

**THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI**

**ORIGINAL APPLICATION NO.913 OF 2016**

**(SUBJECT : NON SELECTION)**

Shri Prashant Vijaykumar Tandale, )  
R/o. Shastri Nagar, Bhavsar Chowk, )  
Opp. Old Post Office, Nanded. ) **....Applicants**

**Versus**

1. The State of Maharashtra, )  
Through Principal Secretary, )  
Transport Department, )  
Having office at 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, having at MTNL Building, )  
Off. Cooprage Ground, Mumbai 32. ) **...Respondents**

Shri B.A. Bandiwadekar, learned Advocate for the Applicants.

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

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

**RESERVED ON : 14.03.2019.**

**PRONOUNCED ON : 27.03.2019.**

**PER : JUSTICE SHRI A.H. JOSHI, CHAIRMAN**

**J U D G M E N T**

1. Heard Shri B.A. Bandiwadekar, the learned Advocate for the Applicant and Ms. N.G. Gohad, the learned Presenting Officer for the Respondents.

2. Applicant has challenged the decision to declare applicant's candidature as unfit for appointment as Inspector of Motor Vehicles communicated to him by letter dated 04.02.2016.

3. Applicant's eligibility of experience of working for one year on the job of repairs and maintenance of Motor Vehicles claimed by him has been disbelieved. The reasons for disbelief quoted in the impugned communication reads as follows :-

“सहाय्यक मोटार वाहन निरीक्षक परिक्षा-२०१३ च्या जाहिरातीतील परिच्छेद क्रमांक ४.५.१ मध्ये विहित करण्यात आलेल्या अनुभवाच्या अटीच्या संदर्भाने, एकाच कार्यशाळेतील समान कालावधीतील मागील तुकडीतील उमेदवाराच्या हजेरीपटात नाव नाही तसेच हजेरीपट व वेतन दिल्याचा पुरावा वेगवेगळा असल्याने संदर्भ क्रमांक (२) च्या पत्रान्वये आपण सादर केलेला खुलासा स्विकारार्ह नाही.”

(Quoted to page 25, Exhibit A of the paper book of O.A.)

4. In order to challenge the factual aspect which is decided by the respondents against the Applicant, he has relied on the explanation offered by the garage owner by filing an affidavit, text whereof reads as follows :-

“उपरोक्त विषयास अनुसरून मी श्री. प्रशांत विजयकृमार तांदळे आपनास मे. गर्जे ऑटो मोटीव सर्व्हीसेस लातून या कार्यशाळेचे दिनांक १५/११/१९९९ ते २१/०६/२००१ या कालावधीतील अनुभव.

प्रमाणपत्र सादर केलेले आहे तरी सदरील बाबतीत आपनास सांगण्यास इच्छुक आहे की, सदरील कार्यशाळेत टेक्नीकल डिपार्टमेंट, अकाउंट डिपार्टमेंट सेक्युरिटी गार्ड डिपार्टमेंट अस्तीत्वात होते व आहेत, तसेच आपल्या सदरील कारणे दाखवा नोटीस प्रमाणे हजेरी पट, वेतन पुरावा स्वक्षरी बाबत गोष्टी मालकाच्या निदर्शनास आणून दिली असता, त्यावर त्यांनी मला सांगितले की माझ्या कार्यशाळेत टेक्नीकल रिपेअर व मोन्टनॅन्स डिपार्टमेंट अंतर्गत १) पी.सी.डी २) सी.व्ही.डी ३) ए.टी.एम.एस असे तीन विभाग आहेत व त्यामध्ये काम करणा-या कर्मचा-यांची संख्या जास्त होती. व मी त्यांचे हजेरी पटात कर्मचा-यांचे गट तयार करून त्यांच्या अनुभवासाठी व काम चांगले होण्यासाठी त्यांची काही महिन्यांसाठी एका डिव्हिजन मधुन दुस-या डिव्हिजन मध्ये अदलाबदल करत होतो. त्यामुळे टेक्नीकल रिपेअर व मेन्टनॅन्स डिपार्टमेंट अंतर्गत दोन हजेरी पट तयार करावे लागत होते.”

