

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.1091 OF 2016

DISTRICT : PUNE

Shri Amit Govardhan Phulsange,)
Age 32 years, R/at B-203, Sai Avishkar Cavan Baug,)
Dhayari, Pune 411041)..Applicant

Versus

1. The State of Maharashtra,)
Through its Principal Secretary,)
Transport Department, Mantralaya, Mumbai-32)
2. The Transport Commissioner,)
Administrative Building, Government Colony,)
Bandra (E), Mumbai 400051)
3. The Secretary,)
Maharashtra Public Service Commission,)
MTNL Building, Off. Cooperage Ground, Mumbai)..Respondents

Smt. Punam Mahajan – Advocate for the Applicant

Ms. S.P. Manchekar – Chief Presenting Officer for the Respondents

CORAM : Smt. Justice Mridula Bhatkar, Chairperson
Smt. Medha Gadgil, Member (A)

RESERVED ON : 3rd November, 2023

PRONOUNCED ON: 29th November, 2023

PER : Smt. Medha Gadgil, Member (A)

1. The applicant challenges the order dated 31.3.2015 passed by respondent no.2 thereby deleting his name from the select list prepared by the respondent no.3 for the post of Assistant Motor Vehicle Inspector (AMVI) for noncompliance of the requirement of the necessary experience mentioned in para 4.5.1 of the advertisement dated 11.10.2013.

2. The Respondent No.3-MPSC has issued an advertisement dated 11.10.2013 for filling up the vacancies for the post of AMVI. The applicant participated in the main examination held on 15.12.2013 and secured 111 marks and stood in the merit rank of 148. His name was recommended by the MPSC, subject to verification of relevant documents.

3. The Respondent no.1-State of Maharashtra vide letter dated 16.6.2014 directed the Respondent No.2-The Transport Commissioner to verify the correctness of the experience certificate about the garage/workshop submitted by the applicant at the time of document verification.

4. In accordance with the above the respondent no.2 before giving appointment checked claims of candidates made in the application and verified the authenticity of the certificates. After verification of the certificates the respondent no.2 held that the applicant was ineligible for the post on account of not holding the requisite/valid experience certificate.

5. Ld. Advocate for the applicant Smt. Punam Mahajan, states that report sent by the Deputy Regional Transport Officer (Dy. RTO), Chandrapur regarding work of Heavy Vehicles not being done in M/s. Waghmare Motors, Chandrapur was based on wrong inferences. She stated that a ramp is not necessary for checking vehicles.

6. Dy. RTO, Chandrapur was directed to verify the correctness of the garage and workshop experience submitted by the applicant vide letter dated 16.6.2014.

7. The eligibility regarding experience is mentioned in clause 4.5.1 of the advertisement dated 11.10.2013, which is reproduced below:

“४.५.१ वरील क्रमांक ४.४.२ मधील शैक्षणिक अर्हता संपादन केल्यानंतर, उदयोग संचालनालयाकडे लघु उदयोग म्हणून किंवा इतर कायदयान्वये लघु उदयोग म्हणून नोंद असलेल्या किंवा ज्यांची वार्षिक उलाढाल रु.३ ते ५ लाख आहे. अशा मोठया गॅरेज किंवा कार्यशाळेमध्ये हलके वाहन, जड माल वाहतुक वाहन व जड प्रवासी वाहतूक वाहनाच्या दुरुस्तीचे व परिरक्षेचे (मेन्टेनन्स) पूर्ण वेळ कर्मचारी म्हणून प्रत्यक्ष काम केल्याचा १ वर्षाचा अनुभव प्रस्तुत अनुभव हा अर्ज स्वीकारण्याच्या अंतिम दिनांकास म्हणजे दिनांक १ नोव्हेंबर, २०१३ किंवा त्यापूर्वी प्राप्त केलेला असणे आवश्यक आहे.”

