

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
AURANGABAD BENCH, AURANGABAD
ORIGINAL APPLICATION No. 224 of 2017 (D.B.)

Devidas S/o Kachru Taru,
Age : 47 yrs., Occ.: Service,
Working as Assistant Teacher,
Shri Sharda Bhawan High School,
Nanded, R/o Maan Building,
Jetwan Nagar, Taroda (Bk),
Nanded, Tq. & Dist. Nanded.

Applicant.

Versus

1) The State of Maharashtra
through its Secretary,
Education Department,
Mantralaya, Mumbai-32.

2) The Maharashtra Public Service Commission,
5½ Floor, Kuprez Telephone Nigam,
Building, Maharshi Karve Road,
Mumbai-400 021.
Through its Secretary.

3) Prerna Bhagwanrao More,
Age : 26 yrs., Occ.: Service,
Utkrusha Niwas, Ashok Nagar,
Majalgaon, Tq. Majalgaon,
Dist. Beed.

Respondents

Shri P.S.Shelke, Id. Advocate for the applicant.

Shri M.S.Mahajan, Id. C.P.O. for the respondent nos. 1 & 2.

Ms. P.R.Wankhede, Id. Advocate for the respondent no. 3.

**Coram :- Hon'ble Shri J.D. Kulkarni, Vice-Chairman (J) and
Hon'ble Shri P.N.Dixit, Member (A)**

JUDGMENT

(Delivered on Day 07th of April, 2018)

Heard Shri P.S.Shelke, Id. counsel for the applicant, Shri M.S.Mahajan, the Id. C.P.O. for respondent nos. 1 & 2 and Ms. P.R.Wankhede, Id. counsel for the respondent no. 3.

2. In response to the advertisement issued by respondent no. 2, the M.P.S.C. for the post of Lecturer, District Education and Training Institute, Maharashtra Education Services, Group-B, the applicant applied for this post from Scheduled Caste Category, claiming horizontal reservation of Sports Persons. In all 110 posts were advertised for various posts out of which 68 posts were made available for open competition and 42 posts were kept for reserved categories. Out of these posts, 11 posts were available for S.C. categories and out of these 11 posts, 7 posts were available for S.C. General, 3 posts for women candidates and 1 post was for Sports Category.

3. The respondent no. 2, the M.P.S.C. notified the list of eligible candidates for interview on 08/08/2016 and in the said list, the

applicant was at Sr. No. 217. On 09/08/2016. The respondent no. 2 also issued interview letter to the applicant and the applicant was directed to get his certificate of Sports verified from Director of Sports and Youth Services, Pune. The applicant was interviewed on 29/08/2016.

4. According to the applicant, he was called by respondent no. 2 in the office on 30/09/2016 and was directed to submit necessary documents. The applicant, accordingly, submitted the documents and on the same date, also filled representation claiming benefit of clause 4.3 of the advertisement as regards relaxation in the age limit. On 14/03/2017, the Sports certificate of the applicant was verified and the applicant was held legible for appointment under Sports Category. On 31/12/2016, the respondent no. 2, published a list of candidates eligible for recommendation for the post of Lecturer, District Education and Training Institute, Maharashtra Education Services, Group-B. However, the respondent no. 3, was selected giving benefit of non-availability of Sports candidates from S.C. candidates even though, the applicant was eligible. On 03/03/2017, the respondent no. 3, informed the applicant that since the applicant was overage and was disqualified, his candidature has been cancelled. The applicant has, therefore, filed this O.A.

5. During the pendency of the O.A., the respondent no. 3 has been appointed on the post and, therefore, the O.A. was amended accordingly. The applicant is claiming following reliefs :-

(a) The selection of respondent no. 3, in the list dated 31/12/2016 be quashed and set aside. Similarly, the impugned letter dated 03/03/2017 (Annexure-A-7) may be quashed. The respondent no. 2, be directed to select the applicant on the post. The applicant has also claim that the impugned order of appointment of respondent no. 3, dated 04/08/2017 be quashed and set aside.

