MAHARASHTRA ADMINISTRATIVE TRIBUNAL

NAGPUR BENCH NAGPUR

ORIGINAL APPLICATION NO. 50/2015 (D.B.)

Dharmraj S/o Deoraoji Tarte,
Aged about 34 years, Occu: Nil,
R/o 38, Nehru Nagar, Khamla Road,
Near Basket Ball Ground, Nagpur-15.

Applicant.

Versus

1) State of Maharashtra,
through its Secretary,
Water Resources Department,
Mantralaya, Fort, Mumbai-32.

2) Superintending Engineer,
Mechanical Division,
Water Resources Department,
Vainganga Nagar,
Ajni, Nagpur-440 003.

3) Directorate of Youth Affairs & Sports,
Central Building, Maharashtra State,
Pune-411 001.

Respondents

Shri M.R.Joharapurkar, Ld. counsel for the applicant.
Shri H.K.Pande, Ld. P.O. for the respondents.

Coram:- Shri Shree Bhagwan, Vice-Chairman and
Hon'ble Shri M.A.Lovekar, Member (J).
Dated: - 16th June 2022.

JUDGMENT

Per : Member (J).

.

Judgment is reserved on 13th June, 2022.

Judgment is pronounced on 16th June, 2022.

Heard Shri M.R.Joharapurkar, learned counsel for the applicant and Shri H.K.Pande, learned P.O. for the Respondents.

2. In this application order dated 10.06.2014 (Annexure A-17) passed by respondent no.2 is impugned.

3. Facts leading to this application are as follows.

When the applicant was in employment at Bhilai he had participated in 5th Senior Open Tug of War National Championship held at Trivendrum, Kerala between 25-27 September, 2010 in 640 Kilo weight under Senior Men category and his team was placed in second position. The Organizing Committee issued a certificate of merit dated 28.09.2010 (Annexure A-6). The applicant had to leave his job at Bhilai. He shifted to Nagpur. In response to advertisement no. 2/2011 (Annexure A-9), he applied for the post of Driver through Nagpur Regional Selection Committee. There were 10 posts of Open category out of which one was reserved for sportsperson. He cleared written and oral tests. Documents furnished by him were verified. After this process was over, by order dated 16.07.2012 (Annexure A-

13) respondent no.2 appointed the applicant to the post of Driver from the quota of sportsperson. He joined on 09.08.2012 (Annexure A-14). He was called upon to furnish some more documents which he furnished on 04.05.2013. By the impugned order dated 10.06.2014 (Annexure A-17) respondent no.2 terminated his services on the ground that he did not fulfil eligibility criteria for appointment through the quota for sportsperson. The applicant made a detailed representation dated 03.11.2014 (Annexure A-22) to the respondent. It remained undecided. Hence, this application.

4. Shri Joharapurkar, learned Advocate for the applicant submitted that para 21 of advertisement no.2/2011 (Annexure A-9) specifies that issue of reservation from the quota of sportsperson shall be governed by G.R. dated 30.04.2005. This submission is supported by record.

5. G.R. dated 30.04.2005 is at Annexure A-19 (at p.p. 70 to 81). Clauses 3 & 4 of this G.R. are relevant. These clauses read as under-

> ३) <u>नियुक्तीसाठी खेळाडूंची अर्हता</u>
>
> विविध कार्यालयातील नामनिर्देशनाने भरावयाच्या पदांकरिता खेळाडूंनी खालील अर्हता पूर्ण केलेली असावी:-
>
> अ) खेळाडू हा महाराष्ट्राचा रहिवासी असावा व त्याला मराठीचे ज्ञान असावे.
>
> ब) सदर खेळाडूने सेवाप्रवेश नियमातील तरतूदीनुसार पदासाठी आवश्यक असलेली किमान शैक्षणिक व इतर अर्हता प्राप्त केलेली असावी.

क) खेळाडूची गुणवत्ता व पात्रता विचारात घेऊन सदर पदासाठी असलेल्या वयोमर्यादेत ५ वर्षापर्यंत वयाची अट शिथील करण्यात यावी.

ड) एखाद्या खेळाडूने राज्याचे नाव उज्ज्वल होईल अशी कामगिरी केल्याचे निदर्शनास आल्यास, शैक्षणिक व वयाची अट शिथील करुन, अशा खेळाडूस योग्य अशा पदी नियुक्त करण्याचे अधिकार शासनास राहतील.

४) <u>क्रीडाविषयक अर्हता</u>

आरक्षित पदांवर नियुक्ती देण्यासाठी खेळाडूने क्रीडाविषयक क्षेत्रात खालीलप्रमाणे कामगिरी केलेली असावी :-

अ) <u>गट-अ साठी अर्हता</u>

सदर पदासाठी आंतरराष्ट्रीय स्पर्धांमधील वैयक्तिक अथवा सांघिक क्रीडा स्पर्धांमध्ये भारतातर्फे प्रतिनिधीत्व करताना प्रथम ,द्वितीय अथवा तृतीय स्थान प्राप्त केलेले असावे अथवा सुवर्ण, रौप्य किंवा कास्य पदक प्राप्त करणारा खेळाडू.

