

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO.857/2019

DISTRICT:- BEED

Bibhishan s/o. Ramnath Chole,
Age : 29 years, Occ. Service,
R/o. Khadki Deola, Tq. Wadwani,
Dist. Beed.

...APPLICANT

V E R S U S

1. The State of Maharashtra,
Through its Principal Secretary,
Forest Department, Mantralaya,
Mumbai - 32.
2. The Chief Conservator of Forest,
(Forest Security Chief),
Maharashtra State, Van Bhavan,
Civil Lines, Nagpur,
Tq. & Dist. Nagpur.
3. The Chief Conservator of Forest,
Kolhapur Region, Tarabai Park,
Kolhapur, Dist. Kolhapur.

...RESPONDENTS

APPEARANCE : Shri A.V.Thombre, Advocate holding
for Shri S.S.Thombre, Advocate for
the Applicant.
: Shri M.S.Mahajan, Chief Presenting
Officer for the respondents.

**CORAM : JUSTICE SHRI P.R.BORA, VICE CHAIRMAN
AND
SHRI VINAY KARGAONKAR, MEMBER (A)**

Date : 14-02-2024

O R A L O R D E R

1. Heard Shri A.V.Thombre, learned Counsel
holding for Shri S.S.Thombre, learned Counsel for the

applicant and Shri M.S.Mahajan, learned Chief Presenting Officer for the respondent authorities.

2. Present applicant had applied for the post of Forest Surveyor in response to the advertisement no.02/2019 issued by respondent no.2 on 22-01-2019. Total 12 posts were advertised, out of which 1 post was reserved for candidate belonging to NT(D) category. Applicant claims to be belonging to NT(D) category and has applied for the said post from NT(D) category.

3. The following qualification has been prescribed for the subject post; (i) HSC passed (12th standard), (ii) Certificate of Surveyor Training from the recognized institution, and (iii) Certificate of passing typing test of 30 words per minutes in Marathi typing and 40 words per minutes in English typing of Government Commercial Certificate Examination (GCCE) within 2 years from the date of appointment. Applicant claims to be possessing the qualification of HSC passed as well as having done Diploma Course in construction surveying conducted by the Maharashtra State Board of Examinations, Mumbai.

4. Applicant appeared for examination and succeeded in passing the said examination. 7 candidates

were declared to have passed the said examination and the name of the applicant was containing in the said list published by the respondents. Vide letter dated 15-07-2019 issued by respondent no.3, applicant was called upon to remain present in the office of the said respondent on 18-07-2019 for documents verification. As per the contentions in the O.A., applicant remained present in the said office with the requisite documents. It is the further contention of the applicant that, at the time of documents verification he was orally informed by the officer concerned that he is not holding the required qualification and hence cannot be considered for his appointment on the subject post.

5. It is the further contention of the applicant that since name of the applicant was not included in the list of recommended candidates and only 2 candidates were recommended by respondent no.3, he made a representation on 21-08-2019 praying for his selection claiming that he was holding the requisite qualification as prescribed in the advertisement. It is the further contention of the applicant that since he did not receive any reply or response from the respondents, he approached this Tribunal by filing the present O.A.

6. Shri A.V.Thombre, learned Counsel holding for Shri S.S.Thombre, learned Counsel for the applicant submitted that the candidature of the applicant has been rejected for wrong reasons. Learned Counsel pointed out that the applicant possesses the requisite qualification as prescribed in the advertisement. He Invited our attention to the said advertisement as well as to the documents filed on record by the applicant to demonstrate that the applicant is holding the alternate qualification as prescribed in the advertisement. It is the further contention of the applicant that submission of the caste validity certificate at the time of documents verification was not the requirement and the same can be produced within 6 months after appointment.

7. According to the learned Counsel appearing for the applicant, though the applicant was complying with all requirements and was eligible to be appointed, respondents have wrongly refused to give him appointment. In the circumstances, the applicant has prayed for the following relief:

“B. By issuing an appropriate order, the respondent nos.2 and 3 may kindly be directed to

include the name of the applicant in the select list from the NT(D) category and issue an appointment order on the post of Forest Surveyor and for that purpose issue necessary orders.”

