

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 147 / 2017 (S.B.)**

Shri Gajanan Wasudeo Moharil,
Aged about 39 years, Occupation – Service,
R/o Ward No. 11, Old Chikhali,
Chikhali, District-Buldhana.

Applicant

Versus

- 1) State of Maharashtra,
Secretary Department of Finance & Accounts Service,
Mantralaya, Mumbai- 32.
- 2) Director, Accounts and Treasuries, New Govt. Complex No.
15 & 16, Plot No. 176, Free Press Journal Marg,
Mumbai-01.
- 3) Maharashtra Public Service Commission,
Bank of India building, 3rd Floor,
Mahatma Gandhi Marg,
Hutatma Chowk, Mumbai-01.

Respondents

Shri R.V.Shiralkar, the Id. Advocate for the applicant.

Shri S.A.Sainis, the Id. P.O. for the Respondents.

Coram :- Hon'ble Shri Shree Bhagwan, Vice Chairman.

JUDGMENT

Judgment is reserved on 18th October, 2019.

Judgment is pronounced on 03rd January, 2020.

Heard Shri R.V.Shiralkar, Id. counsel for the applicant and Shri S.A.Sainis, Id. P.O. for the respondents.

2. As submitted by Id. Counsel for the applicant:-

The applicant is the permanent resident of District-Buldhana. The applicant possesses the qualification of Bachelor of Commerce, Diploma in Cooperation and Accountancy. The applicant belongs to open category. The applicant is presently working as "Junior Clerk" on the establishment of District and Session Judge, Buldhana since 01.08.2000.

3. Under the establishment of respondent no. 2 i.e. Director, Accounts and Treasury, there is post called Assistant Accounts Officer for which examination is conducted by the respondent no. 3. This post comes under Maharashtra Finance and Accounts Service, Class-III. There are rules framed for this examination to be conducted for these posts called "Maharashtra Finance and Accounts Service, Class-III Examination Rules, dated 01/02/1965, (Annexure-A-1, P.B., Pg. No. 9)". The examination is to be conducted by the respondent no. 3 every year. As per Annexure-G, Para no. 2(a):-

"The examination will be held in two parts, Part-I and II as shown in Appendix 'C' to this Annexure and will be held by the Maharashtra Public Service Commission, Bombay, twice a year in April/May and October/November every year."

4. On P.B., Pg. No. 24 following provisions was made:-

"12. If a candidate passes in all the papers of Part-I or Part-II except one, his failure to pass in that paper shall be provided the deficiency does not exceed 5 % of the marks obtainable in that paper."

5. Admittedly, in para no. 9 it has been mentioned that examination were conducted for the said post for April-2012 on 16th and 17th and again on 23rd and 24th Feb., 2013. The result for the said examination was declared on 15th Feb., 2014. In April, 2012 examination, applicant cleared part-I and got exemption in 5th paper. Admittedly, in para no. 10, applicant had submitted that, the Departmental Examination for the said post for Oct., 2012 was conducted on 27th to 30th May, 2015. The result for the said examination was declared on 15th Oct., 2016. In Oct., 2012 exam applicant appeared for remaining papers i.e. paper nos. 6, 7 and 8 and secured marks 60, 67 & 40 respectively. As applicant has not secured 45 % and above marks in paper no. 8, hence he failed in paper no. 8.

6. The contention of the candidate is that he was entitled for 5 % deficiency as mentioned in para no. 12 of P.B., Pg. No. 24.

7. The respondent no. 3 has filed reply and para no. E following clarifications have been made:-

"Condonation upto 5 % of marks is done only when the candidate has appeared for all papers of a part at one and same time. Applicant had appeared in part-II exam with exemption in paper no. 5. Hence, 5 % grace marks cannot be granted to the applicant."

8. In view of the above paras, explained by respondents since applicant has not appeared for all papers in same examination. So, he cannot be entitled for this benefit.

9. In view of discussions in foregoing paras, I don't find any reason to grant any benefit to the applicant as per Rule 12 of Maharashtra Finance and Accounts Service, Class-III examination Rule. Hence, O.A. has no substance and following order is passed.

ORDER

(i)The O.A. is dismissed.

(iii)No order as to costs.

(Shri Shree Bhagwan)
Vice Chairman

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

Name of Steno : Akhilesh Parasnath Srivastava.

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 03/01/2020.
and pronounced on

Uploaded on : 04/01/2020.