8. The Dy. RTO, Chandrapur in his report dated 6.8.2014 has clearly mentioned that the work of repairs and maintenance of Heavy Goods Vehicles and Heavy Passenger Vehicles was not conducted. However, the repairing and maintenance work of Light Motor Vehicle (LMV) was found to be carried out. Respondent no.2 vide letter dated 16.10.2014 sought clear opinion from Dy. RTO, Chandrapur along with registration numbers of Heavy Vehicles which were repaired in that workshop, list of equipment available for repairs of heavy vehicles. Accordingly, Dy. RTO, Chandrapur has submitted a detailed report on 21.11.2014 which clearly mentions that vehicles which have been claimed to be repaired in the said workshop were not actually repaired.

9. Dy. RTO, Chandrapur again submitted his report relating to the experience certificate of the applicant on 21.11.2014. He states that the Proprietor of M/s. Waghmare Motors had submitted the repairing bill in

respect of vehicle No.MH-34-331, MTG-9959. On verification of the office record it was found that the vehicle No.MH-34-331 is a two-wheeler Moped and the registration of vehicle No.MTG-9959 has been cancelled. Dy. RTO, Chandrapur made further enquiry asking for information from M/s. Waghmare Motors, who submitted the repairing bill of MH-34-8926 and MH-34-AB-0516. On making further enquiries with the owner of these vehicles, they were told that they had never done the repairing work with the said workshop of M/s. Waghmare Motors, Chandrapur. Hence, respondent no.2 not being satisfied with the reply of the applicant and based on the detailed enquiry carried out by the Dy. RTO, Chandrapur, recommended the cancellation of the name of the applicant for the said post on 31.3.2015. Furthermore, it is noted that the balance sheet of the said workshop was submitted to the office of the respondent no.2 only on 4.12.2014 and thus the balance sheet could not be considered for the compliance of the eligibility criteria.

10. Ld. Advocate for the applicant states that report of the Dy. RTO, Chandrapur is based on wrong inference. She points out that ramp is not necessary for checking the vehicles and jack does the work of ramp. The registration of vehicle No.MH-34-331 and MTG-9959 was not surrendered at the relevant time. Moreover, there is no written proof that repairing of heavy vehicles MH-33-8926 and MH-34-AB-0516 was not done in M/s. Waghmare Motors.

11. Ld. Advocate for the applicant further points out in her written arguments as follows:

“14. The submission of the applicant is that the applicant possess the eligibility criteria as mentioned in 4.5.1 of the advertisement and the certificate of the applicant is correct and for that purpose the applicant is relying on Exhibit M, Exhibit N and Exhibit O from pages

95-112 which is the copy of the balance sheet of the garage owner which was submitted to the respondent no.2 as well as the certificate of cancellation of registration which has been done subsequently and the vehicle was registered during the period when the applicant was serving in garage. The applicant is also relying on the affidavit of the heavy vehicle owners as well as the vehicle registration certificate.

15. The applicant is relying on the decision of the Hon'ble Supreme Court reported in AIR 2008 SC 1541 which deals with the date of the stamp paper as the stamp paper has no expiry date. One of the grounds taken by the respondent is that the affidavits are submitted on the stamp papers which are 6 months old and therefore it is not valid.

16. The applicant is also relying on the decision of the Hon'ble High Court in W.P. No.8852/2022 & 10276/2022 dated 11.4.2023.”

12. Ld. Advocate for the applicant relied on the **judgment and order dated 11.4.2023 passed by the Hon'ble Bombay High Court in W.P. No.8852 of 2022 Mayur Arun Tapase Vs. The State of Maharashtra & Ors.** In this case the petitioner had applied for the post of Dy. Superintendent of Police/Assistant Commissioner of Police. The eligibility criteria included the ability to handle fleet of Government vehicles and launches and to train the staff as well as knowledge of Motor Vehicles Act and Factories Act. Para 28 of the judgment reads as under:

