THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

ORIGINAL APPLICATION NO.823 OF 2023

DISTRICT: PUNE
Subject: Selection

Pratik Bhagawan Taware)
Age 31 years, Occ.presently working as Junior)
Engineer (Estate) at COEP Technological)
University, Pune (Formerly College of Engineering)
Pune) Shivajinagar,Pune 411 005.)
R/at COEP Hostel Campus, Shivajinagar,)
Pune 411 005.)...Applicant

Versus

1. Maharashtra Public Services Commission,)
Trishul Gold Field, Plot No.34, Sector 11, Opp.)
Sarovar Vihar, Belapur CBD,)
Navi -Mumbai 400 614.)

2. General Administration Department, Govt. of)
Maharashtra, Mantralaya, Mumbai 400 032.)

3. Directorate of Town Planning & Valuation,)
Maharashtra State, Pune, Central Offices,)
Old Building, Pune 411 001.)

4. Shri Sadique Ghazanfar Ali, Age 41 Years,)
Working as Town Planer, R/o B/16/2, PWD)
Quarters, Ravi Nagar, Magpur 440 001.)....Respondents

Shri P. B. Taware, the Applicant in Person
Ms S. P. Manchekar, Chief Presenting Officer for the Respondent No.1 to 3
Shri B. A. Bandiwadekar, Advocate for Respondent No.4.

CORAM : Justice Mridula Bhatkar, Chairperson
Shri Debashish Chakrabarty, Member (A)

DATE : 15.01.2024

JUDGEMENT

1. Heard the Applicant in person, Ms S. P. Manchekar, learned Chief Presenting Officer for the Respondent Nos.1 to 3 and Shri B. A. Bandiwadekar, learned Advocate for Respondent No.4.

2. The 'Applicant in Person' has appeared for examination conducted for the post of 'Assistant Director, Town Planning, Maharashtra Town Planning & Valuation Service, Group-A' by MPSC Advertisement No.003/2022, dated 28.01.2022. The 'Applicant in Person' has challenged his rejection and seeks directions to MPSC to call him for 'Interview' for post of 'Assistant Director, Town Planning, Maharashtra Town Planning & Valuation Service, Group-A'. The 'Applicant in Person' has also challenged that selection of 'Respondent No.4' – Shri Ali Sadique Ghazanfar who has taken benefit of 'EWS' category and seeks that his appointment should be cancelled by MPSC.

3. The 'Applicant in Person' further stated that he has applied for the post of Assistant Director, Town Planning, Maharashtra Town Planning & Valuation Service, Group-A' pursuant to MPSC Advertisement No.003/2022, dated 28.01.2022. He holds degree of 'B.E. Civil Engineer' and has applied under 'EWS' category. He has worked in various 'Private Organizations' i.e. (i) Mukti Township Development & Construction Company Pvt. Ltd. as 'Project Executive Civil' for 4 years & 3 Months, (ii) Krishna Associates as 'Assistant Manager Civil' for 2 years, (iii) Krishi Udyog Mul Shikshan Sansthan (KUMSS) as 'Training Officer' for 3 Months & 27 days, (iv) Visvesvaraya National Institute of Technology, Nagpur as 'Project Engineer Civil Works' for 1 month & 7 days, (v) Raghav Construction as 'Assistant Manager Civil' for 5 months & 4 days and lastly (vi) College of Engineering, Pune as 'Junior Engineer Estate' for 7 months & 10 days.

4. The 'Applicant in Person' submitted that though he has sufficient experience of 'Town Planner' which is required for post of Assistant Director,

Town Planning, Maharashtra Town Planning & Valuation Service, Group-A' as per MPSC Advertisement No.003/2022, dated 28.01.2022, his name was rejected and he was not called for 'Interview' by MPSC. The 'Applicant in Person' further submitted that Respondent No.4 although has applied under 'EWS' category, he does not hold of valid certificate of 'EWS' of relevant stipulated period and therefore MPSC should cancel the appointment of Respondent No.4.

