

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR.

ORIGINAL APPLICATION NO. 917/2010.

Sanjay Manoharrao Patil,
Aged about 35 years,
Occupation-NIL,
R/o Bhiwapurkar Nagar,
New Cotton Market,
V.M.V., Amravati.

Applicant.

-Versus-

1. The State of Maharashtra
Through its Secretary,
Department of Technical & Higher Education,
Mantralaya, Mumbai-32.
2. The Director of Vocational Training (M.S.),
3, Mahapalika Marg, Mumbai.
3. The Joint Director,
Vocational Education and Training,
Regional Office, Morshi Road,
Amravati.
4. Shri Ashish Nilkanth Mate,
Aged about 25 years,
Occ-Private,
R/o Shriram Nagar, Behind Rathi Nagar,
Amravati.

Respondents.

Shri S.S Khadse, Advocate for the applicant.
Shri B.D. Pandit, P.O. for the respondent Nos. 1 to 3.
None for respondent No.4.

Coram:- The Hon'ble Shri Justice A.P.Deshpande
Vice-Chairman and
The Hon'ble Shri B. Majumdar,
Member (A)

Dated:- 28th January 2013.

Oral order

Per-Vice-Chairman

Heard Shri S.S. Khadse, the learned counsel for the applicant and Shri B.D. Pandit, the learned P.O. for the respondent Nos. 1 to 3. None appears for respondent No.4.

2. Legality and validity of a select list has been challenged by filing the present O.A. An advertisement was published on 1.9.2010 wherein horizontal reservation was provided for handicap category for six posts without mentioning the social reservation. The horizontal/special reservation would always operate in the vertical reservation. Thus, if the post is to be horizontally reserved, the advertisement ought to mention vertical slot wherein horizontal reservation is provided. Hence, it is known as interlocking reservation ~~to be provided.~~ Perusal of the advertisement dated 1.9.2010 clearly reveals that this

was not done and as such it was impossible to operate the horizontal reservation for handicap category. It goes without saying that the horizontal reservation provided in the advertisement dated 1.9.2010 was faulty and could not have been operated and the advertisement to that extent is obviously bad in law.

3. The present applicant had applied for the post of Craft Instructor (Mechanical Electronics) from handicap category, which post is borne on the cadre of Industrial Training Institute. Perusal of the advertisement reveals that horizontal reservation was provided with reference to the posts from Sr. Nos. 7 to 28. Thus in the first place, the vertical social category is not mentioned and no horizontal reservation is provided in a given post for handicapped category. It is not in dispute that the respondents did not appoint any candidate for whom faulty horizontal reservation was provided in the advertisement, as the same was wholly unworkable. The respondents then proceeded to re-advertise some of the posts for

handicapped category vide advertisement published on 8.8.2011 and advertised 18 posts for handicapped category. However, the applicant's post was not advertised. According to the respondents, the post of Craft Instructor (Mechanical Electronics) has not been identified for being manned by a person with handicap. Our attention is invited to the G.R. dated 20.1.2011 to which is attached Schedule-A. The post for which the applicant had applied, does not find place in the list of identified posts which could be filled in by appointing handicapped category person. Thus, according to the respondents, after issuance of the G.R. dated 20.1.2011, the applicant is not eligible for appointment to the post in question. The respondents are justified in not re-advertising the said post for handicapped category.

The applicant has impleaded the respondent No.4 as party respondent by contending that the respondent No.4 was appointed against the vacancy meant for handicapped category. By filing an affidavit in reply, the respondents have categorically stated that he was

appointed from Open category and was not a candidate appointed against the post reserved for handicapped category. The respondent No.4 has admittedly secured more marks than the applicant, hence his selection cannot be successfully challenged by the applicant. As we do not find any merit in the O.A., the same stands dismissed in limini.

sd/-

(B.Majumdar)
Member (A)

sd/-

(Justice A.P.Deshpande)
Vice-Chairman

Pdg