सदर स्पर्धा या संबंधित खेळांच्या आंतरराष्ट्रीय ऑलिम्पिक समितीशी संलग्न असलेल्या आंतरराष्ट्रीय फेडरेशनने आयोजित केलेल्या असाव्यात अथवा आंतरराष्ट्रीय ऑलिम्पिक समितीने स्वत: आयोजित केलेल्या असाव्यात.

तसेच उपरोक्त स्पर्धाव्यतिरिक्त असलेल्या स्पर्धा या मान्यताप्राप्त खेळांच्या असून आंतरराष्ट्रीय स्तरावरील मान्यताप्राप्त संघटनेने आयोजित केलेल्या असाव्यात. यामध्ये सहभागी होणा-या खेळाडूंची निवड ही राष्ट्रीय संघातून झालेली असावी. वैयक्तिकरित्या किंवा आमंत्रित स्वरुपाच्या स्पर्धांमध्ये भाग घेतलेल्या खेळाडूंचा यासाठी विचार करता येणार नाही.

ब) <u>गट-ब साठी अर्हता</u>

सदर पदांसाठी त्या त्या खेळांच्या वैयक्तिक अथवा सांघिक क्रीडा स्पर्धामध्ये महाराष्ट्रातर्फे प्रतिनिधीत्व करताना राष्ट्रीय अजिंक्यपद स्पर्धेत प्रथम, द्वितीय अथवा तृतीय स्थान प्राप्त करणारा किंवा सुवर्ण, रौप्य किंवा कास्य पदक प्राप्त करणारा खेळाडू.

सदर स्पर्धा या संबंधित खेळांच्या भारतीय ऑलिम्पिक समितीशी संलग्न असलेल्या राष्ट्रीय फेडरेशनने आयोजित केलेल्या असाव्यात अथवा भारतीय आलिम्पिक समितीने स्वत: आयोजित केलेल्या असाव्यात.

तसेच उपरोक्त स्पर्धाव्यतिरिक्त असलेल्या स्पर्धा या मान्यताप्राप्त खेळांच्या असून राष्ट्रीय स्तरावरील भारतीय ऑलिम्पिक समितीच्या मान्यताप्राप्त संघटनेने आयोजित केलेल्या असाव्यात. यामध्ये सहभागी होणा-या खेळाडूंची निवड ही राज्य संघातून झालेली असावी.

क) <u>गट क व ड साठी अर्हता</u>

सदर पदांसाठी त्या त्या खेळांच्या वैयक्तिक अथवा सांघिक क्रीडा स्पर्धामध्ये किमान राज्य अजिंक्यपद स्पर्धात प्रथम, द्वितीय व तृतीय स्थान प्राप्त करणारा किंवा सुवर्ण, रौप्य किंवा कास्य पदक प्राप्त करणारा खेळाडू.

राज्य अजिंक्यपद स्पर्धा या सदर खेळांच्या महाराष्ट्र ऑलिम्पिक असोसिएशनशी संलग्न असलेल्या अधिकृत राज्य संघंटनेने आयोजित केलेल्या असाव्यात अथवा महाराष्ट्र ऑलिम्पिक असोसिएशनने स्वत: आयोजित केलेल्या असाव्यात. किमान प्राविण्यापेक्षा उच्च स्तरावरील क्रीडा प्राविण्य मिळविणा-या उमेदवारास प्राधान्य असावे. वैयक्तिकरित्या किंवा आमंत्रित स्वरुपाच्या स्पर्धामध्ये भाग घेतलेल्या खेळाडूंचा यासाठी विचार करता येणार नाही.

राष्ट्रीय छात्रसेनेमध्ये (**NCC**) अंडर ऑफिसरची रैंक मिळवून राष्ट्रीय छात्रसेनेच्या राष्ट्रीय स्पर्धांमध्ये पदके प्राप्त केलेली व्यक्ती.

6. It was submitted by Advocate Shri Joharapurkar that post of Driver is Group-C post and hence clause 4(c) of G.R. dated 30.04.2005 would be applicable. There is no dispute on this point. The point is whether the applicant fulfils criteria given in clause 4 (c).

7. It was further submitted by Advocate Shri Joharapurkar that for appointment to the post of Driver which is Group-C post, it was not necessary to participate at the Maharashtra State Level Championship, G.R. dated 30.04.2005 makes the distinction clear, this condition is applicable for appointment to Group-B post but not applicable to Group-C or Group-D post.

8. According to Advocate Shri Joharapurkar, the applicant is permanent resident of Maharashtra, thus, he satisfies the basic criterion as per G.R. dated 30.04.2005 and his participation and attaining second position in Tug of War National Championship in which he represented State of Chhatisgarh had made him eligible to get appointment in the State of Maharashtra to Group-C post through the quota of sportsperson.