5. The learned C.P.O. submitted that Applicant is not having requisite experience and relied on remarks given by 'Expert Committee' constituted by MPSC which after proper scrutiny of Applicant's experience as mentioned in 'Application Form' had recorded in the 'Scrutiny Report' that Applicant is not found 'eligible for appointment to post of 'Assistant Director, Town Planning, Maharashtra Town Planning & Valuation Service, Group-A' as per MPSC Advertisement No.003/2022, dated 28.01.2022. Ms S.P. Manchekar, learned CPO relied on Affidavit in Reply filed by Shri Rajesh Mashere, Under Secretary, MPSC on 23.10.2023. Para 10.2 (iv) of this 'Affidavit in Reply', it is mentioned as under:-

> *"(iv) Admissible valid experience of the applicant was considered in the Scrutiny Report submitted by the Experts Committee considering completion date of B.E.(Civil) i.e. 26.07.2014 till the last date of computation of experience as per para 8.3.2 of the advertisement no.003/2022 i.e. 28.1.2022 is 00 Years, 00 Months and 00 Days. As per the para 8.2 of the advertisement no.003/2022 experience, 'not less than five years in Twon Planning or Town Planning and Valuation of Lands and Buildings in a responsible position, after obtaining the above qualification' is required. As the applicant possessed less experience (00 Years, 00 Months and 00 Days) than the experience required as per the para 8.2 of the advertisement, he was rightly held ineligible by the Experts Committee for the post in issue and therefore not called for interview and his name was published in NOT ELIGIBLE CANDIDATE LIST published by the Commission on 19.05.2023 with the reason mentioned as under:-*
>
> *"जाहिरातीतील परि.८.२ या तरतुदीनुसार विहित अनुभव नाही. यास्तव अपात्र".*

6. The learned Counsel for Respondent No.4 submits that 'Applicant in Person' has no locus to challenge recommendation of Respondent No.4 for appointment to the post of Assistant Director, Town Planning, Maharashtra Town Planning & Valuation Service, Group-A'. Infact, the Respondent No.4 should not have been made party to this proceeding when Applicant himself has not been found eligible for appointment to post of 'Assistant Director, Town Planning, Maharashtra Town Planning & Valuation Service, Group-A' as per requirements of Para 8.2 of MPSC Advertisement No.003/2022, dated 28.01.2022.

7. The learned Counsel for Respondent No.4 submits that as per Clause No.8.2 of MPSC Advertisement No.003/2022 there is specific minimum experience of five years in Twon Planning or Town Planning and Valuation of Lands and Buildings while working in responsible position which has to be possessed by all candidates aspiring to join on post of Assistant Director, Town Planning, Maharashtra Town Planning & Valuation Service, Group-A' .

8. The contents of Para 8.1 which is captioned as "शैक्षणिक अर्हता" includes 'Degree in Civil Engineering or Civil and Rural Engineering or Urban and Rural Engineering or Architecture or Construction Technology or Urban Planning of a University or Equivalent Qualification". The 'Applicant in Person' being 'BE Civil Engineer' evidently fulfills the required 'Educational Qualifications'.

9. The contents of Para 8.2 which is captioned as "अनुभव" have to be read together with contents of Para 8.4 which is captioned "अनुभवाच्या दाव्याबाबत". Para 8.2 and 8.4 reads as follows :-

""८.२ अनुभव :- Have experience not less than five years in Twon Planning or Town Planning and Valuation of Lands and Buildings in a responsible position, after obtaining the above qualification:.

