IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

ORIGINAL APPLICATION NO.293 OF 2020

DISTRICT : SOLAPUR

Shri Amol Ramdas Lohar,)
Age 32 years, occ. Student, R/at House No.310,)
Charwasti, Akluj-Malinagar Marg, Malinagar,)
Tal. Malshiras, District Solapur 413108)..Applicant

Versus

1. The Secretary,)
Maharashtra Public Service Commission,)
Bank of India, 3rd floor, M.G. Road,)
Hutatma Chowk, Fort, Mumbai-1)

2. Director General of Police,)
Maharashtra Police Headquarters,)
Chhatrapati Shivaji Maharaj Marg, Colaba,)
Mumbai-1)

3. Shrikant Balaji Korewar,)
At Post : Wannali, Narsimh Niwas,)
Near ZP School, Wannali, Tal. Deglur,)
District Nanded 431723)..Respondents

Ms. Purva Pradhan holding for
Shri D.B. Khaire – Advocate for the Applicant
Smt. K.S. Gaikwad – Presenting Officer for the Respondents

CORAM : Smt. Justice Mridula Bhatkar, Chairperson
Smt. Medha Gadgil, Member (A)
RESERVED ON : 31st January, 2023
PRONOUNCED ON: 7th February, 2023
PER : Smt. Medha Gadgil, Member (A)

J U D G M E N T

1. Heard Ms. Purva Pradhan holding for Shri D.B. Khaire, Learned Advocate for the Applicant and Smt. K.S. Gaikwad, Learned Presenting Officer for the Respondents.

2. Ld. Advocate for the applicant submits that MPSC-Respondent No.1 issued advertisement dated 28.2.2018 for conducting Maharashtra Subordinate Services Non-Gazetted, Group-B Preliminary Examination, 2018 for 449 various posts. The last date for submitting online application form was 20.3.2018. The applicant belongs to NT(B) category. He applied from sports quota on 20.3.2018 i.e. on the last date for submitting the online application form.

3. The applicant obtained less marks than the cut-off prescribed for Open (General) and NT-B (General) and is qualified in the preliminary examination only for Open Sports and NT-B Sports category and he was considered only for these categories. Furthermore, he had qualified the main examination for the post of Police Sub-Inspector (PSI) only for NT-B Sports category. Hence, he was allowed to appear for the physical test and interview. Although the applicant produced prescribed documents at

the time of interview for the post in question the lack of details of the type of game and competition in the online application came to the notice of MPS at the time of preparation of final result. Hence, the candidature of the applicant was not considered for the sports category and his result was not published by the MPSC.

4. Ld. Advocate for the applicant argued that respondent no.1 ought to have recommended applicant's name to the post of PSI reserved for NT-B from sports quota as he was the only candidate eligible for the said post. She further pointed out that Deputy Director, Sports & Youth Services, Pune Division had verified the sports certificate on 4.7.2019 issued by the Soft Ball Association of India. She further stated that the applicant is meritorious sportsman. She pointed out that at the time of submitting online application form there was no specific option available for submitting the details of the verification certificate issued by the Deputy Director, Sports and Youth Services. She further submitted that as applicant has already cleared the preliminary, main, physical and interview, his name should have been included in the list of recommended candidates.

5. Ld. Advocate for the applicant relied on GR dated 24.10.2019 issued by the Sports Department which relates to verification of sports certificate. She states that it is corrigendum to GR dated 11.3.2019. She claims that GR dated 11.3.2019 is retrospective in operation. She also submits that other candidates were permitted to produce verified sports certificate at the time of interview and hence the applicant shall be entitled to get the same benefit. The application form of the applicant was successfully uploaded on the website of MPSC but due technical error the information filled in by the applicant could not be retained in the application form. Hence, the applicant should not be punished for the technical failure on the portal of MPSC.

6. Ld. Advocate for the applicant relied on the following judgments:

(i) Judgment and order dated 4.9.2018 of the Delhi High Court in W.P. (C) No.8415/2018 Anuj Pratap Singh Vs. Union Public Service Commission & Anr. reported in 2018 SCC OnLine Del 10982 : (2018) 171 DRJ 488 (DB).

(ii) Judgment and order dated 7.6.2019 passed by this Tribunal in OA No.1086 of 2016 Shri Sunil Bhanudas Sumbe Vs. The State of Maharashtra & Ors.

