Original Application has no merit and the same is dismissed. Parties are directed to bear own costs.

Sd/-

(P.N. Dixit)
Member(A)

Sd/-

(A.H. Joshi, J.)
Chairman

prk