

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL****NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 122/2020**

Dr.Dheeraj S/o Pandhariji Chokhandre  
Aged 42 years. Occu. : Service  
R/o Sub District Hospital, Kamptee,  
District : Nagpur.

**Applicant.**

**Versus**

- 1) State of Maharashtra,  
Through its Principal Secretary,  
Public Health Department  
G.T. Hospital Complex Building  
10<sup>th</sup> Floor, New Mantralaya, Fort  
Mumbai-400001.
- 2) Deputy Director of Health Services,  
Nagpur Region, Mata Kacheri  
Compound Sraddhanand Peth,  
Nagpur-440022
- 3) Civil Surgeon,  
General Hospital, Central Avenue,  
Road, Nagpur-440018
- 4) Medical Superintendent,  
Sub District Hospital,  
Kamptee, District Nagpur

**Respondents**

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Shri N.D.Thombre, Ld. counsel for the applicant.  
Shri A.M.Khadatkar, Ld. P.O. for the respondents.

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**Coram:-Hon'ble Shri M.A. Lovekar, Member (J).**

**Dated: - 08<sup>th</sup> April 2022.**

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**JUDGMENT**

**Judgment is reserved on 05<sup>th</sup> April, 2022.**

**Judgment is pronounced on 08<sup>th</sup> April, 2022.**

Heard Shri N.D.Thombre, learned counsel for the applicant and Shri A.M.Khadatkar, learned P.O. for the Respondents.

2. The applicant is working as a Medical Officer, Group-A under the Maharashtra Medical and Health Services. By the impugned order (Annexure A-1) dated 20.09.2019 it was informed that the applicant was not entitled to exemption from passing Marathi Language Examination. According to the applicant, he is entitled to such exemption. Hence this application.

3. S.S.C. mark memo of the applicant (Annexure A-4) shows that in this examination medium of instruction of the applicant was English and Marathi was his second language in which he secured 65 marks.

4. Annexure A-5 shows that in the examination held by the State Board in March, 2014 the applicant secured 44 marks out of 100 in Marathi (higher standard /1<sup>st</sup> language).

5. Copy of the Maharashtra Government Servants (Other than Judicial Department servants) Marathi Language Examination Rules, 1987 is at Annexure A-2. Relevant part of Rule 4 of these Rules (initially) read as under.

**4. Exemption from passing examination.-**

**(1)** *Notwithstanding anything contained in Rule 3, a Government servant shall be exempted from passing of the examinations if,-*

**(i)** *he has passed the examinations according to the existing rules;*

**(ii)** *he was eligible for exemption or was exempted under the existing rules;*

**(iii)** *his mother tongue is Marathi;*

**(iv)** *he has passed the Secondary Certificate Examination or equivalent examination with Marathi as a higher standard subject of 100 marks' paper, prior to joining the Government service; or*

**(v)** *he is a Class III Government servant holding a post for which requisite recruitment qualification is less than passing of the*

**Secondary School Certificate Examination  
level :**

**Provided that, Government servants whose duties are of technical or arduous nature and who are not required to correspond in Marathi Language, may be exempted from passing the Examinations by the concerned Administrative Department in consultation with the General Administration Department.**

- (2)** A Government servant who claims that his mother tongue is Marathi shall fulfil the following conditions:-
- (i) he should be able to write Marathi Language in Devnagri script, with facile;**
  - (ii) he should produce a certificate from his Head of the Department/Office that he can effectively correspond in Marathi.**
- (3)** A Government servant who does not claim that his mother tongue is Marathi but that he has studied in Marathi medium and who has not passed Secondary School Certificate or Higher Standard Examination with Marathi shall fulfil the following conditions for getting exemption from these rules :-

- a) ***he should be able to write with facile in Devnagri. Script;***
- b) ***he should produce a certificate from the concerned Institute indicating that he has taken education in Marathi medium at least up to 7<sup>th</sup> standard; and***
- c) ***he should produce a certificate from the Head of Department/Office that he can correspond in Marathi.***

