

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI
ORIGINAL APPLICATION NO.795 OF 2017**

DISTRICT : SATARA

Shri Shrikant Prakash Jagtap,)
Age 31 years, occ. Boat Operator/Technician at BSPL)
R/o Vadgaon Haveli, Tal. Karad, Dist. Satara 415110)..Applicant

Versus

1. The State of Maharashtra,)
Through Additional Chief Secretary,)
Home Department, Mantralaya, Mumbai 400032)
2. The Special Inspector General of Police,)
Motor Transport Division, M.S., Aundh, Pune)..Respondents

Shri R.M. Kolge – Advocate for the Applicant

Smt. Archana B.K. – Presenting Officer for the Respondents

CORAM : Shri P.N. Dixit, Vice-Chairman (A)
Shri A.D. Karanjkar, Member (J)
RESERVED ON : 11th June, 2019
PRONOUNCED ON : 13th June, 2019
PER : Shri P.N. Dixit, Vice-Chairman (A)

J U D G M E N T

1. Heard Shri R.M. Kolge, learned Advocate for the Applicant and Smt. Archana B.K., learned Presenting Officer for the Respondents.

Brief facts of the case:

2. In response to the advertisement issued in April, 2017 for the post of Police Sub Inspector First Class Engine Driver and Police Sub Inspector Second Class Master, the Applicant submitted his application form. The eligibility for the same, inter alia, mentioned as under:

“(iii) इन्लॅड व्हेसल अॅक्ट १९१७ (१९१७ चा १) च्या कलम २१(१) नुसार फर्स्ट इंजिन ड्रायव्हर कॉम्पेटन्सी धारण करणा-या किंवा महासंचालक, शिपिंग, भारत सरकार यांनी प्रदान केलेले मर्वॅट शिपिंग अॅक्ट, १९५८ (१९५८ चा ४४) नुसार मरीन इंजिनियरिंग ऑफीसर (MEO) क्लास IV नीअर कोस्टल व्होयाज (NCV) म्हणून सी गोईंग इंजिन ड्रायव्हर प्रमाणपत्र धारण केले आहे.

(iv) ज्यांनी २२६ ते ५६५ BHP इंजिन क्षमतेच्या नौकेवरील किमान २ वर्षे इतक्या कालावधीचा फर्स्ट क्लास इंजिन ड्रायव्हर पदाचा अनुभव धारण केला आहे.”

(Quoted from page 22-23 of OA)

3. After scrutiny of forms the Applicant was called for the various tests, however, on 5.8.2017 he was informed as under:

“सदर पदांच्या भरतीसाठी देण्यात आलेल्या जाहिरातीमध्ये नमूद करण्यात आलेल्या अर्हतेसंबंधीच्या निकषानुसार खालील अर्हता आपण धारण करित नसल्याचे निदर्शनास आले आहे.

पोलीस उप निरीक्षक फर्स्ट क्लास इंजीन ड्रायव्हर सर्वसाधारण भरती प्रक्रियेकरीता कॉम्पेटन्सी प्रमाणपत्र प्राप्त झालेनंतर ०१/०५/२०१७ रोजी पर्यंत लागणारी २ वर्षे अनुभवाची पोलीस उप निरीक्षक, सेकंड क्लास मास्टर पदासाठी आवश्यक असलेली अर्हता आपण धारण करित नसल्यामुळे आपणास सदर पदाच्या भरतीसाठी अपात्र ठरविण्यात आले आहे.”

(Quoted from page 47 of OA)

4. Aggrieved by the said order dated 5.8.2017, the Applicant has preferred this OA with the following prayers:

“9. (a) *by suitable order and direction this Hon’ble Tribunal be pleased to quash and set aside the impugned order dated 5.8.2017 passed by the Respondent no.2, thereby communicated to the Applicant that for the purpose of the recruitment to the post of Police Sub Inspector Second Class Master, the Applicant is not eligible since the Applicant did not possess the experience of 2 years after getting the certificate of competency till 1.5.2017 for the post of PSI, Second Class Master from open category and OA be allowed accordingly.*

(b) by suitable order and direction this Tribunal be pleased to direct the Respondent no.2 to send the Applicant for the Medical Test and further direct the Respondent no.2 to appoint the Applicant to the post of PSI, Second Class Master.”

(Quoted from page 8-9 of OA)

5. The grounds mentioned by the Applicant are summarized as under. The Applicant appeared for the examination for Inland Vessel Certificate of Competency (COC) as per IV Act 1917 for Second Class Master on the Deck Side. The Maritime Board could not hold the examination of Competency under the Inland Vessel Act, 1917 for some time. Finally, the examination was held and the results were declared on 22.8.2015 and the Chief Port Officer, Maharashtra Maritime Board, Mumbai issued him the necessary certificate on 13.1.2016 (Exhibit D page 19). Prior to appearing for this examination the Applicant was working with “Brilliant Seagull Private Limited” from 1.2.2013 as Technician (Exhibit A page 11). The Applicant claims that he continued to work with the Brilliant Seagull Private Limited even after the declaration of the examination result and his experience of working with Brilliant Seagull Private Limited prior to the

declaration of Certificate of Competency should be considered as valid as the advertisement does not mention that the experience should be after passing of the examination.

6. The Respondents in their affidavit in reply have stated that the experience certificate furnished by the Applicant can be considered only for the period when he passed the Competency Examination and obtained certificate from the Chief Port Officer, Maharashtra Maritime Board, Mumbai. Thus, from 13.1.2016 to 1.5.2017, the last date of submitting the application as per the advertisement, the experience is of one year three months and 19 days, instead of requiring two years. According to the Respondents, a person had become eligible to act as a Second Class Master only when he is awarded C.O.C. by the Maharashtra Maritime Board. The contention of the Applicant that he appeared for the Second Class Master Examination in 2013 and the result was declared and certificate obtained on 13.1.2016 cannot be the ground to consider him eligible. As the Applicant could not satisfy the Respondents regarding his two years' experience, he was declared disqualified. Moreover, as the Applicant belongs to open category, he is not eligible for relaxation in two years essential experience as per the terms and conditions of advertisement.

7. The Respondents have, therefore, submitted that the OA is without any foundation and deserves to be dismissed.

Discussion and findings:

8. The fact that the Applicant possesses experience of less than two years after passing the qualifying examination and obtaining the certificate from Maharashtra Maritime Board is not disputed. The contention of the Applicant that his work experience prior to issuing of the

Certificate of Competency is not tenable, since experience has to be subsequent to passing of the examination and not earlier. Merely because the Applicant was working earlier cannot be considered as a relevant factor as it would create anomalous situation against other eligible candidates. Even though there may be no mention in the advertisement that the experience has to be subsequent to passing of the examination, it is a common sense, otherwise the advertisement would not have stated obtaining of the Certificate of Competency prior to the clause regarding experience.

9. OA is, therefore, devoid of merits and we find no reason to interference in the impugned order issued by the Respondents.

10. Therefore, OA is dismissed with no order as to costs.

Sd/-

(A.D. Karanjkar)
Member (J)
13.6.2019

Sd/-

(P.N. Dixit)
Vice-Chairman (A)
13.6.2019

Dictation taken by: S.G. Jawalkar.