

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

O.A.NOS. 50/2017 WITH O.A.NO. 255/2017

01. ORIGINAL APPLICATION NO. 50 OF 2017

DISTRICT: - PARBHANI.

Shri Balesh S/o Dashrath Bhendekar,

Age : 29 years, Occu. : Nil,

R/o : Flat No. 309,

Madhavnagar, Gangakhed Road,

Dist : Parbhani.

.. APPLICANT.

V E R S U S

1. The State of Maharashtra

Through its Principal Secretary,
Revenue and Forest Department,
M.S., Mantralaya,
Mumbai – 32.

**2. The Maharashtra Public Service
Commission,** Through its

Secretary, Bank of India Building,
3rd Floor, Fort, Mumbai.

**3. The Additional Principal Chief
Conservator of Forests,**

Maharashtra State,
Nagpur.

.. RESPONDENTS.

W I T H

02. ORIGINAL APPLICATION NO. 255 OF 2017

DISTRICT: - LATUR & AHMEDNAGAR.

1. Shri Pushparaj S/o Bhagwatrao Deshmukh,

Age : 28 years, Occu. : Nil,

R/o : At Sirsi, Post : Babhulgao,

Tal :Latur, Dist : Latur.

2. Rakesh S/o Sopanrao Ilhe,

Age : 34 years, Occu: Nil,

R/o : At Post : Chincholi Gurao,
Tal : Sangamner,
Dist : Ahmednagar.

3. Vishal S/o Amarsing Rathod,
Age : 33 years, Occu. Primary Teacher,
Presently R/o : Nirmal Sadan,
Jadhav Vasti,
At post : Chincholi Gurao,
Tal : Sangamner,
Dist : Ahmednagar.

.. APPLICANTS.

V E R S U S

1. **The State of Maharashtra**
Through its Principal Secretary,
Revenue and Forest Department,
M.S., Mantralaya,
Mumbai – 32.
2. **The Maharashtra Public Service
Commission**, Through its
Secretary, Bank of India Building,
3rd Floor, Fort, Mumbai.
3. **The Additional Principal Chief
Conservator of Forests**,
Maharashtra State,
Nagpur.

.. RESPONDENTS.

APPEARANCE : Ms. Preeti Wankhade, learned Advocate
for the applicants in both these OAs.
: Shri M.P. Gude – learned Presenting
Officer for the respondents in both
these OAs.

CORAM : **JUSTICE M.T. JOSHI, VICE CHAIRMAN**
AND
: **ATUL RAJ CHADHA, MEMBER (A)**

DATE : **14.03.2019**

COMMON ORDER**[Per :Justice M.T. Joshi, Vice Chairman]**

1. Heard Ms. Preeti Wankhade, learned Advocate for the applicants in both these OAs and Shri M.P. Gude, learned Presenting Officer for the respondents in both these OAs.

2. In both these present Original Applications the decision of respondent No. 2, the Maharashtra Public Service Commission, of not preparing waiting list for multiple cadre recruitment of Assistant Conservator of Forest and Range Forest Officer, is challenged.

3. The documents on record would show that some of the candidates recommended by the respondent No. 2, M.P.S.C. to respondent No. 1, State of Maharashtra, had not joined the post / posts. However, as no waiting list was forwarded by the respondent No. 2, M.P.S.C. to respondent No. 1, the State of Maharashtra, the present applicants could not be appointed. It is submitted that Rule 10 (8) of the Rules of Procedure dated 16th May, 2014 of the M.P.S.C., which provides that in case of recruitment by competitive examination wherever multiple cadres posts are involved, the reserve list shall not be maintained, is unreasonable.

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4. The admitted facts of the case would show that the applicants could have been wait listed in view of obtaining of the marks obtained by them during the selection process. Admittedly, some of the candidates did not join the post / posts and, therefore, had there been a waiting list, the applicants could have been accommodated.

5. Additional issue in the O.A. No. 50/2017 is regarding the requisite qualification of the applicant. The applicant is Bachelor in Food Technology. The applicant however, was held ineligible as he did not hold the prescribed educational qualification.

6. The common submission from both the sides would show that Rules of Procedure of the year 2005 of the respondent No. 2, M.P.S.C., earlier provided for preparation of the wait list without making distinction in selection for single cadre posts or multi cadre posts. In the year 2014 however, the rules came to be changed and rule 10 (8) is framed, which runs as under: -

“10. Appointment of Interview Committee and declaration of result.-

(8) (a) In case of recruitment by Competitive Examination wherever multiple cadre posts are involved, the reserve list shall not be maintained. The posts fallen vacant due to non-acceptance of the offer

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of appointment by the candidates recommended, shall be filled in through subsequent Competitive Examination. When only single cadre is involved for selection by competitive examination the reserve list shall be maintained for a period of one year from the date of declaration of result or up to the publication of subsequent advertisement for recruitment to the same post "whichever" is earlier.