6. The respondent no. 2, admitted that the applicant has given representation for relaxation of age, but his representation was rejected vide letter dated 26/04/2017 and it was clearly stated that any claim of the candidates made beyond the last date of submission of application will not be entertained by the Commission for any reason whatsoever. It was because, if such practice is followed by the Commission, every selection process will be the never ending story.

7. It is also the case of the respondent no. 2 that the respondent no. 3, Ms. Prerna Bhagwanrao More was found more meritorious and was recommended against S.C. Sports Category. The applicant was found

overage for the post and, therefore, could not be considered. The respondent no. 3 was rightly considered and recommended and the applicant has locusstandi to file application.

8. The Id. counsel for the applicant Shri Shelke submitted before us that in the advertisement clause 4.3 as well as recruitment rules provides for the relaxation of age limit. He further invited my attention to clause 4.3 of the advertisement and the said clause reads as under :-

4.3 'KSAF.Ad vgrk:-

(i) Possess a Master's degree in Humanity or Social Science or Sciences at least in second class and Masters Degree in Education of a statutory University (M.Ed.) preferably with specialization in Adult Education, Elementary Education, Education or non-formal Education or Educational Planning and Administration.

Provided that,

(a) Preference may be given to candidates having Second Class Master's Degree in Humanity or Social Science or Sciences plus M.Ed. with Degree or Diploma in Management or Higher Education or Educational planning or Rural Development or Child Development.

Note:- Age limit be relaxed by the Government on recommendation of the commission in favour of the candidate(s) who are actually engaged in jobs involving Educational Innovation or Teacher Education or production of teaching learning materials or teaching materials.

9. The Id. counsel for the applicant submits that the applicant has filed the representation that he may be given benefit of this clause. Since sufficient candidates were not available from S.C. Sports Categories and, therefore, his representation ought to have been considered favourable.

10. The Id. counsel for the applicant also invited my attention to Recruitment Rules and particularly rules 5 and 6. These recruitment rules are called **“Principal” (Group-A), “Sr. Lecturer” (Group-A), “Lecturer”(Group-B), District Institute of Education and Training in Maharashtra Education Service (Teacher Training Branch) Recruitment Rules, 1999.** Rules 5 and 6 of the said Rules reads as under:-

5. Appointment to the post of Lecturer, District Institute of Education and Training in M.E.S. Group B (Teacher Training Branch) shall be made either:-

(a) by nomination from amongst the candidates who-

(i) unless already in service of Government are not more than 35 yrs., of age and

(ii) possess Master's Degree in humanity or social science or sciences, at least in IInd class and Master's Degree in Education of a statutory University (M.Ed.) with specialization in Adult Education, Education or non-formal Education or Educational Planning and Administration.

Provided that preference may be given to candidates having second class Master's Degree in Humanity or Social Science or Sciences plus M.Ed. with Degree or Diploma in Management or Higher Education or Educational Planning or Rural Development or Child Development.

Provided further that the age limit may be relaxed by Government on the recommendation of the Commission in favour of candidates with exceptional qualification.

OR

(b) by transfer of a suitable person from the equivalent post in M.E.S. Group-B (Administrative Branch), as per Annexure-III possessing the qualification and experience prescribed in sub-clause (ii) of clause (a) of this rule for appointment by nomination.

OR

(C) by deputation of a suitable person from equivalent post in M.E.S. Group-B (Administrative Branch), as per Annexure III having not more than 40 yrs. of age or from non Government Educational Institutions such as Jr. Colleges, Secondary School or Primary School or Colleges of Education or Junior Colleges of Education Local Bodies and statutory university which possessing the qualification and experience prescribed for appointment by nomination in sub clause (ii) of clause (a) of this Rule.

6. Provided that age limit may be relaxed by Government for the post mentioned in rule 3, 4 & 5 above on recommendation of the commission on favour of the candidate(s) who are actually engaged in jobs involving Educational Innovation or Teacher Education or production of teaching learning materials or teaching materials.

