

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,
NAGPUR BENCH, NAGPUR.

(A) ORIGINAL APPLICATION NO. 559/2012

Sanjit Bhimrao Warudkar
Aged about 47 years, Occupation : Service.
R/o : Quarter No. 44-L-8/3,
Raje Raghuji Nagar,
Nagpur.

Applicant

- **Versus** -

- (1) The State of Maharashtra
Through its Secretary,
Department of Industries, Power
and Labour,
Mantralaya, Mumbai -32.
- (2) The Maharashtra Public Service Commission,
Through its Secretary,
Bank of India Building, 3rd Floor,
Mahatma Gandhi Road, Hutatma Chowk,
Mumbai - 400 001.

Respondents

with

(B) ORIGINAL APPLICATION NO. 560/2012

Dhiraj Sheshrao Nagdeve
Aged about 38 years, Occupation : Instructor,
Government Press, Mumbai.
R/o : Plot No. 161-A, Gurunanakpura,
Near Kamal Talkies Road,
Nagpur.

Applicant

- Versus -

- (1) The State of Maharashtra
Through its Secretary,
Department of Industries, Power
and Labour,
Mantralaya, Mumbai -32.
- (2) The Maharashtra Public Service Commission,
Through its Secretary,
Bank of India Building, 3rd Floor,
Mahatma Gandhi Road, Hutatma Chowk,
Mumbai - 400 001.

Respondents

with

(C) ORIGINAL APPLICATION NO. 561/2012

Prashant Madhukar Mamidwar
Aged about 35 years, Occupation : Service
R/o : Plot No. 16, Near Gajanan Maharaj Temple,
Ayodhya Nagar,
Nagpur.

Applicant

- Versus -

- (1) The State of Maharashtra
Through its Secretary,
Department of Industries, Power
and Labour,
Mantralaya, Mumbai -32.
- (2) The Maharashtra Public Service Commission,
Through its Secretary,
Bank of India Building, 3rd Floor,
Mahatma Gandhi Road, Hutatma Chowk,
Mumbai - 400 001.

- (3) Manoj Manohar Vaidya
Yerwada Press, Pune,
Post. Compositor
- (4) Sachin Haribhau Kedar
Government Central Press,
Charani Road, Mumbai.

Respondents

Dr. (Mrs.) Renuka Sirpurkar, Advocate for the applicants
Shri A. P. Sadawarte, P.O. for the respondents in O.A. 559/2012
Shri A. M. Ghogare, P.O. for the respondents in O.A. 560/2012
Shri B. D. Pandit, P.O. for the respondent nos. 1 and 2 in O.A.
561/2012

**Coram :- The Hon'ble Shri Justice A. P. Deshpande,
Vice Chairman and
Shri. B. Majumdar,
Member(A)**

Dated :- February 11, 2013.

COMMON ORDER

Per : Member(A)

All the three O.As are heard together and disposed of at the admission stage with the consent of the parties.

2. The applicants, who are employees of the Government Printing Press have filed these O.As as they are aggrieved that the MPSC ^{has} found them ineligible for being called for interview for the post of Assistant Manager, Government Press (Group B).

3. The MPSC (R-2) published an advertisement on 23-2-2012 inviting applications for 4 posts of Assistant Manager (Group B). One post was in the Open (general) category, one for Open (female), one for SC (general) and one for DT(A). The applicants in O.A. 559 and 560 applied from the Open category whereas the applicant in O.A. 561 though ~~he~~ had applied from the category of NT(B), he was treated as applying from Open category as he did not claim belonging to the Non Creamy Layer. As the number of candidates in the Open category was disproportionately large with regard to the number of posts, MPSC applied the short-listing criteria as follow.

A] Possess a degree in Offset Printing or Letter Press Printing of a statutory University in first Class and thereafter have experience of not less than five years in a big printing concern.

OR

B] Possess a diploma in Offset Printing or Letter Press Printing of a statutory University in first Class and thereafter have experience of not less than fifteen years in a big printing concern.