8. Contentions raised in the O.A. and the prayer made therein are resisted by the respondents. Respondent no.1 to 3 have filed their joint affidavit in reply. The contentions in O.A. and the prayers made therein have been opposed mainly on the ground that the applicant does not possess the Surveyors Training Course Certificate of an institution recognized by the Government and as such he is not qualified for the post of Forest Surveyor. In paragraph 13 of the affidavit in reply, it has been further stated that the certificate of Construction Surveying is not the certificate required for the Forest Surveyor. Reference has been given thereafter of Rule 6 of the Rules of 2011. Learned CPO in his arguments reiterated the contentions raised in the affidavit in reply filed on behalf of the respondents. Learned CPO submitted that, applicant was required to possess the qualification as prescribed in the said advertisement i.e. the Certificate of Training in Surveying from the institution recognized by the State Government. Learned CPO further submitted that for the appointment of the Surveyor in the Forest Department, Diploma Course in

Construction Surveying is not the requirement as the duties of Forest Surveyor, among others, are measuring lands, to locate and fix boundaries of Forest lands etc. Learned CPO submitted that the respondents have not committed any error in not selecting the applicant and not appointing him on the post of Forest Surveyor. He, therefore, prayed for dismissal of the O.A.

9. We have carefully considered the submissions made on behalf of the applicant as well the respondents. We have also perused the documents produced on record by the parties. As is revealing from the pleadings of the parties, and the arguments which are advanced by the learned respective Counsel appearing for the parties, the applicant has not been selected on the ground that he is not holding the required educational qualification as has been prescribed in the advertisement. Applicant is possessing the certificate of having successfully completed the diploma course in Construction Surveying from the Maharashtra State Board of Vocational Education, Mumbai.

10. It is the contention of the applicant that, diploma course possessed by him is alternate to the

qualification prescribed in the advertisement. In support of the said contention applicant has relied upon the G.R. dated 28-09-2012. Annexure to the said G.R. contains the information about the courses run by the Industrial Training Institutes in the State and the courses equivalent or alternate to them run by the Maharashtra State Board of Vocational Education Examination Mumbai. The course of 'Surveyor' which is at Sr.No.37 is shown to be a 2 year course run by Industrial Training Institutes in the State and the 'Certificate Course in Construction Surveying' conducted by Maharashtra State Vocational Education Examination Board is shown to be an alternate to the said course.

11. Learned Counsel has further pointed out that vide corrigendum dated 12-11-2018 the aforesaid course at Sr.No.37 is titled as 'Diploma Course in Construction Surveying'. The certificate which the applicant has filed on record is of the said course. According to the applicant, he is therefore, holding the requisite qualification. In the affidavit in reply though respondents have resisted the said contentions stating that Diploma in Construction Surveying may not be of any use to Forest Department, no further information has been provided by the respondents as to

which is the course meant for 'Surveyor' in the Forest Department.

12. In the advertisement published on 22-01-2019 the educational qualification is prescribed as below:

“६. शैक्षणिक पात्रता :

६.अ खाली नमूद केलेली शैक्षणिक अर्हता ही ऑनलाईन अर्ज भरण्याच्या अंतिम तारखेस प्रमाणपत्रासहित पूर्ण धारण करणे आवश्यक आहे.

(१) उमेदवाराने किमान उच्च माध्यमिक शालांत प्रमाणपत्र परीक्षा (१२ वी) उत्तीर्ण केली असावी

(२) मान्यता प्राप्त संस्थेच्या सर्व्हेक्षक प्रशिक्षणाचे प्रमाणपत्र.