11. The rule 5, as aforesaid, says that unless the candidate is not in Government service, his age should not be more than 35 yrs. for appointment to the post of Lecturer, District Institute of Education and Training in M.E.S. Group-B and thereafter there is a provision for relaxation of age. The Id. P.O. has invited our attention to the advertisement and particularly clause 4.2 of the advertisement, which states about age as on 01/10/2015. The said clause reads as under:-

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 ¼2½ vkxknjp egjk"V" Åkl dh; I orhy depk&; kauk mPp o; ke; kzk vV ykxwukgh-
 ¼3½ 'Åkl u vkns Åkuq kj ekth I sud] viax o [ÅGkMw bR; knhl kBh o; ke; kzk f'AFFAy{Ae jkghy –
 i j r o d % ¼4½ The age limit may be relaxed by government on the recommendation of the commission in favour of candidate with exceptional qualification. i j r q v k ; k x k p ; k d k ; I u ; ekoyhrhy i z e k . Å k u d k j t s g k e y k [Å r h l k B h m e n o k j i k l r g k s u l r h y r s g k p g k f u ; e f o p k j k r ? Å r y k t k b y - v ' Å k i R ; s d i d j . Å h m i y C / A m e n o k j k k ; k m P p r e ' Å S Å f . Å d v g r B ; k n k u L r j m P p ' Å S Å f . Å d v g r k i k l r m e n o k j p o ; k e ; k z s I o y r h d j h r k f o p k j k r ? Å r y s t k b y - v u t h A o k p ; k I m H A k r P ; k i n k o j h y f d e k u v u t h A o e k f x r y k v l s y R ; k i s Å k o f j " B i n k o j h y v u t h A o o ; k e ; k z k f ' A F F A y h d j . Å k L r o f o p k j k r ? Å r y k t k b y -

12. The aforesaid clause, therefore, shows that those applying as a Government servant were eligible as per clause 4.2(2) of the advertisement and there was no age limit for the Government servant. However, those who were not Government servant must be below age of 35 yrs. as on 01/10/2015. The age limit was relaxable for 5 yrs. in case of Backward Class candidates. In this particular case, it is material to note that the applicant's date of birth is 02/02/1970 and, therefore, on

01/10/2015, the age of the applicant was more than 45 yrs. and the applicant should not have even been allowed to participate in the process of the examination. The applicant was however, allowed to participate, because he has mentioned in his application form that he was an employee of Government of Maharashtra and this can be clear from his own application form (Annexure-A-2) at P.B., Pg. No. 17. The Id. P.O., therefore, submits that the applicant has misled the authorities and participated in the process by playing fraud. Even as per advertisement, since the applicant belongs to S.C. category age relaxation would have been for 5 yrs. i.e. those S.C. candidates or the Backward Class category candidates should have taken relaxation upto 40 yrs., but the applicant was already more than 45 yrs. of age as on 01/10/2015. The applicant has therefore, definitely misguided or given false information in his application form that he is a Government servant.

13. The Id. Counsel for the applicant submitted that the applicant has filed a representation for relaxation of age as per letter dated 30/09/2016. In the said representation, the applicant has tried to convince the authorities that he has special qualification i.e. educational innovation and, therefore, his case be considered for relaxation. This fact was brought to the notice of respondent no. 2 for the first time on 30/09/2016 and not prior to that.

14. The Id. P.O. submits that the applicant in his application form did not state about his special qualification, as has been mentioned in the representation dated 30/09/2016 and in the application form (Annexure-A-5). The Id. Counsel for the applicant submits that there was no column and space in the registration form so as to mention the special qualification. However, the application form shows that there are clauses like publication and experience details and the applicant could have stated about his experience, which he has tried to bring on record by way of filing representation.

