

IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL

MUMBAI

ORIGINAL APPLICATION NO.364 OF 2021

DISTRICT : SANGLI

1. Shri Rahul Gorakhanath Kadam,)
Age 30 years, occ. Student, R/at Shelakgaon,)
Tal. Kadegaon, District Sangli 415305)

2. Shri Nilesh Shivaji Patil,)
Age 30 years, occ. Student, R/at Mali Galli,)
Bastavade, Kolhapur 416235)
..Applicants

Versus

1. The State of Maharashtra,)
Through Principal Secretary,)
Home Department (Transport), Mantralaya,)
Mumbai 400032)

2. The Transport Commissioner,)
Administrative Building, 4th floor, Govt. Colony,)
Bandra (East), Mumbai 400051)

3. Maharashtra Public Service Commission,)
Through its Secretary, 5½, 7 & 8th Floor,)
Kuprej Telephone Nigam Building,)
M.K. Road, Mumbai)

4. The State of Maharashtra,)
 Through Principal Secretary,)
 General Administration Department,)
 Mantralaya, Mumbai 400032)
5. The State of Maharashtra,)
 Through Principal Secretary,)
 School Education & Sports Department,)
 Mantralaya, Mumbai 400032)
6. Deputy Director,)
 Sports & Youth Services, Nagpur Region,)
 Divisional Sports Complex, Koradi Road,)
 Mankapur, Nagpur-30)..Respondents

Shri A.A. Desai with Shri S.D. Patil – Advocates for the Applicants
 Ms. S.P. Manchekar – Chief Presenting Officer for the Respondents

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

DATE : 16th February, 2023

J U D G M E N T

1. In this case the two applicants challenge show cause notice dated 7.5.2021 issued by respondent no.2 and pray that it is to be quashed and set aside and the verification report dated 6.4.2017 submitted by the applicants be confirmed. They further pray that respondent no.1 be directed to issue appointment orders as per recommendation letters dated 7.10.2020 and 27.7.2020 issued by respondent no.3 through Open Sports

category for the post of Assistant Motor Vehicles Inspector pursuant to advertisement No.48 of 2017 dated 1.7.2017.

2. The applicants have applied for the post of Assistant Motor Vehicles Inspector pursuant to the advertisement dated 30.1.2017 from Open Sports category and the date of verification of certificate is 6.4.2017. Both of them have applied on 16.3.2017 and their certificates were verified on 6.4.2017.

3. Ld. Advocate for the applicants relied on GRs dated 1.7.2016, 19.1.2017, letter dated 27.3.2017, verification report dated 26.4.2017 and show cause notice dated 7.5.2021. Both the applicants received recommendation letters from MPSC on 27.7.2020 and 7.10.2020. The recommendation list was published on 9.9.2019 on the basis of certificate dated 6.4.2017. Appointment letter is not issued because recommendations of the applicants were issued subsequently. Ld. Advocate for the applicants submits that GR dated 19.7.2017 is not applicable.

4. Ld. Advocate for the applicants submits on the basis of affidavit dated 27.4.2022 filed by Shri Shekhar Bhimrao Patil, Deputy Director, Sports & Youth Services, Nagpur Division, Nagpur, on behalf of respondent no.6 and in view of the submissions, that name of two candidates viz. Shri Viplove Vijay Tiwari & Avinash Dattarao Korade, who were at Sr. No.390 and 467 respectively in the merit list dated 9.9.2019, who are similarly situated like applicant, are given appointments.

5. Ld. Advocate for the applicants submits that his rights were crystallized when the names of the applicants were recommended and now the State is estopped and rights of the applicants are to be protected under the doctrine of promissory estoppels. He relied on the judgment

and order dated 11.11.2022 passed by this Tribunal in OA No.1020 of 2021 Jayashri Govind Naik Vs. The State of Maharashtra & Ors.

6. Ld. Advocate for the applicant relied on the GR dated 19.1.2017 by which 5% reservation was given for the sportsman in Government appointments.

