

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.980 OF 2019**

**WITH**

**ORIGINAL APPLICATION NO.24 OF 2020**

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**ORIGINAL APPLICATION NO.980 OF 2019**

**DISTRICT : PUNE**

Shri Sharad Devidas Shelke, )  
Age 29 years, occ. Student, )  
R/a C/o Vijaykumar Baburao Kayande, Flat No.204, )  
Shri Sai Park, Near Suyog Hospital, Nehru Nagar, )  
Pimpri, Pune 411018 )..Applicant

Versus

1. The Director, )  
Directorate of Accounts and Treasuries, MS, )  
179/17, Adjustment Chamber, )  
Bhosale Marg, NPT Colaba, Mumbai 400021 )
2. The Joint Director, )  
Directorate of Local Funds Accounts Audit, )  
Pune Division, Room No.34, Lekha Kosh )  
Bhavan Treasury, Pune 411001 )
3. Ms. Archana Bansi Ghadge, )  
Age 35 years, Occ. Nil, R/o Plot No.33, )  
Siddhi Vinayak Apartment, Mhasaranhas Colony )  
Talegaon-Dabhade, Mawal, Pune 410506 )..Respondents

Shri S.S. Dere – Advocate for the Applicant

Ms. S.P. Manchekar – Chief Presenting Officer for Respondents No.1 & 2

Shri S.G. Kudle – Advocate for Respondent No.3



and Ms. S.P. Manchekar, learned Chief Presenting Officer for the Respondent in OA No.24 of 2020.

2. Since the issues in both the OAs are interrelated, they are covered by a common judgment.

3. In OA No.980 of 2019 the applicant has prayed for directions to the respondents to appoint the applicant to the post of Junior Auditor as per merit list from OBC, PA-I with consequential benefits. The applicant had applied for the post of Junior Auditor, Pune Division, Pune pursuant to advertisement dated 8.1.2019. The candidates were required to fill in online application forms pursuant to the said advertisement. Out of total 54 posts advertised for Pune Division for the post of Junior Auditor, 13 posts were earmarked for Other Backward Class (OBC) category and the applicant belongs to OBC category. The applicant is a Project Affected Person (PAP) and he has filled in his form from the PAP category with social reservation from OBC. In this case the applicant submitted documents for his graduation from Science faculty in his online application form. However, it was found that the subject taken by the applicant in his science graduation i.e. B.Sc. is Agriculture and not in Maths and Statistics, which was the requisite educational qualification for the said post. He has also passed Bachelors in Economics i.e. B.A. (Economics) with 78%, which was requisite educational qualification but did not mention this in his application. Thus the applicant committed two mistakes while filling up the column of educational qualification. Firstly, he mentioned his educational qualification as B.Sc. (Agriculture) which was not the requisite qualification as stated in the advertisement. Secondly he failed to mention that he had a degree in B.A. (Economics) which would have made him eligible for the said post. During scrutiny it was observed that applicant did not have the requisite educational

qualification prescribed vide notification dated 2.12.2008 for Science graduate and hence was declared as disqualified.

4. Ld. Advocate for the applicant stated that the applicant was working in Pune and all his original documents were at Buldhana and therefore he requested a person from cyber café to fill up his form. He further argued that this was the bonafide mistake committed by the applicant and hence should be ignored. The Ld. Advocate for the applicant relied on the following judgments:

(i) MPSC Vs. Kisan Narshi Tadvi W.P. No.445/2023 decided by the Hon'ble Bombay High Court on 16.1.2023.

(ii) Vinod Kadubal Rathod & Anr. Vs. Maharashtra State Electricity Generation Co. Ltd., W.P. No.981 of 2018 of 2018 decided by the Aurangabad Bench of the Hon'ble Bombay High Court on 19.12.2018.

(iii) Mrs. Patil Vijaya Milind Vs. The State of Maharashtra & Ors. W.P. No.393 of 2016 decided by the Aurangabad Bench of the Hon'ble Bombay High Court on 22.1.2016.

(iv) K.N. Tadvi Vs. The Secretary, MPSC, OA No.1165 of 2022 decided by this Tribunal on 23.11.2022.