OR

C] Possess a diploma in Offset Printing or Letter Press Printing of a statutory University in Second Class and thereafter have experience of not less than Twenty years in a big printing concern.

On 20-6-2012, the MPSC published the select list of candidates who are called for interview as also the list of candidates who

were rejected. All the three applicants appeared in the list of rejected candidates. Respondent nos. 3 and 4 in O.A. 561/2012 appeared in the list of candidates who have been short-listed for appearing in interview. The applicants have filed these O.As challenging the advertisement as also selection and rejection lists dated 20-6-2012.

4. The applicant in O. A. 559 has a diploma in Printing Technology (Second Class) which he obtained in 1992. The applicant in O.A. 560 obtained his diploma in Printing Technology (Second Class) in 1997 and the applicant in 561 obtained his diploma in 1997.

5. The applicants submit that the condition regarding possession of a diploma in Offset Printing/Letter Press Printing as stipulated in the advertisement as well as in the short-listing criteria is outdated and invalid since a Diploma in Offset Printing/Letter Press Printing came to be replaced by Diploma in Printing Technology in 1989-90. As the candidates had obtained their diploma in Printing Technology after 1989-90, they cannot be expected to have an experience of 15/20 years after obtaining a diploma in Offset Printing/Letter Press Printing. Hence, on this ground, the required eligibility criteria as mentioned in the advertisement as well as the short-listing criteria is to be held as invalid.

6. The MPSC (R-2) in its reply to the O.A. submits that the eligibility conditions as stated in the advertisement are the same as those specified in the Recruitment Rules for the post of Assistant Manager. The qualification prescribed in these Recruitment Rules is a degree or diploma in Offset Printing/ Letter Press Printing or certificate in Typography (Printing) or certificate of National apprenticeship in printing etc. As the number of candidates who had applied in the Open category was large, short-listing criteria as per Rules was applied. With regard to the applicant in O.A. 561, MPSC submits that though he applied as a candidate from NT(B), he did not claim benefits of belonging to the Non Creamy Layer and hence his application was considered from the category of Open (general). All the three applicants were holding diploma in Printing Technology in the Second Class. The experience of the applicant in O.A. 559 after obtaining his diploma is of 19 years 7 months and 25 days. Similarly the experience of applicant in O.A. 560 is 8 years 6 months and 21 days and that of O.A. 561 is 11 years 7 months and 7 days. Thus, according to the respondent no. 2, none of the applicants fulfilled the short-listing criterion with regard to 20 years' experience after obtaining their diploma in the Second Class. Hence, they were not called for interview.

7. Dr. (Mrs.) R. S. Sirpurkar, learned counsel for the applicants, by reiterating the grounds stated by the applicants in the O.As submitted that after having declared the eligibility criteria for the post as per the advertisement, respondent no. 2 could not have drastically changed the same by applying the short-listing criteria. In the advertisement /Recruitment Rules, it is clearly specified that the required experience after obtaining the qualifications is of two years in a big printing concern. On the other hand, by applying the short-listing criteria, the minimum experience required for a candidate depending on his having a first or second Class diploma in Printing Technology is 15/20 years. Respondents have also ignored the fact that after 1989-90, the diploma in Offset Printing/Letter Press Printing has been replaced with a Diploma in Printing Technology. Thus, according to the learned counsel, the short-listing criteria applied are a major departure from those specified in the advertisement and the Recruitment Rules. In support of her submission, she relied on the decision of the Supreme Court in *Mohd. Sohrab Khan Vs. Aligarh Muslim University and others [(2009) 4 SCC 555]*. In the case before the Apex Court, the concerned university after having advertised the post of Lecturer in Chemistry with the prescribed qualification of a Master's Degree in Chemistry, later on select a candidate for the post with qualification in Industrial Chemistry by holding that the applicant's Master's