7. Applicant no.1 was shown at Sr. No.2781 in the merit list in Open Sports category and he has secured 126 marks in the main examination and applicant no.2 was shown at Sr. No.3604 in the merit list in Open Sports category and he has secured 114 marks. By letter dated 7.5.2021 Deputy Commissioner, Transport has informed the applicants that on verification of sports certificate of the applicant it is found that Senior State Level Unequipped Power Lifting Competition, 2012 was not included as a Sport. Hence, 5% sports reservation cannot be granted and said certificate is not valid and cannot be accepted and therefore their candidature cannot be considered.

8. Ld. CPO relied on short affidavit in reply dated 27.4.2022 filed by Shekhar Bhimrao Patil, Deputy Director, Sports and Youth Services, Nagpur, on behalf of respondent no.6. This reply was not filed and not available to the Ld. Advocate for the applicants when the matter was argued on 22.4.2022. Ld. CPO informs that Government has issued GR dated 1.7.2016 prescribing new policy for reservation to the meritorious sportsman. It has laid down condition that sports played should be the games included in the Olympic, Commonwealth and Asian games they only are considered as eligible for the 5% reservation in the government jobs under sports quota. As per instructions from the Government, Ld. CPO informs that Power lifting was not included in the Olympic, Commonwealth and Asian games and hence was not considered for 5% reservation as per GR dated 1.7.2016.

9. Ld. Advocate for the applicants relied on the following judgments:
- (i) AIR 1979 SC 621 M/s. Motilal Padampat Sugar Mills Co. Ltd. Vs. The State of Uttar Pradesh & Ors. (Promissory estoppel).
 - (ii) OA No.313 of 2018 decided by this Tribunal 18.3.2019 Shri Ajay Rajaram Shinde Vs. Government of Maharashtra & Ors.
 - (iii) OA No.1020 of 2021 decided by this Tribunal on 11.11.2022 Jayashri Govind Naik Vs. The State of Maharashtra & Ors.
 - (iv) (2015) 1 SCC 347 State of Uttar Pradesh & Ors. Vs. Arvind Kumar Srivastava & Ors.
10. Ld. CPO relies on the judgment and order dated 18.6.2020 passed by this Tribunal in OA No.915 of 2018 Shri Shirish Shankar Mali Vs. The State of Maharashtra & Ors. In the said case the game was 'Tug of War'. However, it was not recognized and Tribunal dealt with the relevant portion of GR dated 1.7.2016 and the criteria applied for verification of sports certificate. Ld. CPO referred to the short affidavit in reply dated 8.2.2023 filed by Sunil Suryakant Hanje, Deputy Secretary, School Education and Sports Department, Mantralaya, Mumbai on behalf of respondent no.5. Ld. CPO also relies on GR dated 10.10.2017.
11. Ld. CPO relied on the short affidavit dated 15.2.2023 filed on behalf of respondent no.2 in compliance of with the order dated 2.2.2023 by Sanjay Prabhakar Metrewar, Deputy Transport Commissioner (Administration), Mumbai.

12. We have considered the point that this particular game of Power Lifting was not included in the Olympic, Commonwealth and Asian games as per GR of 2016 which is applicable to the process of recruitment of 2016 therefore both the applicants are not eligible. The ratio laid down in the cases relied and referred above is not useful to the applicant so far as the facts of the case are concerned. In view of the facts and circumstances of the case the OA deserves to be dismissed.

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

Sd/-

(Medha Gadgil)
Member (A)
16.2.2023

Sd/-

(Mridula Bhatkar, J.)
Chairperson
16.2.2023

Dictation taken by: S.G. Jawalkar.

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Versus
The State of Maharashtra & Ors. ..Respondents

Shri Shri S.D. Patil – Advocates for the Applicants

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

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

DATE : 16th March, 2023

ORDER

Ld. Advocate for the applicants make an oral application for speaking to minutes of the order dated 15.2.2023 passed by this Tribunal in the above OA. Ld. Advocate submits that there is typographical mistake in mentioning the date of judgment as 15.2.2023 at page no.2 and page no.6 of the judgment and it should be corrected as '16.2.2023'.

2. Ld. CPO has no objection and she submits to the order of the Court.

3. The order be corrected accordingly.

Sd/-

**(Medha Gadgil)
Member (A)
16.3.2023**

Sd/-

**(Mridula Bhatkar, J.)
Chairperson
16.3.2023**

Dictation taken by: S.G. Jawalkar.