६.ब नियुक्तीच्या दिनांकापासून दोन वर्षांत शासकीय वाणीज्य संस्थेचे मराठी टंकलेखन गती ३० शब्द प्रति मिनिट आणि इंग्रजी टंकलेखनाचे ४० शब्द प्रति मिनिट या गतीचे प्रमाणपत्र सादर करावा लागेल. ”

13. In so far as passing of the Higher Secondary Examination (12th) and the proficiency in typing are concerned, there is no dispute at all. Dispute is in respect of Certificate in Surveyor Training from any of the recognized institution. In the advertisement, admittedly, no further particulars are provided whether Certificate of Surveyor Training shall be from any particular institution. Even in the recruitment rules, no such particulars are provided. During the course of arguments it was argued by

the learned CPO that the candidates were required to have completed the training course of Surveyor and not of the Construction Surveyor. He submitted that in Industrial Training Institutes, the course of Surveyor is prescribed and it is of 2 years. It was the further contention of the learned CPO that the applicant does not possess the said qualification and hence was rightly held ineligible by the respondents.

14. Learned Counsel for the applicant opposed the submissions made by the learned CPO. Learned Counsel for the applicant invited our attention to the G.R. dated 28-09-2012 and Annexure-A therewith. In the said Annexure-A, various training courses run in the Industrial Training Institutes in the State are enlisted and against the said courses list is given of the alternate courses run by the Maharashtra State Vocational Education Examination Board. Course of Surveyor is at Sr.No.37. In the Industrial Training Institutes the said course is of the period of 2 years and the educational qualification for admission to the said course is SSC passed. Against the said course, the Surveyor course in Construction Surveying is shown to be the alternate course which is run by the Maharashtra State Vocational Education Examination Board. Its duration is

also of 2 years and the qualification for admission to the said course is SSC passed. As noted hereinabove, vide subsequent G.R. dated 12-11-2018, C.C. in Construction Surveyor Course is renamed as D.C. in Construction Surveying i.e. Diploma Course in Construction Surveying. It is not in dispute that the applicant has successfully done the said course.

15. After having considered the facts as aforesaid, there remains no doubt that the applicant was and is holding the requisite qualification as prescribed in the advertisement. As such, the respondents could not have held applicant ineligible for the post of Surveyor on the ground of not having requisite educational qualification. It is further not in dispute that 12 posts were advertised and only 7 candidates succeeded in passing the written examination. The name of the applicant exists in the said list of candidates who have passed written examination. As contended by the applicant, the applicant was only candidate belonging to NT(D) category for which one post was shown to be reserved. Learned Counsel for the applicant has submitted that the said post has not yet been filled in. Considered the facts as aforesaid, there seems no difficulty in allowing the present application and to give

directions to the respondents as prayed for by the applicant.

16. One more objection has also been raised by the respondents that the applicant was not holding the Caste Validity Certificate as on the date of submitting the application or at the time of documents verification. The objection raised is also liable to be rejected in view of the specific clause in the advertisement to the effect that, the certificate of Caste or Tribe validity can be submitted by the candidate concerned, after his appointment, and the outer limit provided for submitting such certificate is of 6 months. The applicant has tendered the Caste Validity Certificate in the present matter. It is, thus, evident that even on that count, there may not be any impediment for considering the applicant for the said post of Forest Surveyor.

17. As has come on record, after having passed the written examination, next stage is of documents verification and the candidates completing aforesaid 2 stages have to thereafter appear for the practical test. After having considered the entire facts and circumstances involved in the present matter, we have reached to the conclusion that

the applicant is holding the requisite qualification as prescribed in the advertisement and he also possesses the caste validity certificate.

18. In the circumstances, we are inclined to allow the present O.A. with the following order:

ORDER

[i] The respondents shall hold the practical test of the applicant within the period of 6 weeks from the date of this order, and if the applicant succeeds in passing the said test, issue order of appointment in his favour on the post of Forest Surveyor within 4 weeks thereafter against the post reserved for NT(D) category, if there is no other legal impediment.

[ii] The Original Application stands allowed in the aforesaid terms, however, without any order as to costs.

(VINAY KARGAONKAR)
MEMBER (A)

(P.R.BORA)
VICE CHAIRMAN

Place : Aurangabad
Date : 14-02-2024.