

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO. 765/2020(S.B.)**

Dr.Rahul S/o Ramesh Thaware,
Aged about 38 yrs. : Occ.: Service,
R/o Chandrapur Road, in front of
Reliance Petrol Pump, Chankai Nagar,
Gadchiroli.

Applicant.

Versus

- 1) State of Maharashtra
Through its Principal Secretary,
Public Health Department,
10th Floor GT Hospital Campus Building,
New Mantralaya, Fort, Mumbai-01.
- 2) Deputy Director of Health Services,
Nagpur Region, Mata Kacheri
Compound, Shradhanand Peth,
Nagpur.
- 3) Civil Surgeon,
District / General Hospital,
Gadchiroli.

Respondents

Shri N.D.Thombre, Ld. counsel for the applicant.
Shri H.K.Pande, Ld. P.O. for the respondents.

Coram:-Hon'ble Shri M.A.Lovekar, Member (J).

Dated: - 24th January, 2023.

JUDGMENT

Judgment is reserved on 17th January , 2023.

Judgment is pronounced on 24th January, 2023.

Heard Shri N.D.Thombre, learned counsel for the applicant and
Shri H.K.Pande, learned P.O. for the Respondents.

2. Case of the applicant is as follows.

By G.R. dated 07.07.2012 (Annexure A-1) the applicant was appointed to the post of Medical Officer Group-A. In response to his application under the RTI Act as to why his probation period was not communicated to have been satisfactorily completed, he was, by letter dated 15.07.2020 (Annexure A-2), informed as follows-

आपण मागीतलेल्या माहितीच्या अनुषंगाने मराठी परीक्षेसंदर्भात दि.३०.१२.१९८७ चे नियम सोबत जोडले आहेत. त्यानुसार माध्यमिक शालांत परीक्षेमध्ये मराठी हा “उच्चस्तर” विषय घेऊन उत्तीर्ण होणा-यांना एतदर्थ मंडळाच्या परिक्षेमधून सूट देण्यात येते. जे इयत्ता १ ली पासून मराठी माध्यमाच्या शाळेत शिकतात त्यांचे मराठी उच्चस्तर असते. “उच्चस्तर” म्हणजे “प्रथम भाषा” मराठी हवी आपण मराठी ही द्वितीय भाषा घेऊन उत्तीर्ण झाला आहात. त्यामुळे आपणांस एतदर्थ मंडळाची मराठी भाषा परीक्षा उत्तीर्ण होणे आवश्यक आहे.

हिंदी परीक्षेसंदर्भात दि.१०.०६.१९७६ व दि.१६.११.१९९२ नियम सोबत जोडले आहेत. त्यानुसार शालांत माध्यमिक परीक्षा किमान ५० गुणांचा हिंदी विषय घेऊन उत्तीर्ण होणा-यास सूट मिळते. अन्यथा एतदर्थ मंडळाची परीक्षा द्यावी लागते.

The applicant has passed SSC examination which included papers of Marathi and Hindi of 100 marks each as reflected in his mark-sheet (Annexure A-3). As per Rule-4 (1) of the Maharashtra Government Servants (other than Judicial Department Servants) Marathi Language Examination Rules 1987, which reads as under, the applicant would be entitled to get exemption from passing the examination.

4. Exemption from passing examination. – (1)

Notwithstanding anything contained in Rule 3, a Government servant shall be exempted from passing of the examination if, -

- (i) he has passed the examinations according to the existing rules;***
- (ii) he was eligible for exemption or was exempted under the existing rules;***
- (iii) his mother tongue is Marathi;***
- (iv) he has passed the Secondary Certificate Examination or equivalent examination with Marathi as a higher standard subject of 100 marks' paper, prior to joining the Government service; or***
- (v) he is a Class III Government servant holding a post for which requisite recruitment qualification is less than***

***passing of the Secondary School Certificate Examination
level :***

Provided that, Government servants whose duties are of technical or arduous nature and who are not required to correspond in Marathi Language, may be exempted from passing the Examinations by the concerned Administrative Department in consultation with the General Administration Department.

(2) A Government servant who claims that his mother tongue is Marathi shall fulfil the following conditions : -

- (i) he should be able to able to write Marathi Language in Devnagri script, with facile;***
- (ii) he should produce a certificate from his Head of the Department/Office that he can effectively correspond in Marathi.***

(3) to (6) X X X X X

The applicant is domicile of Maharashtra. His mother tongue is Marathi. As per Rule 4 (2) of the Rules of 1987, a Government servant who claims that his mother tongue is Marathi has to fulfil the following conditions –

- i) he should be able to write Marathi language in Devnagri script, facile;

- ii) he should produce a certificate from his Head of Department /office that he can effectively correspond in Marathi.