7. Learned Presenting Officer submitted that preparation of the waiting list in case of multi cadre posts creates various problem as examination is common and after selection the candidate is required to give option. Therefore, after taking into consideration past experience this rule came to be framed and the same cannot be called as unreasonable. As regards non-consideration of the claim of the applicant in O.A. No. 50/2017 on the ground that he has not held required qualification, respondent No. 2, M.P.S.C. in affidavit in reply at paragraph No. 20 made the following submissions:-

"20. With reference to para 6(xii), I say and submit that, the applicant has made grievance regarding the non inclusion of his qualification i.e. B.Tech in Food Technology in the advertisement No.5/2016. In this respect, it is to say and submit that on receipt of requisition from the Government for 55 posts of Range Forest Officer, Group-B, the Commission has published advertisement for the said post strictly as per the revised Recruitment

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Rules of the said posts dated 5th February, 2015 framed by the Government for the post. Accordingly educational qualification was mentioned in this advertisement as follows “वनस्पतीशास्त्र, रसायनशास्त्र, वनशास्त्र, भूशास्त्र, गणित, भौतिकशास्त्र, सांख्यिकी, प्राणिशास्त्र, उद्यानविद्याशास्त्र, कृषिशास्त्र, कृषि अभियांत्रिकी, रसायन अभियांत्रिकी, स्थापत्य अभियांत्रिकी, संगणक अभियांत्रिकी, विद्युत अभियांत्रिकी, इलेक्ट्रॉनिक्स अभियांत्रिकी, यंत्र अभियांत्रिकी, संगणक ऑप्लिकेशन, संगणकविज्ञान, पर्यावरण विज्ञान, पशुवैद्यकीय विज्ञान यापैकी कोणत्याही विषयातील सांविधिक विद्यापीठाची विज्ञान शाखेची पदवी किंवा विज्ञान शाखेव्यतिरिक्त इतर शाखेतील गणित विषयासह पदवीधारक.” This qualification has been incorporated in the advertisement strictly as per the Recruitment Rules of the said post published on 5th February, 2015. Hence, the advertisement is perfectly legal and valid.

A copy of the Recruitment Rules of the post dated 5th February, 2015 is attached herewith and marked as **Exhibit-R-8**.

It is further submitted that, in this regards Government of Maharashtra vide its letter dated 11th February, 2016 has clarified that candidates holding qualification like B.E-Information Technology/B.E. Instrumentation/ B.Sc.-Biotechnology/ B. Pharmacy/ B. Tech-Food Science are not eligible to apply for this post. Further, it was also clarified that these Rules are framed by the Government taking into consideration Central Government Entrance and Training Rules (Revised), 2004, (Rule 8) for the State Forest Service Officers.

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Copy of the said letter dated 11th February, 2016 is attached herewith and marked as Exhibit R-9.

In this regard, the law has already been settled by the Hon'ble MAT in O.A.241/2016 filed by Shri Kishor Kashinath Patil.

A copy of the judgment of Hon'ble MAT in O.A.No.241/2016 is attached herewith and marked as Exhibit R-10.”

8. Upon hearing both the sides, in our view, there is no merit in the present Original Applications for the following reasons.

R E A S O N S

9. As regards non-preparation of the waiting list, it is to be noted that on the basis of the past experience, respondent No. 2, M.P.S.C., has made amendment in the Rule of Procedure. There is nothing on record to show that this provision is discriminatory or unreasonable. Therefore, the challenge on that count fails.

10. As regards the issue of qualification of the applicant in O.A. No. 50/2017, the submissions of the respondent No. 2, M.P.S.C., would show that the educational qualification prescribed by the recruitment rules and notified in the

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advertisement are specific enough to exclude B. Tech. in Food Science. Exhibit R-10, page-248 is the decision of the Division Bench of this Tribunal in this regard **[O.A. No. 241/2016 (Shri Kishor Kashinath Patil Vs. State of Maharashtra & Ors.)**. In that case the applicant was Bachelor of Engineering in Information Technology i.e. beyond the prescribed qualification for the same posts . The contention of the applicant therein was that degree in any branch of Engineering should be accepted. The Division Bench of this Tribunal has considered all the aspects and in view of the prescription in the recruitment rules did not accept the plea of the applicant therein. For the similar reason, the contention of the present applicants cannot be accepted. In the result, the following order: -

ORDER

Both the Original Applications are hereby dismissed without any order as to costs. Interim relief granted in O.A. No. 50/2017 is hereby vacated.

MEMBER (A)**VICE CHAIRMAN****PLACE : AURANGABAD.****DATE : 14.03.2019.**

O.A.NO. 50 & 255-2017(DB-Selection-Appointment)-HDD-2019