

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 915/2021(D.B.)

Snehal d/o Anand Lonare,
Aged about 34 years,
Occ. Nil, R/o Santoshi Mata Ward,
Karva Road, Ballarpur,
Tah. Ballarpur, Dist. Chandrapur.

Applicant.

Versus

- 1) State of Maharashtra,
Through Secretary,
Home Department,
Mantralaya, Mumbai 32.
- 2) Additional Director General of Police,
Training and Special Squad,
Maharashtra State, Mumbai.
- 3) Deputy Regional Transport Officer,
Behind L.I.C. Office,
Jal Nagar, Chandrapur,
Tah.& District – Chandrapur.
- 4) Superintendent of Police,
Miraj Road, Vishrambag,
Sangli, Tah. & District – Sangli.
- 5) Amit S/o Premraj Kale,
Aged about 40 years,
Occupation – Service,
Regional Transport Inspector,
Behind LIC office, Jal Nagar,
Chandrapur, Tq. & Dist. Chandrapur.
- 6) Shri Pravin s/o Sukhdev Jadhav,

Aged about 30 years, Occu. : Nil,
R/o. At post :Mapatemala, Tah. Atpali,
Distt. : Sangli.

- 7) Shri Saurabh s/o Sunil Ingale,
Aged about 26 yrs., Occu. : Nil,
R/o. At Post : Nilpan, Tah.Bhudagarh,
Distt. : Kolhapur.

Respondents

Mrs. Charlewar, Ld. Counsel for the applicant.
Shri A.M.Khadatkar, Ld. P.O. for the respondents.
Shri G.G.Bade, Id. Counsel for the respondents 6 & 7.
None for the respondent no.5.

**Coram:-Hon'ble Shri Shree Bhagwan, Vice-Chairman and
Hon'ble Shri M.A.Lovekar, Member (J).**

Dated: - 10th January 2023.

JUDGMENT

Per :Member (J).

Judgment is reserved on 04th January, 2023.

Judgment is pronounced on 10th January, 2023.

Heard Mrs.Charlewar, learned counsel for the applicant, Shri A.M.Khadatkar, learned P.O. for the respondents and Shri G.G.Bade, learned counsel for the respondents 6 and 7. None for the respondent no.5.

2. Case of the applicant is as follows.

In response to the advertisement dated 30.11.2019 (Annexure A-

- 3) the applicant submitted application (Annexure A-4) online for the post

of Police Constable (Driver) on the establishment of respondent no. 4. She cleared written test (Annexure A-5). On 13.11.2019 she had submitted an application (Annexure A-1) for issuance of driving license of L.M.V. After clearing written test she was called for verification of documents. Her documents were found to be in order. By letter dated 29.09.2021 (Annexure A-7) the Police Authority informed the applicant that she had incurred disqualification because her driving license of L.M.V. was issued on 17.01.2020 though the last date for the same was 08.01.2020. However, on this letter dated 29.09.2021 Motor Vehicle Inspector, Sangli wrote as under-

सदर उमेदवाराने LMV NT साठी वाहन चाचणी दि. १३/१२/२०१९ रोजी देऊन त्यामध्ये त्या प्रथम प्रयत्नात उत्तीर्ण झाल्या आहेत. काही कारणास्तव त्यांच्या कागदपत्राचे Approval हे ०८/०१/२०२० नंतर झाले आहे. त्यामुळे सदर उमेदवाराला वाहन चालक चाचणीसाठी पात्र समजण्यात यावे.

On 03.10.2021 the applicant was called for physical test but by letter dated 04.10.2021 (Annexure A-8) she was informed as follows-

पोलीस शिपाई चालक भरती २०१९ साठी अनुज्ञप्ती (License) अदा करण्याकरिता प्राधिकृत केलेले सक्षम प्राधिकारी यांनी अदा केलेले हलके (LMV - TR) व LMV वैध परवाना (License) हे आवेदन अर्ज भरण्याची मुदत समाप्ती दिनांका नंतरचे असलेने.

and that she had thereby incurred disqualification.