८.४ **अनुभवाच्या दाव्यांबाबत** :-

(अ) शासन पत्र, नगर विकास विभाग, क्रमांक :- नियुक्ती - ११२१/प्र.क्र.१८३/नवि-२७, दिनांक १२ जानेवारी २०२२ अन्वये उपरोक्त ८.२ मध्ये नमूद आवश्यक अनुभव - शासकीय संस्था अथवा निम-शासकीय संस्था अथवा शासनाचे अंगीकृत उपक्रम अथवा शासन नियंत्रित संस्था अथवा कंपनी अधिनियमांतर्गत नोंदणीकृत संस्था किंवा शासनाच्या कोणत्याही कायद्यान्वये नोंदणीकृत असणा-या संस्था यामध्ये संचालनालयातर्गत सहाय्यक नगर रचनाकार (गट-ब) (६व्या वेतन आयोगानुसार वेतन श्रेणी रुपये ९,३००-३४,८००, ग्रेड पे रु. ४,४००) (७व्या वेतन आयोगानुसार एस-१५: ४१,८००-१,३२,३००) या वेतनश्रेणी पेक्षा कमी वेतनश्रेणी नसेल अशी वेतनश्रेणी असलेल्या पदावरील नगर रचना व जमीन अथवा इमारतीचे मूल्यांकन या विषयांवरील ५ वर्षापेक्षा कमी नसेल एवढा प्रत्यक्ष अनुभव ग्राह्य धरण्यात येईल.

(ब) आयोगाच्या ऑनलाईन अर्ज प्रणालीद्वारे विविध स्वरुपाचे दावे करताना अथवा दावे अद्दयावत करताना प्रस्तुत जाहिरातीस अनुसरुन अनुभवाच्या दाव्यानुसार पात्र होण्यासाठी उमेदवाराने Nature of Job-Town Planning/Town Planning and Valuation of Lands and Buildings /Town Planner/Town Planner and Valuation of Lands and Buildings/Assistant Town Planner/Assistant Town Planner and Valuation of Lands and Buildings असे नमूद करणे अनिवार्य आहे त्याशिवाय ऑनलाइन अर्ज प्रणाली द्वारे अर्ज स्वीकृत होऊ शकणार नाही.''

10. The 'Applicant in Person' has claimed to possess experience of more than 5 Years in 'Town Planning' or 'Town Planning and Valuation of Lands and Buildings' while working 'in responsible position' as required under Para 8.2. Hence, it is necessary to match the entries of 'Column No.2 – Designation (Post Held)' and 'Column No.5 – Nature of Job' with regard to disclosure of 'Experience Information' by the 'Applicant in Person' in his 'Application Form'. The relevant extract of 'Experience Information' submitted in the 'Application Form' by 'Applicant in Person' is as follows :-

Sr. No.	Designation (Post Held)	Nature of Job
1	Project Executive Civil	Town Planner and Valuation of Lands and Buildings
2	Assistant Manager Civil	Town Planning and Valuation of Lands and Buildings
3	Training Officer	Training and Analysis
4	Project Engineer Civil Works	Engineer
5	Assistant Manager Civil	Town Planning and Valuation of Lands and Building
6	Junior Engineer Estate	Twon Planning and Valuation of Lands and Building

11. We have gone through the contents of 'Application Form' of Applicant. In view of 'Experience Information' disclosed in 'Application Form' by 'Applicant in Person', it appears that he has worked mainly in 'Private Organizations' which are of certain 'Builders and Developers' who have done (i) Township Development & Residential Projects and (ii) Office & Commercial Development Projects. The remarks given by 'Expert Committee' of MPSC are mentioned at the end of 'Application Form'. The remarks recorded in the 'Scrutiny Report' by 'Experts Committee' of MPSC are as under :-

"शैक्षणिक अर्हता :-		ग्राहय
अनुभव	:-	ग्राहय- ग्राहय नाही क्र.१ ते ६ (यामध्ये नगररचना व मुल्य निर्धारण विभाग याबाबत कोणताही अनुभव नाही.)
शेरा	**:-**	**अपात्र''**

12. The remark of 'Expert Committee' of MPSC shows that Applicant does not hold any experience of 'Town Planning' or 'Town Planning and Valuation of Land and Buildings' while working 'in responsible position' as is required experience in Para 8.2 of MPSC Advertisement No.003/2022, dated 28.01.2022 for post of 'Assistant Director, Town Planning, Maharashtra Town Planning & Valuation Service, Group-A' and hence the 'Applicant in Person' was not found eligible to be called for 'Interview' by MPSC.

