

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 129 of 2013**

Pritam Ramchandra Shahare,  
Aged about 41 years, Junior Clerk,  
Resident Gondia, Tq. & dist., Gondia.

**Applicant.**

**Versus**

- 1) State of Maharashtra  
through the Secretary to Government,  
Finance Department, Mantralaya, Mumbai.
- 2) The Director of Accounts and treasuries,  
New Government Kutir Nos. 15 & 16,  
Plot no.176, Free Press Journal Marg,  
Mumbai-400 021.
- 3) The Executive Engineer,  
Bagh Itiyadoh, Irrigation Division, Gondia.
- 4) Maharashtra Public Service Commission,  
through Dy. Secretary (Pariksha), Mumbai.

**Respondents**

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**Shri M.R. Rajgure, Advocate for the applicant.**

**Shri A.M.Ghogre, P.O. for the respondents.**

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**Coram :- Shri B. Majumdar, Vice Chairman and  
S.S.Hingne, Member (J).**

**Dated :- 12-02-2016.**

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**ORDER -****Per : Member (J).**

The applicant has challenged the communication dated 21-12-2012 (A-1,P-17) by which he is not allowed to appear the Maharashtra Finance and Accounts Service, Class III examination being above 40 years of age.

2. Heard Shri M.R.Rajgure, Id. counsel for the applicant and Shri A.M.Ghogre, Id. P.O. for the respondents.

3. The applicant was appointed as a Clerk and joined service on 13-6-1997. He cleared the Maharashtra Accounts Clerks examination held in October, November,2010 and its result was declared on 3-5-2011 (A-2,P-24).

4. The applicant had to clear the second examination i.e. Maharashtra Finance and Accounts Service, Class III examination within five years and four chances as per rule 4 of the Maharashtra Finance and Accounts Class III Examination Rules, 1965 (in short "Rules"). As per Rule 6, the employee who has not reached age of 40 years may appear for this examination. As per proviso to Rule 6 the employee cannot appear to this examination unless has passed the Maharashtra Accounts Clerks examination or is exempted from appearing that examination. The applicant passed this pre-requisite Clerks Examination in November,2010. The applicant's date of birth is 10-3-1972. He crossed 40 years on 9-3-2012. Therefore, when he

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wanted to appear the Maharashtra Finance and Accounts Service, Class III examination in 2012 he was found over aged. The age as on 10-2-2012 for the examination to be held in April, May and age on 10<sup>th</sup> August for the examination held in October, November of the year is to be considered. Therefore, the respondents has issued the communication dated 21-12-2012 (A-1, P-17) which is impugned in this case.

5. The applicant in the pursis (P-93) contended that he had undergone the training from 1-5-2005 to 31-8-2005 and examination was held and the applicant passed the said examination as per letter dated 26-2-2009. It is also contended that the Post Recruitment Training Examination is compulsory for promotion and so also to appear in the Maharashtra Accounts Clerks Examination. It is contended that the applicant for his no fault, could not clear the Clerks Examination so as to enable him to appear for the next Maharashtra Finance and Accounts Service, Class III examination. However, there is no shred of material on record to substantiate the submission. Such case is also not put forth in application.

6. Undisputedly, the applicant cleared the second examination held in November,2010. The result of which was declared on 3-5-2011 (A-2,P-24). Thereafter, Maharashtra Finance and Accounts Service, Class III examination was not held in October,

November, 2011. According to the applicant, he had applied to appear for examination to be held in October, November, 2011 but since the examination was not held he could not appear. Thus at the most it can be said that the fault was on the part of the respondents for not holding the examination in October, November, 2011. Due to that reason the applicant is deprived of one opportunity. The applicant has become age bar subsequent to 9-3-2012.

7. In the O.A. the applicant has sought only one relief that he should be allowed to appear the examination to be scheduled in May, April, 2013 ignoring the impugned order dated 21-12-2012. By this letter he was not allowed to appear examination held on November, 2011 because he had crossed the 40 years age. However, from the above, it is manifest that the applicant was deprived from appearing in the examination which ought to have been held in October, 2011, for his no fault. Therefore, the Tribunal by order dated 14-2-2013 issued the direction to allow the applicant to appear the examination held in February, 2013. By this order the loss of one chance is compensated by allowing the applicant to appear in the examination in February, 2013 even after crossing the age of 40 years. However, the applicant failed in that examination as per the sealed mark sheet of applicant was produced by the department and opened in the Court.



8. Thus the applicant was given the opportunity to appear the examination and thereby he availed the relief which was sought in this O.A. However, he did not succeed. Meaning thereby whatever relief was sought was made available to the applicant but he could not succeed.

9. In this view of the matter, nothing remains to be adjudicated and hence the O.A. is rejected with no order as to costs.

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(S.S.Hingne)  
Member (J).

dnk.

sd/-

(B.Majumdar)  
Vice- Chairman.

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