(Quoted to page 68 & 69, Exhibit J of the paper book of O.A.)

5. Applicant has also placed on record along with rejoinder letter written by the garage operator to the transport authorities which is dated 04.10.2014 which contains explanation which reads as follows :-

“तथापि माझे कार्यशाळेमध्ये : १) पी.सी.डी.(पॅसेंजरकारडिव्हिजन) २) सी.व्ही.डी.(कमर्शियल व्होईकल डिव्हिजन), ३) ए.टी.एम.एस.(ऑल टाईम मॅटनन्स सर्व्हिस) असे तीन विभाग होते व आहेत.

काही महिन्यांच्या कालावधीमध्ये कर्मचा-यांना अनुभवासाठी हजेरीपटासह तसेच कामाच्या सुलभतेसाठी व काम चांगले होण्यासाठी कर्मचा-यांना एका विभागातून दुस-या विभागात अदला-बदल करावी लागत असे.

तसेच एखाद्या विभागातील कर्मचारी त्याच्या स्वतःच्या विभागात काम करून तो दुस-या विभागामध्ये काम करत असेल तर त्याची हजेरी आम्ही दोन्ही ही हजेरी पटामध्ये नमुद करत असत. त्यामुळे एकापेक्षा अधिक हजेरीपट तयार करावे लागले होते त्यामुळे हजेरीपटापमध्ये विसंगती दिसून येत आहे.

कर्मचारी कामावर घेत असताना त्यांचा अनुभव, ज्ञान व त्यांचा कामाचा प्रकार बघून पगार ठरविले जाते व उपलब्ध असलेल्या वेतन पुस्तिकेवर वेतन दिले जाते.

त्यावेळी आमच्या कार्यालयातील मी किंवा नियुक्त केलेला कर्मचारी व्यवस्थापक म्हणुन उपलब्ध असलेल्या वेतन पुस्तिकेवर वेतन दिले जाते. त्यामुळे वेतन दिल्याच्या पुराव्यावरील व्यवस्थापकांची स्वाक्षरीमध्ये विसंगती दिसून येत आहे.

वरील दोन्ही उमेदवार दिलेल्या कालावधीमध्ये माझ्या कार्यशाळेमध्ये कार्यरत होते. वरील उमेदवारांचा कार्यकाळ खुप जुना असल्याकारणाने जे दस्ताऐवज सापडले तसे आपल्या समोर सादर करण्यात आले. उपरोक्त विषयान्वये माझा सत्य अभिप्राय आपल्या समोर सादर करण्यात येत आहे.”

(Quoted to page 157 of the paper book of O.A.)

6. With the object of proving his claim, corroboration and for proving version and the evidence relied upon by the Applicant, he has placed on record with O.A. evidence of his attendance register (copies whereof are on record at pages 75 to 84) and vouchers of payment of applicant's salary.
7. The attendance record, prima facie, evidences attendance of the applicant from 1999 to June 2001.
8. Copies of vouchers of salary are on record at page 85 to 103 of the paper book of O.A..
9. The mode and manner in which applicant has received the amounts as evidenced from page 85 to 103 are as follows:-