In the driving license of the applicant (Annexure A-9) it was specified that her license of LMV was valid from 17.01.2020. She had applied for L.M.V. driving license on 13.11.2019. Her driving test was conducted on 13.12.2019. As per Maharashtra Right to Public Service Ordinance, 2015 (Annexure A-10) driving license ought to have been issued to the applicant within 15 days from the date on which she had applied for the same. At any rate the license ought to have been issued before 28.12.2019 i.e. within 15 days from the date on which her driving test was conducted i.e. 13.12.2019. Result of driving test of the applicant was declared on 27.12.2019. Respondent no. 5 had conducted driving test of other candidates who were in the fray. To these candidates their driving licenses were issued well in time i.e. before 08.01.2020. However, in case of the applicant delay was caused by respondent no. 5 with malafide intent. Respondent no.5 should, therefore, be dealt with departmentally. It may be held that driving license of the applicant of L.M.V. category is valid from 28.12.2019 and not from 17.01.2020. Respondents 1 and 3 be directed to pay compensation of Rs.50,00,000/- to the applicant in the interest of justice. Hence, this Original Application.

3. In his reply at pp. 58 to 66 respondent no. 3 has averred as follows. As per advertisement dated 30.11.2019 last date for submitting application online was initially fixed at 22.12.2019. This date was extended to 08.01.2020 so as to afford the aspirants enough time to obtain driving license of L.M.V. (Transport) category. On 03.12.2019 the applicant applied online for allotment slot to her for undergoing driving test. Slot of 13.12.2019 was allotted to her and on that day her driving test was conducted. On 27.12.2019 the Testing Officer and Inspector of Motor Vehicles scrutinised and verified result of driving test of the applicant and entry was made in computerised record. On 17.01.2020 the Licensing Authority gave approval to add L.M.V. to the classes of vehicles which the applicant was permitted to drive. In advertisement dated 30.11.2019 it was *inter alia* specified—

- (१) महाराष्ट्र सहायक पोलीस उपनिरीक्षक चालक, पोलीस हवालदार चालक, पोलीस नाईक चालक व पोलीस शिपाई चालक (सेवाप्रवेश) नियम, २०१९ मधील नियम ६ चा उपखंड (१) (क) नुसार उमेदवाराने पोलीस शिपाई चालक पदासाठी अर्ज सादर करतेवेळी अनुज्ञप्ती अदा करण्याकरिता प्राधिकृत केलेले सक्षम प्राधिकारी यांनी अदा केलेला हलके वाहन (LMV - TR) चालविण्याचा वैध परवाना धारण करणे आवश्यक राहिल.

4. In his reply at pp. 69 to 75 respondent no. 4 has averred as follows. In her online application the applicant made a false statement

that she was holding a driving license of L.M.V.. This solitary circumstance shall suffice to dismiss the O.A. Under the circumstances the driving test undergone by her subsequently i.e. on 13.12.2019 will be of no consequence.

5. So far as personal allegations levelled against him are concerned, respondent no. 5 has pleaded as follows-

With reference to para no.6.9 and 6.10 of the Amended Original Application, it is contended by the applicant that, the deponent has conducted the driving test of Shri.Roshan Naktode and Akshay Kule on 10.10.2019. It is has been alleged that, the result of the both candidates have been declared on 11.10.2019 and the license also have been issued on 18.10.2019 within 7 days from the date of test result. In this context, the deponent submits that, the name of the candidates mentioned by the applicant are not candidate who have applied for the post of driver of Police Department. The deponent submits that, he has only conducted the driving test of the candidates. The deponent denies that, he has deliberately and malifidely recorded the result of the

candidate on 27.12.2019. The deponent denies any discrimination.