15. It is material to note that the Interview of the applicant was held on 29/08/2016 and after one month, the applicant has filed representation on 30/09/2016 for relaxation. The representation of the applicant has been rejected by the respondent no. 2, vide impugned order dated 26/04/2017 and in the said letter it has been clearly mentioned that the applicant was age-barred and, therefore, his request for relaxation cannot be granted. The said rejection of the applicant's representation is self explanatory and it reads as under :-

egkn;]
 mi jkDr fo"A; kP; k l mHAKr vki .AkI eyk vl s dGfo.; kps vknsA vkgr dh]
 vf/AD; k[; krk] ftYgk f'A{A.A o i f'A{A.A l dFAK] xV&c ; k i nkP; k t kfgjkrhr o; kae; kzhfo"A; h
 [Akyyh i zek.Asuem dsysvkgS

The age limit may be relaxed by Government on the recommendation of the Commission in favour of candidate with exceptional qualification. *[The following text is a heavily garbled and illegible scan of the original document's content.]*

16. The Id. P.O. submits that no candidates can be allowed to file additional information or amend his application form after a particular date and stage, procedure has been held valid by this Tribunal. For this purpose, the Id. P.O. has placed reliance on the Judgment in O.A.410/2012 (Annexure-R-3) at P.B., Pg. No. 132 to 139 (both inclusive). The said Judgment in case of Shri Anil Prakash Sarkate Vs. Maharashtra Public Service Commission and Another has been delivered by this Tribunal at its Aurangabad Bench on 11/10/2013. This Tribunal observed in para no. 9 of the said Judgment that as per procedure of M.P.S.C. the authorities have to act only on the basis of information supplied by the candidate in the application form and the said procedure is applicable to all the contesting candidates. So also allowing the applicant to correct the application in the form will also be detrimental to the interests of other candidates, who have also mentioned incorrect information in the application form and their candidature might have been rejected on account of so called mistakes.

17. In the present case admittedly, the applicant has given false information that he was government servant and admittedly, there was no age limit for those who are serving in the Government and, therefore, his application might have been accepted. Admittedly, as per recruitment rules, the candidates must have been below the age of 35 yrs. as on the date mentioned in the advertisement i.e. 01/10/2015. So far as the backward class candidates were concerned, the said age limit was relaxed upto five yrs. Sub Clause (4) of Clause 4.2 of the advertisement clearly states that the age limit may be relaxed by the Government on the recommendation of the Commission in favour of the candidates, with exceptional qualification. The applicant admittedly did not state anything about his exceptional qualification in his application form, even before at the time of participation in recruitment process. Such representation was filed after one month of publication of list.

18. The Id counsel for respondent no. 3, Ms.Preeti Wankhede, submits that the age limit for Sports Category was upto 40 yrs. only and the applicant has already crossed his age of 46 yrs. on the date of application. Not only that, the respondent no. 3 is most qualified. The Id. counsel for respondent no. 3 invited my attention to the issue raised by respondent no. 2 to the applicant on 03/03/2017, the copy of which is at

P.B., Pg. No.36. In the said letter, it was intimated to the applicant that in his application form, it has been intimated by him that he was in Government Service, but it was noticed at the time of verification of documents submitted by him that he was not in Government Service and, therefore, he was not even entitled to be called for Oral Interview and, therefore, his candidature was cancelled. This particular letter of cancellation of candidature is not challenged in this O.A.

19. It seems from the record that the respondent no. 3 is well qualified, she possesses qualification of M.Sc. (Botony), M.Ed. and has also passed S.E.T./ N.E.T. examination. The respondent no. 3, also belongs to S.C. (Mahar) Category and she seems to be more qualified than the applicant. Considering all these aspects, the respondent no. 2 seems to have rightly recommended the name of the respondent no. 3 for the post and has rightly selected her and we do not find any illegality in the recommendation and appointment order of respondent no. 3. As against this, the claim of the applicant regarding age relaxation seems to be totally false and after thought. The applicant participated in the process by giving false information that he was in Government Service and hence his claim has been rightly rejected vide letter dated 03/03/2017 and the letter has not been challenged. We, therefore, do not find any malafides in the selection and the appointment of the

respondent no. 3. As against this, the conduct of the applicant in making false statement that he is in Government Service clearly shows that his intention was not bonafide. We, therefore, do not find any merit in the claim of the applicant, hence the following order:-

ORDER

The application stands dismissed with cost of Rs. 2000/- costs be deposited to the Maharashtra Administrative Tribunal, Bar Association, Aurangabad.

(P.N.Dixit)
Member (A)

(J.D. Kulkarni)
Vice-Chairman (J).

Dated:-07/04/2018

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