9. In his representation (Annexure A-22) the applicant raised a grievance as to how the authorities who had found the applicant to be eligible after thorough scrutiny of documents furnished by him could have thereafter reached the conclusion to the contrary without there being any intervening circumstance having a bearing on the matter in issue. In last para of the representation the applicant prayed that he be given an opportunity of hearing to ventilate his grievance.

10. Annexure A-23 is letter dated 20.11.2014 written by respondent no.1 to respondent no.2 calling upon the latter to consider various grievances raised by the applicant in his representation strictly in accordance with relevant G.Rs., take necessary action at his level, and submit report to respondent no.1. It is the contention of the applicant that nothing was done in the matter by any of the respondents. It is a matter of record that the representation (Annexure A-22) was made to all three respondents and each one of them was given a copy.

11. Reply of respondent no.2 is at p.p. 92 to 97. Contention of this respondent is as follows.

> **As per the advertisement it was clearly mentioned that for the category of Group-C the candidates should be the sportsperson who has participated at the State level and has got either first, second or third level medal. But the present applicant has participated in the championship at Punjab and Chhattisgarh and Kerala but not at State of Maharashtra which is a primary condition for the appointment.**

12. Reply of respondent no.3 is at p.p. 98 to 106. Contention of this respondent is as follows.

> **In this respect the answering respondent submits that the above mentioned qualifying criteria is specified for category C post for securing medals in the State level**

Championship only. As far as the applicant is concerned he has neither participated in the State level tournament nor secured any medal.

13. The learned Presiding Officer has placed on record (at page 116) G.R. dated 06.05.2008. Relevant part of this G.R. reads as under-

> शासन निर्णय : विधीमंडळाच्या तदर्थ समितीने खेळाडू आरक्षणाबाबत केलेल्या विविध शिफारशी विचारात घेऊन सध्याच्या तिनही शासन निर्णयातील (वाचा येथील अनुक्रमांक -१ ते ३) तरतूदींमध्ये खालील प्रमाणे सुधारणा करण्याचा निर्णय शासनाने घेतला आहे :-
>
> (१) शासन निर्णय दिनांक ३० एप्रिल, २००५ चे अनुक्रमांक-७ (१३ ते १६) येथे खेळाडू प्रमाणपत्राची तपासणी संचालक, क्रीडा व युवकसेवा यांनी करण्याची कार्यपध्दती दिली आहे. या प्रमाणपत्राच्या तपासणीनंतर संचालकांनी दिलेल्या निर्णयाविरुध्द अपीलाची खालील तरतूद नव्याने समाविष्ट करण्यात येत आहे :-
>
> ''७ (१६-अ) क्रीडा संचालकांनी प्रमाणपत्र तपासणी केल्यानंतर खेळाडूने सादर केलेले प्रमाणपत्र आरक्षणाचा लाभ घेण्यास अपात्र ठरत असल्यास संचालकांनी, याबाबतचा दिलेला अहवाल/निर्णय, संबंधित नियुक्ती प्राधिका-यासोबतच संबंधित खेळाडूला डाकनोंद पत्राने कळवावा. याबाबत एखाद्या उमेदवारास आक्षेप असल्यास सदर उमेदवाराने हा निर्णय प्राप्त झाल्यावर तातडीने संचालकाकडे अपील करणे आवश्यक राहील. प्राप्त होणा-या अपीलावर १५ दिवसांच्या कालमर्यादेत सुनावणी घेऊन निर्णय देण्याची कार्यवाही संचालक, क्रीडा व युवकसेवा हे करतील.

14. It is apparent that in this case procedure stipulated in para 7 (16-A) quoted above was not followed. It is apparent that the impugned action pursuant to the impugned order was taken by the respondent unilaterally. On this sole ground the impugned order will have to be quashed and set aside so that the applicant gets an opportunity to which he is entitled under the aforequoted clause 7 (16-A) of G.R. dated 06.05.2008. Hence, the order.

ORDER

1. Application is allowed in the following terms-

The impugned order dated 10.06.2014 (Annexure A-17) is quashed and set aside. The Competent Authority shall verify documents furnished by the applicant in support of his claim within 15 days from the date of receipt of this order.

In case the Competent Authority comes to the conclusion that the applicant is ineligible to get reservation from the quota of sportsperson, it shall inform the concerned appointing authority and the applicant by post. The applicant shall be informed that he can prefer appeal against the order immediately before the Director, Youth Affairs and Sports who shall decide the same within 15 days from the date of its receipt. No order as to costs.

(M.A.Lovekar)
Member (J)

(Shree Bhagwan)
Vice Chairman

Dated – 16/06/2022

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 Vice Chairman & Court of Hon'ble Member (J) .
Judgment signed on and pronounced on	:	16/06/2022.
Uploaded on	:	16 /06/2022.