“28. Before parting, we would like to observe that the provisions of the Recruitment Rules relating to the post of Deputy Superintendent of Police/ Assistant Commissioner of Police (Motor Transport) are ambiguous and capable of multiple interpretations. It is on account of such an ambiguity in the recruitment Rules that the committee came

to the conclusion that none of the 3 candidates possessed the requisite experience. This has led to a situation where all the three posts have remained unfilled, thereby resulting in wastage of time, energy and machinery of State Government and MPSC. On giving strict interpretation to the Recruitment Rules, the State Government will have to scout for a candidate who has 3 years' experience of (i) handling fleet of government vehicles AND (ii) handling government launches AND (iii) to train staff. Thus, there needs to be an organization which has fleets of government vehicles and government launches and which also undertakes training activities. If such organizations indeed exist and sufficient candidates are likely to be available for holding competitive selection process, the state government may continue recruitment based on provisions of extant recruitment rules. However, if it opines that availability of candidates strictly conforming to all conditions of the recruitment rules is unlikely (as in the present case), a relook at the provisions of the recruitment rules may be necessary. Furthermore, inclusion of criteria of 'experience' and 'ability' under two separate clauses also makes the recruitment rules ambiguous. It would be for the State Government to consider this aspect."

13. However, the ratio in W.P. No.8852/2022 is distinguishable from the present OA as in the present OA the experience criteria are clear and unambiguous. It is seen that the applicant did not possess the requisite experience after detailed enquiry was conducted by the Dy. RTO, Chandrapur.

14. Ld. CPO opposes the submissions made by the Ld. Advocate for the applicant. She pointed out that recommendation of the applicant for the post of AMVI was on the basis of a detailed enquiry conducted by the Dy. RTO, Chandrapur. She pointed out clearly that the applicant did not

fulfill the requirement of clause 4.5.1 of the advertisement of respondent no.3 and his name has been deleted from the list of recommended candidates.

15. We have considered the submissions of both the sides. In this case an advertisement was issued by the MPSC for the post of AMVI. The crux of the matter in this case is whether the applicant had the necessary requisite experience as mentioned in clause 4.5.1 of the advertisement. As per this clause it is clearly seen that the candidate was required to have experience of working in small scale industry. The candidate needed to have experience of having worked in a workshop registered with the Directorate of Industries having an annual turnover of 3 to 5 lakhs per annum. Also, he required to have experience in handling LMV and HMV for one year and cutoff date for having the certificate was of 1.11.2013. It was seen that workshop was not registered with the Directorate of Industries. It was registered on 20.1.2010 as per Shops and Establishment Act. The Proprietor of the workshop has not produced the certificate of the Chartered Accountant relating to annual turnover of the workshop due to nonavailability.

16. It is noted that the Dy. RTO, Chandrapur had conducted a detailed enquiry and made physical visits to the garage. He submitted his report to respondent no.2 on 18.6.2014, 6.8.2014 and 21.11.2014 till then the balance sheet of the said workshop was not submitted and the same was submitted to the office of respondent no.2 only on 4.12.2014 whereas the last date for submission of the same was 1.11.2013 as per advertisement. The report of the Dy. RTO, Chandrapur shows that while tools and instruments needed for repairing of Heavy Vehicles were available, ramp which is essential for repairs of heavy vehicles was not available. It is also further noted that as far as vehicles of MH-34-M-8926 and MH-34-AB-0516 is concerned, inquiry was conducted by one Mr. Baviskar, AMVI.

That as per the enquiry conducted by Mr. Baviskar the owners of these vehicles orally informed that they had never done repair work with M/s. Waghmare Motors and the signature of the Proprietor on bills no.112 & 117 and bill no.133 & 138 are totally different.

17. In view of all these observations it is found from the record that the applicant did not have the requisite experience as required by clause 4.5.1 of the advertisement.

18. Hence, the applicant is not entitled to the relief prayed for in the OA.

19. The Original Application is dismissed. No order as to costs.

Sd/-

(Medha Gadgil)
Member (A)
29.11.2023

Sd/-

(Mridula Bhatkar, J.)
Chairperson
29.11.2023

Dictation taken by: S.G. Jawalkar.