5. Learned Advocate for the Applicant Shri Kudle has submitted written submissions on behalf of the applicant in the O.A.No.24/2020 and Respondent No.3 in O.A.No.980/2019. He states that reliance placed on the two judgments and orders passed by this Tribunal are not applicable to the present facts and circumstances. In this case for the reasons that the online application in question is required to be filled in by the

candidate himself and the necessary qualification required for the post in question was to be specified in the online application which applicant failed to do. He therefore prays that the Respondent be directed to appoint the applicant in O.A.No.24/2020 with retrospective effect holding that she is entitled for all consequential benefits.

6. Per contra Ld. CPO argued that the applicant has not come to this Tribunal with clean hands but has blamed the respondents for rejecting his application. She relied on the affidavit in reply dated 4.12.2019 filed by Dilip Ramchandra Suryawanshi, Joint Director (Local Fund Accounts Audit), Pune on behalf of respondents no.1 & 2. In para 3(ii) of the affidavit it is stated as under:

*“In the present case the applicant had stated marks obtained in his graduation from Science faculty in his enrolment form submitted online. During the verification of documents, the applicant submitted certificate of graduation from Science faculty. While going through the mark sheet submitted by the applicant it was observed that the subjects taken by the applicant in his science graduation examination are not in consonance with the subjects prescribed vide notification dated 2.12.2008.*

*Here it is submitted that the applicant failed to produce the documents with regard to requisite educational qualification on the basis of the information submitted online and therefore the Joint Director, Local Funds Accounts Audit, Pune had disqualified the Applicant.”*

7. In this case during scrutiny of documents it was observed that the applicant did not have the requisite educational qualification prescribed vide notification dated 2.12.2008 for science graduate and hence was declare disqualified for the appointment. It is also pointed out that the information submitted by the applicant is not verified at the time of filling up of the form but are examined at the time of verification of documents.

8. In this case it is clear that the applicant has committed a number of mistakes while filling up his form. In the first place he did not mention his degree of B.A. in Economics with 78% which was one of the requisite educational qualifications. On the other hand he mentioned his qualification as B.Sc. (Agriculture), which was not requisite.

9. In his defence the applicant has stated that as he was working in Pune and all his original documents were at Buldhana, he has requested a person from cyber café to fill up his form. We fail to understand why the applicant could not fill up the on-line application form from Pune. Moreover, his Certificate or the required information could have been also secured by him on WhatsApp which is commonly used. According to us the applicant committed the third mistake in not filling the application form by himself and entrusted this important job to somebody.

10. We have considered the judgments relied by the Ld. Advocate for the Applicant in OA No.980 of 2019. However, the ratio laid down in these cases are not applicable.

11. We rely on the ratio laid down in the **Bedanga Talukdar Vs. Saifudaullah Khan & Ors. (2011) 2 SCC 85**. Para 31 of the judgment reads as under:

*“31. In the face of such conclusions, we have little hesitation in concluding that the conclusion recorded by the High Court is contrary to the facts and materials on the record. It is settled law that there can be no relaxation in the terms and conditions contained in the advertisement unless the power of relaxation is duly reserved in the relevant rules and/or in the advertisement. Even if there is a power of relaxation in the rules, the same would still have to be specifically indicated in the advertisement. In the*

*present case, no such rule has been brought to our notice. In such circumstances, the High Court could not have issued the impugned direction to consider the claim of respondent No.1 on the basis of identity card submitted after the selection process was over, with the publication of the select list.”*

12. We find substance in the submissions of learned C.P.O. In view of the facts and circumstances, provisions of Recruitment Rules and details furnished by the Applicant in his online form, it is clear that the applicant was rightly not considered for the post of Junior Auditor. Each and every mistake or the error may not be deliberate. However, it does not mean that it is due to inadvertence. Every inadvertence cannot be condoned or acceptable. Thus, the Original Application No.980 of 2019 is devoid of merit and deserves to be dismissed.

13. Original Application No.980 of 2019 is dismissed. No order as to costs.

14. As far as appointment of applicant in Original Application No.24 of 2020 is concerned, the respondents are directed to examine the eligibility of the applicant for the post of Junior Auditor on the basis of ranking of the applicant contained in the merit list and as per rules. The said decision be taken within a period of six weeks and communicate the same to the applicant. OA No.24 of 2020 is allowed with these directions. No order as to costs.

Sd/-

**(Medha Gadgil)**  
**Member (A)**  
**21.2.2023**

Sd/-

**(Mridula Bhatkar, J.)**  
**Chairperson**  
**21.2.2023**

Dictation taken by: S.G. Jawalkar.