18. That, as stated above, the Respondent No.5 is only responsible for conducting tests. That this duty of the Respondent falls within the course of his employment. That it is therefore submitted that this Respondent cannot be held personally liable for any alleged act which this Respondent during the course of his employment and is thus cannot be directed to pay compensation to the Applicant. That, similarly the prayer to initiate enquiry against the applicant is baseless.

19. The deponent respectfully submits that, he has no animosity towards the applicant. The allegations which have been made by the applicant are false and vague and vexatious. All allegations against the deponent have been made without producing any material on record in support of the said allegations. It can be seen that, the applicant has failed on all counts owing to which all vague and false allegations have been made out of desperation hopelessly against the deponent.

20. With reference to para 6.11, I say and submit that, the applicant has alleged that, the respondent no.5 has deliberately issued the license beyond the statutory period as has been stipulated in the ordinance dated 27.07.2015 issued by the respondent no.1. In this respect, I say and submit that, on 21.08.2015 the Maharashtra Right to Public Service Act, 2015 has been published in the Maharashtra Government Gazette. Section 9(1) provides that, any eligible person whose application is rejected under sub section 2 of Section 5 or who is not provided the public service within the stipulated time limit, may file an appeal before the First Appellate Authority within the period of 30 days from the date of receipt of, order of rejection of the application or, the expiry of the stipulated time limit.

21. The deponent respectfully submits that, the applicant has not preferred an appeal before First Appellate Officer within the stipulated period as mentioned in the schedule of the ordinance issued on 27.07.2015, although the alternate remedy of filing an

appeal has been provided. As such the applicant has not exhausted the alternate remedy which is available under the provision of relevant Act.

6. The point which goes to the root of the matter is this. On the cut-off date i.e. 08.01.2020 the applicant did not possess license of L.M.V. which was a condition precedent. Yet, in her application which was submitted online even earlier the applicant made a false statement to the contrary. The advertisement dated 30.11.2019 clearly stated that on the date of submitting application online it was necessary for the applicant to possess a valid driving license of L.M.V. category. The applicant admittedly did not fulfil this condition. The aspirants had sufficient time at their disposal [from 30.11.2019 to 08.01.2020] to obtain the driving license and then apply for the post. Had the applicant been diligent and prompt in applying for driving license of L.M.V. category she would have received it before 08.01.2020 thereby enabling her to apply within the stipulated, in fact, the extended time frame.

7. The contesting respondents have relied on the judgment dated 29.04.2022 delivered by the Principal Bench of this Tribunal in O.A. No. 246/2020 wherein it is held—

The applicant did not possess a valid driving license on the cut-off date, i.e.8.1.2020. Hence, he was declared disqualified as his LMV License was beyond the cut-off date. The Driving License zerox copy submitted by the applicant during the scrutiny process shows date of issuance of Driving License is 14.01.2020, i.e. after the cut-off date prescribed by Respondent no.1. Learned C.P.O. further pointed out that as per the advertisement dated 30.11.2019, the cut-off date is 22.12.2019 and in due course the cut-off date was extended up to 8.1.2020. Learned C.P.O. relied on the judgment of this Tribunal, Aurangabad Bench dated 29.11.2011, in O.A.821/2011 & Ors, wherein the applicants were not given extension for submitting the Domicile Certificates beyond the cut-off date.

5. We have considered the submissions of both the parties. In view of the fact that the applicant did not submit his driving license before the cut-off date, i.e. 8.1.2020, the Respondents have rightly declared the applicant disqualified. The said examination has been

held all over the State of Maharashtra and the candidature of other similarly situated candidates have also been rejected.

Aforequoted observations squarely apply to the facts of instant case. For the reasons discussed hereinabove, the O.A. is dismissed with no order as to costs.

(M.A.Lovekar)
Member (J)

(Shree Bhagwan)
Vice Chairman

Dated – 10/01/2023

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 Vice Chairman &
Court of Hon'ble Member (J) .
Judgment signed on : 10/01/2023.
and pronounced on