7. Per contra Ld. PO relies on the affidavit dated 10.12.2020 filed by Devendra Vishwanath Tawde, Under Secretary, MPSC and submits that considering the claims made by the applicant he was allowed to appear in preliminary and main examinations subject to verification of relevant documents regarding his claims at the time of interview. Since the applicant qualified in the main examination, he was called for physical test and interview by the MPSC. However, at the time of preparation of final result while scrutinizing the claim made by the applicant in his online application as well as claims mentioned in the check list, his claim was found suspicious. It was found that the applicant has not mentioned any time of game as well as competition in his online application for the said post. It was found that applicant had not mentioned any type of game as well as competition in his online application dated 20.3.2018 for the said post. However, at time of interview the applicant submitted acknowledgment dated 20.3.2018 for submissions of sports certificate for validity for the game of soft ball. He submitted the validity report for the sports certificate of the game of soft ball dated 4.7.2019 at the time of interview. However, this game was not claimed in his online application for sports. She produced a copy of the online application form of the

applicant in preliminary and main examination, which are at Exhibit E and I respectively of the OA. In neither of them the applicant has given information in detail about his sports certificate. Ld. PO submits that the applicant had opportunity between 28.2.2018 and 20.3.2018 to apply for verification of sports certificate and to update his profile on the website to that effect.

8. Ld. PO submits that judgment in **Anuj Pratap Singh** (supra) is not applicable since that refers to error in filling the date of birth.

9. We have considered the contentions of both the parties. In this case it is clear that applicant had not given the details of his sports certificate. We have examined the form of both preliminary and main examinations where there is no mention of details of game he played and his sports validity certificate. We are unable to accept the claim of the Ld. Advocate for the applicant about the technical error in MPSC portal. It is seen that no other candidate had any such complaint about any technical error. Moreover, if he had encountered any such technical error he should have brought it to the notice of the MPSC immediately. Although the applicant produced the prescribed documents at the time of interview, his candidature was rightly rejected in view of the fact that there were no details about the type of game and competition he played in the online application. It is important to note that in the application the candidates were specifically asked to mention as to in which recognized sports competition he/she got the status of meritorious sports person. Furthermore, all the candidates were informed by the MPSC by clause 2.3.6 of the general instructions to candidates published on the official website of the MPSC that the candidates should carefully ensure that the eligibility claims are opted correctly while applying for the concerned post. The applicant clearly failed to furnish the information regarding sports competition specifically asked in the application form.

10. We refer to the GR dated 1.7.2016 which provides reservation for sports person in government employment. It reads as under:

> "एखादया खेळाडूकडे एका पेक्षा जास्त खेळांची राज्य / राष्ट्रीय स्पर्धांची प्राविण्य प्रमाणपत्रे असू शकतील अशा खेळाडूने एकाच वेळेस सर्व प्रमाणपत्रे प्रमाणित करण्याकरिता संबंधित उपसंचालक यांच्याकडे सादर करणे गरजेचे आहे. संबंधित पदाच्या भरतीसाठी सादर केलेल्या अर्जात, खेळाडूने जे प्रमाणपत्र/ प्रमाणपत्रे उपसंचालक, क्रीडा व युवक सेवा यांना पडताळणीसाठी सादर केली असल्याचा दावा केला असेल केवळ त्याच प्रमाणपत्रांच्या पात्रतेचा अहवाल नियुक्तीच्या पुढील प्रयोजनार्थ गृहीत धरला जाईल या तरतुदीखेरीज अन्य खेळातील आणि परीक्षेच्या अन्य कोणत्याही टप्प्यावर सादर करण्यात येणारे खेळाडू प्रमाणपत्र पडताळणी अहवाल कोणत्याही परिस्थितीत ग्राहय धरण्यात येणार नाहीत."

11. It is seen that sports person must submit the sports certificate for verification to the Divisional Deputy Director of Sports on or before submitting his application. Furthermore, the verification report of only those sports certificate which were claimed in the application form are to be considered. Since such claim was not made the candidate cannot be considered in post against sports reservation.

12. It is seen that the last date for accepting application for preliminary examination was 20.3.2018. The applicant has submitted the validity report for the sports certificate of the game of soft ball on 4.7.2019 at the time of interview which was not claimed in his online application for the said post. Although the applicant submitted the sports certificate of the game of softball at the time of interview these details were not mentioned in his online application and claims specifically not mentioned in application cannot be considered.

13. We are unable to accept the reliance on **Anuj Pratap Singh** (supra), considering that the facts mentioned in this case are different.

14. As far as reliance on **Sunil Bhanudas Sumbe** (supra) is concerned, the applicant has mentioned in his online application form but on verification it was found that he did not hold valid experience certificate and therefore was declared ineligible. We are unable to accept the ratio in **Sunil Bhanudas Sumbe** (supra) as the facts are distinguishable from the present case.

15. It is quite clear from the audit log report from the time he created profile on the Commission online application system dated 23.7.2013 till 4.7.2019 the applicant did not mention any details required for claiming sports reservation and he did not mention this in his online application for preliminary and main examination of the said post.

16. In view of the fact that applicant had not mentioned any details of his claim regarding sports eligibility in his application form for preliminary as well as main examination, which is a mandatory requirement, we are of the view that he has been rightly disqualified for the post in question. Hence, we hold that there is no merit in the present original application and the same deserves to be dismissed.

17. Original Application is dismissed. No order as to costs.

Sd/-

(Medha Gadgil)
Member (A)
7.2.2023

Sd/-

(Mridula Bhatkar, J.)
Chairperson
7.2.2023

Dictation taken by: S.G. Jawalkar.