(4) \* \* \*

(5) \* \* \*

(6) \* \* \*

G.R. dated 24.05.2016 (Annexure R-1) refers to the following amendment in Rule 4 of 1987 Rules, by Rules of 2000 –

सदर नियमावलीमध्ये “महाराष्ट्र शासकीय कर्मचारी (उच्च न्यायालयीन कर्मचा-यांच्याव्यतिरीक्त) मराठी परीक्षा (सुधारणा नियम, २०००)” दि.७ फेब्रुवारी, २००९ च्या अधिसूचनेन्वये सुधारणा करण्यात आली असून मराठी भाषा परिक्षा नियम १९८७ च्या नियम ४(1) मध्ये खालील तरतूद करण्यात आली आहे.

(अ) पोट-नियम (१) नंतर , पुढील पोट-नियम समाविष्ट करण्यात येईल :-

“(१अ) जो शासकीय कर्मचारी शासकीय सेवेत दाखल झाल्यानंतर एक उच्चस्तरीय किंवा निम्नस्तरीय विषय म्हणून मराठीसह माध्यमिक शाळा प्रमाणपत्र परीक्षा उत्तीर्ण झाला असेल आणि ज्यास ५० टक्क्याहून कमी गुण मिळाले नसतील अशा कर्मचा-यास उच्चस्तरीय

किंवा यथास्थिती निम्नस्तरीय परीक्षेच्या परीक्षा (पेपर) एक उत्तीर्ण होण्यापासून सूट देण्यात येईल.”

(ब) पोट.नियम (२) व (३) ऐवजी पुढील मजकूर दाखल करण्यात येईल :-

“(२) शासकीय कर्मचारी -

(एक) ज्याने मराठी ही आपली मातृभाषा आहे असा दावा सांगितला असेल, किंवा

(दोन) ज्याने, मराठी ही आपली मातृभाषा आहे असा दावा सांगितलेला नाही परंतु ज्याचे

शिक्षण मराठी माध्यमातून झालेले आहे आणि जो मराठीसह माध्यमिक शाळा प्रमाणपत्र परीक्षा

किंवा उच्चस्तरीय परीक्षा उत्तीर्ण झालेला नाही असा कर्मचारी-

या नियमातून सूट मिळण्यासाठी पुढील शर्तीची पूर्तता करील:-

(अ) तो देवनागरी लिपीमध्ये सहजपणे लिहिण्यास समर्थ असला पाहिजे,

(ब) त्याने निदान ७ व्या इयत्तेपर्यंत मराठी माध्यमातून शिक्षण घेतलेले आहे, अशा आशयासंबंधीचे संस्थेचे प्रमाणपत्र सादर करणे आवश्यक आहे.

आणि

(क) तो मराठीतून पत्रव्यवहार करू शकतो अशा आशयाचे विभाग प्रमुखांचे/कार्यालय प्रमुखांचे प्रमाणपत्र त्याने सादर करणे आवश्यक आहे.”

6. A conjoint reading of Rule 4 of 1987 Rules & Rule 4 of 2000 Rules shows that the proviso to Rule 4 (1) has not been amended and it has remained as it is.

7. G.R. dated 24.05.2016 shows that since the applicant joined the service after 07.02.2001, he would be Governed by the Rules of 2000.

8. In their reply (at P.P. Nos. 26 to 31) respondent nos. 2 to 4 have resisted the application on the grounds that S.S.C.

examination was not passed by the applicant with Marathi as a higher standard subject, in the examination held by the Board of Marathi as 1<sup>st</sup> language the applicant had secured less than 50 marks i.e. 44 marks and for these reasons he was rightly held to be not entitled to exemption.