13. The experience of candidates as per Para 8.2 has to be specifically of in field of 'Town Planning or Town Planning and Valuation of Lands and Buildings' which has to be read with Para '8.4(ब)' which 'Nature of Job' - 'Town Planning/Town Planning and Valuation of Lands and Buildings /Town Planner/Town Planner and Valuation of Lands and Buildings/Assistant Town Planner/Assistant Town Planner and

Valuation of Lands and Buildings" but it does not include experience while working on posts such as (i) Project Executive Civil, (ii) Assistant Manager Civil, (iii) Project Engineer Civil Works and (iv) Assistant Manager Civil. Further, 'Para 8.2' specifically mentions that such experience has to be gathered while working 'In Responsible Position' which is to be understood with reference to Urban Development Department Letter dated 12.01.2012. Such posts 'in responsible positions' have to be in Government Organization or Semi Government Organization in Government Corporation, etc. and carry 'Pay Scale' of at least of 'Assistant Town Planner' which is Town Planner (Group-B) as per 6th Pay Commission Pay Scale of Rs.9300-34800 + Grade Pay 4400 and as per 7th Pay Commission Pay Scale S-15 : Rs.41800-132300.

14. The Hon'ble Supreme Court of India in the case of ***Secretary (Health) Department of Health & F.W. and Anr. Vs. Dr. Anita Puri & Ors. [Civil Appeal No.11453 of 1996 decided on 30th August, 1996 : (1996 6 SCC 282)]*** has made the following observations about the sanctity of opinion of 'Expert Body' like the 'Public Service Commissioner' in considering the 'Suitability of Candidates'.

> "*It is too well settled that when a Selection is made by an expert body like public Service Commission which is also advised by experts having technical experience and high academic qualification in the field for which the selection is to be made, the courts should be slow to interfere with the opinion expressed by experts unless allegations of mala fide are made established. It would be prudent and safe for the courts to leave the decisions on such matters to the experts who are more familiar with the problems they face than the courts. If the expert body considers suitability of a candidate for a specified post after giving due consideration to all the relevant factors, then the court should not ordinarily interfere with such selection and evaluation. Thus, considered we are*

> *not in a position to agree with the conclusion of the High Court that the marks awarded by the Commission was arbitrary or that the selection made by the Commission was in any way vitiated.*"

15. The assessment of 'Experience Information' submitted in the 'Application Form' by 'Applicant in Person' was made by 'Expert Committee' of MPSC cannot therefore be interfered with. The contentions of 'Applicant in Person' that he fulfills experience of the area of 'Town Planning' or 'Town Planning and Valuation of Lands and Buildings' while serving 'In 'Responsible Position', as required under Para 8.2 read with Para 8.4 of the MPSC Advertisement No.003/2022 dated 28.01.2022 therefore holds no merit. The Applicant has attempted to disguise his experience of working with 'Private Organization' in different positions as 'Civil Engineer' to somehow try and achieve the threshold of working for '5 Years' in 'Responsible Position' in the area of 'Town Planning or Town Planning and Valuation of Lands and Buildings' in order to be called for 'Interview' by MPSC for the posts of 'Assistant Director, Town Planning, Maharashtra Town Planning & Valuation Service, Group-A'.

16. We cannot go beyond the remark recorded in the 'Scrutiny Report' by 'Experts Committee' of MPSC which are (i) अनुभव - ग्राहय नाही क्र.१ ते ६ (यामध्ये नगररचना व मुल्य निर्धारण विभाग याबाबत कोणताही अनुभव नाही.) and (ii) **शेरा - अपात्र''.** Therefore, we find no merits in the contentions of 'Applicant in Person'. Hence, the following order :-

ORDER

(A) Original Application is Dismissed.

(B) No Order as to Costs.

Sd/-	Sd/-
(Debashish Chakrabarty)	**(Mridula Bhatkar, J.)**
Member (A)	**Chairperson**

Place: Mumbai
Date: 15.01.2024
Dictation taken by: VSM
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