The applicant is working as Medical Officer Group-A. His services are technical in nature. Therefore, requisite certificate from the office shall suffice to grant exemption from passing Marathi examination. Hence, this O.A. for following relief-

- i) Direct the Respondents to grant exemption from passing Marathi Language Examination conducted by the Ad-hoc Board as the Applicant is fulfilling all the conditions required for exemption as per Government Resolution / Notification dated 30/12/1987;***
- ii) Direct the Respondents to grant exemption to the Applicant from passing Hindi Examination conducted by Ad-hoc Board as he has passed his SSC examination in Hindi as one of the Languages with 100 marks;***
- iii) Direct the Respondents to terminate the probation period of the Applicant after granting exemption as above;***

iv) Any other relief, which this Hon'ble Tribunal deems fir and proper in the circumstances, be granted in the interest of Justice.

3. In their reply at pp.26 to 33 respondents 1 to 3 have averred as follows. Mark-sheet of SSC furnished by the applicant shows that his first language was English, second language was Marathi and third language was Hindi. To claim exemption from passing Marathi examination as per Rules of 1987 the applicant had to fulfill all 4 conditions stipulated in Rule 4(i) to 4(iv).

4. Respondents have placed on record G.R. dated 24.05.2016 (Annexure R-2) relevant part of which reads as under-

२. सदर नियमावलीमध्ये "महाराष्ट्र शासकीय कर्मचारी (उच्च न्यायालयीन कर्मचा-यांब्यतिरिक्त) मराठी परीक्षा (सुधारणा नियम, २०००)" दि.७ फेब्रुवारी, २००९ च्या अधिसूचनेन्चये सुधारणा करण्यात आली असून मराठी भाषा परीक्षा नियम १९८७ च्या नियम ४(1) मध्ये खालील तरतूद करण्यात आली आहे.

(अ) पोट-नियम (१) नंतर, पुढील पोट-नियम समाविष्ट करण्यात येईल :-

"(१अ) जो शासकीय कर्मचारी शासकीय सेवेत दाखल झाल्यानंतर एक उच्चस्तरीय किंवा निम्नस्तरीय विषय म्हणून मराठीसह माध्यमिक शाळा प्रमाणपत्र परीक्षा उत्तीर्ण झाला असेल आणि ज्यास ५० टक्क्याहून कमी गुण मिळाले नसतील अशा कर्मचा-यास उच्चस्तरीय किंवा यथास्थिती निम्नस्तरीय परीक्षेच्या परीक्षा (पेपर) एक उत्तीर्ण होण्यापासून सूट देण्यात येईल."

(ब) पोट-नियम (२) व (३) ऐवजी पुढील मजकूर दाखल करण्यात येईल :-

"(२) शासकीय कर्मचारी-

(एक) ज्याने मराठी ही आपली मातृभाषा आहे असा दावा सांगितला असेल, किंवा
 (दोन) ज्याने मराठी ही आपली मातृभाषा आहे असा दावा सांगितलेला नाही परंतु
 ज्याचे शिक्षण मराठी माध्यमातून झालेले आहे आणि जो मराठीसह माध्यमिक शाळा
 प्रमाणपत्र परीक्षा किंवा उच्चस्तरीय परीक्षा उत्तीर्ण झालेला नाही असा कर्मचारी -
 या नियमातून सूट मिळण्यासाठी पुढील शर्तीची पूर्तता करील :-

- (अ) तो देवनागरी लिपीमध्ये सहजपणे लिहिण्यास समर्थ असला पाहिजे,
 (ब) त्याने निदान ७ व्या इयत्तेपर्यंत मराठी माध्यमातून शिक्षण घेतलेले आहे, अशा
 आशयासंबंधीचे संस्थेचे प्रमाणपत्र सादर करणे आवश्यक आहे.

आणि

- (क) तो मराठीतून पत्रव्यवहार करू शकतो अशा आशयाचे विभाग प्रमुखांचे
 /कार्यालय प्रमुखांचे प्रमाणपत्र त्याने सादर करणे आवश्यक आहे.’’

In view of this G.R. contention of respondents 1 to 3 that for getting exemption from passing Marathi examination fulfilment of all sub Rules viz. (i) to (iv) of Rule 4 is necessary, cannot be accepted.

5. So far as the question of granting exemption from passing Marathi examination is concerned, Rule 4(2) as amended by G.R. dated 24.05.2016 supports contention of the applicant.

6. So far as the question of granting exemption from passing Hindi examination is concerned, specific contention of the applicant is that he is entitled to get the same because he had cleared examination of SSC which included paper of Hindi of 100 marks. This contention has not been specifically denied by the respondents.

7. For the reasons discussed hereinabove, following order deserves to be passed.

ORDER

The O.A. is allowed in the following terms.

The respondents are directed to grant exemption to the applicant from passing Marathi examination provided he fulfills necessary conditions stipulated in Rule 4(2) as amended by G.R. dated 24.05.2016. The respondents are further directed to grant exemption to the applicant from passing Hindi examination. If the respondents grant exemption to the applicant from passing Marathi examination on his fulfilling conditions in amended Rule 4(2), necessary orders shall be passed in respect of completion of probation of the applicant. No order as to costs.

(M.A.Lovekar)
Member (J)

Dated – 24/01/2023

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 Member (J) .
Judgment signed on : 24/01/2023.
and pronounced on