Degree in Industrial Chemistry was better suited for the post. The Apex Court after observing that it was established from the records that Pure Chemistry and Industrial Chemistry are two different subjects, held that the Selection Committee as also the University wrongly changed the rules of eligibility mid-stream and that only a candidate who holds a degree as specified in the advertisement, that is, a Master's Degree in Chemistry, was alone eligible for the post. In the light of the above judgment of the Supreme Court, the learned counsel submitted that the respondents have committed a grave error in substantially changing the criterion of selection in terms of experience gained after obtaining a diploma. She further submitted that the applicant in O.A. 561 submitted a representation on 22-3-2012 to the respondent no. 1, that is, on the last date of receiving applications pointing out the above anomaly, but no action was taken thereon.

8. S'Shri. Sadawarte, Ghogare and Pandit, learned P.Os submitted that as per Rule 9 of the MPSC Rules of Procedure, 2005, the MPSC has authorization to fix the short-listing criteria if the number of applications received in a particular category is disproportionately large compared to number of posts, by raising the bar in terms of preferential qualification or preferential experience as prescribed in the advertisement. Thus, for the

purpose of short-listing, MPSC had only raised the number of years of experience required. None of the applicants fulfilled the criterion of 20 years' experience after obtaining a diploma in Printing Technology in the Second Class. Hence, MPSC had rightly held them ineligible for being short-listed for interview.

9. After having heard the arguments on both sides and after going through the records placed before us, we find that all the three applicants in these O.As were considered from the category of Open (general). As submitted by respondent no. 2, the applicant in O.A. 561 who had applied from NT(B) was not considered from that category as he did not claim in his application for belonging to the Non Creamy Layer and he was considered from the Open category. All the applications are holders of Diploma in Printing Technology in the Second Class. Hence as per the short-listing criteria, they were required to have an experience of 20 years after obtaining their diploma in Printing Technology. However, as on the last date of application, none of the applicants have the requisite experience of 20 years post-diploma. The respondent no. 2 had to resort to laying down the short-listing criteria as there were 39 applications for 4 posts in the Open category. As per Rule 9 of the MPSC Rules of Procedure, 2005, for these 4 posts, the number of candidates to be called for interview was required to be brought down to 20.

Hence, MPSC was justified in laying down the short-listing criteria. The candidates held a diploma in Printing Technology whereas the advertisement and short-listing criteria required the candidates to have degree/diploma in Offset Printing/Letter Press Printing. It is relevant to note that MPSC did accept their qualification, that is, diploma in Printing Technology as equivalent to diploma in Offset Printing/Letter Press Printing. The applicants are therefore not justified in claiming that the advertisement as well as the short-listing criteria prescribes arbitrary educational qualifications. The counsel for the applicants has relied on the case of *Mohd. Sohrab Khan*. It is to be noted that in the case before the Supreme Court, the prescribed qualification in the advertisement for the post of Lecturer in Chemistry was a Master's Degree in Chemistry whereas a candidate, with a Master's Degree in Industrial Chemistry was selected. The Apex Court after examining the records was satisfied that Pure Chemistry and Industrial Chemistry are two different subjects and hence had held that by selecting a candidate of Industrial Chemistry, the Selection Committee, during the stage of selection, could not have changed the essential qualification laid down in the advertisement. This judgment is clearly not applicable in the present case as the applicants have failed to demonstrate that the short-listing criteria amounted to changing the eligibility ^{qualification} ~~conditions~~ in the

12/11

advertisement. The short-listing criteria merely prescribes a longer period of experience of working in a large printing press after obtaining a diploma/degree in Offset Printing/Letter Press Printing. Considering what we have discussed above, we are of the clear view that the MPSC (R-2) has not committed any ^{illegality} ~~irregularity~~ in rejecting the applications of the applicants and hence, the O.As deserve to be dismissed. The O.As therefore stand dismissed with no orders as to cost.

(B. Majumdar)
Member(A)

(Justice A. P. Deshpande)
Vice Chairman

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