9. The applicant is claiming parity with one Dr. Sonali Bansod Annexure A-6 shows that Dr.Sonali Bansod appeared for the examination of Marathi (1<sup>st</sup> language) held by the Board in March, 2014 and secured 46 marks as reflected in marks memo at Annexure A-7. The applicant also appeared for this examination in March, 2014 and secured 44 marks but unlike Dr.Sonali Bansod he was held to be not entitled to exemption. According to Shri Thombare, learned counsel for the applicant, treating Dr.Sonali Bansod and the applicant differently is discriminatory and arbitrary. So far as this aspect of the matter is concerned, contention of respondent nos. 2 to 4 is as follows in para 8 of their reply-

**8. It is not disputed that, Marathi passing exemption has been given to Dr.Sonali Pandurang Bansod vide order issued by the Joint Director (Budget and Admin), Directorate of Health Services, Mumbai on 17.10.2014. It is submitted that, Dr.Bansod submitted the, Marathi Language Exemption proposal before emerging Government Circular dated 24.05.2016 i.e. in the year 2014 as per the existing Rules and**

***Regulations concerned authority issued Marathi Language Exemption order. But the Applicant has submitted his proposal of Marathi passing exemption in the year 2019 in spite of passing in 2014 i.e. after Government Circular dated 24.05.2016.***

Aforesaid contention of the respondents cannot be accepted. Cases of the applicant and Dr.Sonali Bansod were exactly identical - both of them appeared for (higher standard) Marathi examination held by the State Board in March, 2014 and secured less than 50 marks. Therefore, they deserved to be treated equally. Benefit of exemption which was extended to Dr.Sonali Bansod could not have been denied to the applicant by taking benefit of G.R. dated 24.05.2016 which was admittedly issued after the benefit of exemption was given to Dr.Sonali Bansod on 17.10.2014. Fallacy in the stand adopted by the respondents on this aspect is manifest. Though the G.R. on which the respondents want to rely is dated 24.05.2016, it refers to the Rules as amended in the year 2000 and made operative w.e.f. 07.02.2001. Thus, this was a fit case to extend exemption to the applicant by exercising powers under Rule 9. Said Rule reads as under-



**9. Relaxation of rules.- Notwithstanding anything contained in these rules, Government may relax provisions of any of these rules under special circumstances in such manner as shall appear to it to be just and reasonable.**

10. As maintained earlier, proviso to Rule 4 (1) has remained unchanged. Aurangabad Bench of this Tribunal had an occasion to consider this proviso in O.A.No.110/2016 (Dr.Archana Tiwari v/s The State of Maharashtra and 2 others). The Bench held-

**10. ....It is to be noted that, the proviso to said Rule 4(1) shows that the Govt. servants whose duties are of technical or arduous nature and who are not required to correspond in Marathi language may be exempted from passing examination by the concerned Administrative Department in consultation with General Administration Department. The applicant in this case is a Medical Officer and his work is definitely of practical nature, and specialized in medical education. It is not known whether she is required to correspond in Marathi language and therefore, there is no reason as to why the competent authority did not consider the applicant's claim for exemption.**

The Aurangabad Bench, in O.A.No.110/2016 also adverted to another aspect i.e. age of the employee seeking exemption and held -

**11. It is also material to note that the applicant has crossed the age of 45 years and therefore, in many of the departmental examinations, the Govt. is exempting the Govt. servants from clearing the qualifying examination, who have crossed the age of 45 years and there is no reason as to why the applicant was not considered for such exemption.**

11. Discussion made so far would show that the applicant deserves to be treated equally with Dr.Sonali Bansod who was held entitled to exemption. Further, case of the applicant would also be covered by proviso to Rule 4(1) showing that the exemption prayed for by him cannot be denied. It may be reiterated that for extending benefit of exemption to the applicant, as was done in the case of Dr.Sonali Bansod, powers under Rule 9 quoted above may be justifiably exercised. For all these reasons the application will succeed. Hence, the order.

### **ORDER**

- (i) The O.A. is allowed.
- (ii) The impugned order dated 20.09.2019 (Annexure A-1) is quashed and set aside.
- (iii) The applicant is held entitled to exemption from passing Marathi Language Examination which is conducted by the Ad-hoc board.

- (iv) The respondent department shall pass necessary orders in light of determination made in this O.A., **within one month** from the date of receipt of this order.
- (v) No order as to costs.

(M.A.Lovekar)  
Member (J)

Dated – 08/04/2022.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Raksha Shashikant Mankawde.

Court Name : Court of Hon'ble Member (J).

Judgment signed on : 08/04/2022.

and pronounced on

Uploaded on : 08/04/2022.\*