Sr. No.	Date of payment vouchers	Amount
1	06.12.1999 – Payment	Rs.1890/-
2	20.12.1999 – December Advance	Rs.2000/-
3	05.01.2000 – Payment	Rs.1240/-
4	20.01.2000 – January Advance	Rs.1500/-
5	05.02.2000 – Payment	Rs.1865/-
6	21.02.2000 – February Payment	Rs.2000/-
7	06.03.2000 – Payment	Rs.1365/-
8	20.03.2000 – March Advance	Rs.1000/-
9	05.04.2000 – Payment	Rs.2500/-
10	05.05.2000 – Payment	Rs.2030/-
11	20.04.2000 – April Advance	Rs.1200/-
12	05.06.2000 – Payment	Rs.2565/-
13	20.....2000 – May Advance (month is not legible)	Rs.800/-
14	05.07.2000 – Payment	Rs.2000/-
15	20.06.2000 – June Advance	Rs.1500/-
16	20.07.2000 – July Advance	Rs.1300/-
17	05.08.2000 – Payment	Rs.1795/-
18	21.08.2000 – August Advance	Rs.1800/-
19	05.09.2000 – Payment	Rs.1565/-

20	06.11.2000 – Payment	Rs.2230/-
21	20.10.2000 – October Advance	Rs.1000/-
22	20.11.2000 – November Advance	Rs.1400/-
23	02.12.2000 – Payment	Rs.1695/-
24	05.01.2001 – Payment	Rs.1465/-
25	20.12.2000 – December Advance	Rs.1900/-
26	05.02.2001 – Payment	Rs.1930/-
27	20.01.2001 – January Advance	Rs.1300/-
28	05.03.2001 – Payment	Rs.1365/-
29	20.02.2001 – February Advance	Rs.2000/-
30	05.04.2001 – Payment	Rs.2700/-
31	20.03.2001 – March Advance	Rs.800/-
32	05.05.2001 – Payment	Rs.2065/-
33	20.04.2001 – April Advance	Rs.1300/-
34	05.06.2001 – Payment	Rs.1700/-
35	21.05.2001 – May Advance	Rs.1800/-
36	20.06.2001 – Payment (हिशोबपुर्ण)	Rs.2295/-

(Quoted record from payment vouchers at page 85 to 103 of the paper book of O.A.)

10. The discrepancies in muster roll/attendance record as well as discrepancies in the payment of wages evidenced from the Vouchers create grave suspicion as to fact of applicant's employment and as to his actually performing the job and getting experience for want of entries regarding Income Tax or Provident Fund etc.

11. Based on the same suspicious evidence due to lack of corroboration in the shape of incontrovertible evidence emanating from public authorities applicant continues to agree his case.

12. Learned Advocate Shri B.A. Bandiwadekar for the Applicant was asked to exert to come out of this suspicious. He was even suggested that 3<sup>rd</sup> party documents having value of un-impeccable evidence could have been produced. We have also illustrated to the Applicant as to what could be that impeccable evidence, namely:-

- (a) Inspection notes of Factory Inspector or Shop Inspector evidencing proper maintenance of muster / attendance register.
- (b) Provident Fund slips, E.S.I. slips, and if applicable insurance documents.
- (c) Any other evidence certified and/or endorsed by any public servant.

13. In the background that applicant claims that he had served and he had got the experience in workshop which claims to have multiple shop floor of maintenance, it is surprising and shocking as to how could applicant be paid on vouchers which too are unnumbered/do not bear any serial or sequence or any marking by auditor and without statutory deductions. It is also seen that there is no uniformity in the monthly pay nor has any consistency with attendance.

14. This Tribunal considers applicant's evidence unworthy of trust when the applicant draws salary in the months for which there is no attendance registered and draws different pay or salary for different months when attendance is shown for all days of month.

15. All documents relied upon by the Applicant, ex-facie reveal to be doctrine.

16. Applicant had duty to show that rejection of Applicant's evidence by State is totally erroneous and perverse. Any challenge or attack barely on adjectives is not permissible.

17. In the result, we hold that impugned order is based on evidence which is produced by the Applicant which lacks coherence, and is not trust worthy.

18. In the result, Original Application has no merit and it deserves to be dismissed with costs.

Sd/-

**(P.N. Dixit)**  
**Member(A)**

Sd/-

**(A.H. Joshi, J.)**  
**Chairman**

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