

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,
BENCH AT AURANGABAD.

ORIGINAL APPLICATION NO. 404 OF 2014

DIST. : AURANGABAD.

Suneeta d/o. Fakirrao Dapke,
Age: 42 years, Occu.: Service,
R/o. P.W.D. quarter No. 2,
Gurudwara Road, Osmanapura,
Aurangabad.

-- APPLICANT.

V E R S U S

1. **The State of Maharashtra,**
Through its' Secretary-
Public Works Department,
Mantralaya, Mumbai-32.

2. **The Maharashtra Public Service
Commission,** Through its Secretary,
Bank of India Building,
IIIrd floor, M.G. Road,
Fort Mumbai-400001.

-- RESPONDENTS

APPEARANCE : Ms. Pradnya Talekar, learned
Advocate holding for Shri S.B.
Talekar, learned Advocate
for the applicant.

: Shri D.R. Patil – learned Presenting
Officer for the respondents.

CORAM : HON'BLE SHRI RAJIV AGARWAL,
VICE CHAIRMAN (A).

AND

: HON'BLE SHRI B.P. PATIL,
MEMBER (J)

DATE : 16TH FEBRUARY, 2017.

ORAL ORDER

[Per : Hon'ble Shri Rajiv Agarwal, Vice Chairman (A)]

1. Heard Ms. Pradnya Talekar, learned Advocate holding for Shri S.B. Talekar – learned Advocate for the applicant and Shri D.R. Patil – learned Presenting Officer (P.O.) for the respondents.

2. Short issue involved in this Original Application is whether the Government servant, who also belongs to one of the backward classes is eligible to get age relaxation from both the categories. The applicant in this case has applied for the post of Executive Engineer (Electrical)/ Electrical Inspector, Grade-I in then Public Works Department pursuant to the advertisement issued by the Maharashtra Public Service Commission (M.P.S.C.) on 7th February, 2014. The applicant is already working in the State Government and she belongs to OBC category. The upper age limit for OBC class is 40 years as per the advertisement issued by the MPSC and she is claiming that as a Government servant she is entitled to further age

relaxation of 5 years. However, her application was not considered by the M.P.S.C, who is respondent No. 2 in the present Original Application.

3. The learned Presenting Officer states that the advertisement itself states that candidate cannot claim age relaxation on both counts, i.e. if he or she belongs to backward class and he or she is serving also in the Government. Only one relaxation is permissible. The Applicant was fully aware of this condition when she filed the application form and M.P.S..C has rightly rejected her candidature.

4. Learned Advocate for the Applicant drew our attention to the judgment of Nagpur Bench of this Tribunal dated 25th September, 2014 in **O.A. Nos. 526 and 527 both of 2014 [Shri Vijay Shalikram Pusadkar & Anr. Vs. the State of Maharashtra & Ors.]**, which were filed by the similarly situated persons, who were also appearing in the same selection process pursuant to the same advertisement issued by the MPSC.

Nagpur Bench of this Tribunal has clearly held that the Government servant is eligible for age relaxation, both as a backward class candidate and also if he or she is a Government servant. On that count the present applicant is also entitled to get age relaxation. We are unable to understand as to how the relief granted by the Nagpur Bench of this Tribunal to the similarly situated person, can be denied by the respondent No. 2 to the present applicant. As per the Maharashtra Civil Services (Provision of Upper Age-Limit for Recruitment by Nomination) Rules, 1986, a copy which has been placed on record by the learned Advocate for the Applicant, it appears that the backward class Government servant is eligible to get age relation on both the counts.

5. Learned Advocate for the Applicant made a statement that out of 9 posts, which were advertised, the result has been declared by the MPSC only for 6 posts and three posts are still vacant and the applicant can be interviewed and considered along with other candidates, who are interviewed by the MPSC pursuant to the order passed by

the Nagpur Bench of this Tribunal, referred to above, for the remaining vacancies.

6. In view of the above discussion we are clearly of the opinion that the Applicant is eligible for relaxation in age as claimed by her in this Original Application. Accordingly the order issued by the respondent No. 2 dated 1st August, 2014 is quashed and set aside. The respondent No. 2 is directed to call the applicant for interview for the above mentioned post within a period of four weeks from the date of this order and after assessing her performance and performance of other candidates, M.P.S.C. may decide to either recommend her name for the post or take appropriate action otherwise depending upon her performance & merit in the selection process.

7. With the above observations and directions, the present Original Application stands disposed of with no order as to costs.

MEMBER (J)

VICE CHAIRMAN (A)