

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 303 OF 2017

**(Smt. Pallavi D/o. Babasaheb Dabhade Vs. The State of
Maharashtra and Others.)**

CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J)

DATE : 31.05. 2017.

ORAL ORDER : -

1. Heard Shri A.D. Aghav – learned Advocate for the applicant and Shri V.R. Bhumkar – learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant has submitted that the applicant has secured 37 marks in the pre-examination. He has submitted that the cut off marks for the Open Female Category is 28 marks, but the respondent No. 1 has not declared the applicant as passed and not called for main examination, which is scheduled on 25th June, 2017 and, therefore, he prayed to grant interim relief and to direct the respondent No. 1 to allow the applicant to fill up the form for main examination on 1st June, 2017 and also allow the applicant to participate in the main examination, which is scheduled on 25th June, 2017.

3. Learned Presenting Officer has submitted that the applicant has filled application under Open General Category. She has not filled application for the post reserved for Open Female Category. She has also mentioned in the application

form that she is not belonging to Non-Crèmelaye Category. He has submitted that cut off marks for the candidates appeared for the examination from Open General Category is 42 marks. He has also submitted that even if the contention of the applicant is accepted that she has secured 37 marked in pre-examination, in that case also she is not eligible for main examination, as she has filled application in Open General Category and, therefore, respondent No. 1 has not included her name in the lists of selected candidates for main examination, who passed the pre-examination.

4. On perusal of the document i.e. copy of the application form, it reveals that the applicant has filled the application under Open General Category mentioning that she is not belonging to Non-Crèmelaye Category. Therefore, she cannot claim herself as a candidate from Open Female Category. The cut off marks for the Open General Category is 42 marks while for female candidate from Open General Category it is 28 marks. Candidates who secured minimum cut off marks as mentioned against their categories were declared eligible for main examination. The applicant, who secured 37 marks as contended by her in pre-examination, has not declared eligible candidate as she filled the application under Open General Category for which cut off marks is 42. Therefore, in

these circumstances prima facie the applicant is not eligible for grant of inter relief as sought by her. Hence, interim relief cannot be granted.

5. In the meanwhile issue notices to the respondents, returnable on 8th June, 2017.

6. Tribunal may take the case/s for final disposal at this stage and separate notice for final disposal shall not be issued.

7. Applicant is authorized and directed to serve on respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

8. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the question such as limitation and alternate remedy are kept open.

9. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

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O.A. NO. 303 OF 2017

10. S.O. to 8th June, 2017.
11. Steno copy and hamdust is allowed to both the parties.

MEMBER (J)

ORAL ORDERS 31.05.2017 – HDD(SB)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 306 OF 2017

**(Shri Vijay Laxman Chavan Vs. The State of Maharashtra
and Others.)**

CORAM : HON'BLE SHRI B.P. PATIL, MEMBER (J)

DATE : 31.05. 2017.

ORAL ORDER : -

1. Heard Ms. Preeti Wankhade – learned Advocate for the applicant and Shri V.R. Bhumkar – learned Presenting Officer for the respondents.

2. Learned Advocate for the applicant has submitted that the applicant was transferred to Kandhar District Nanded from Jalna in the year 2013 and after completing tenure of three years at Kandhar he has been transferred to Nanded as Naib Tahsildar (Supply) in the month of June, 2016. He has not completed his normal tenure of three years of posting at Nanded and he has been transferred by the impugned transfer order dated 30.05.2017 on administrative ground. She has submitted that no reasons has been mentioned in the impugned transfer order and the transfer order is against the provisions of the Maharashtra Government Servants (Regulation of Transfers & Prevention of Delay in Discharge of Official Duties) Act, 2005 (for short 'the Transfer Act of 2005). She has submitted that the applicant is yet not relieved and hence, she prayed to grant interim relief in favour of the applicant.

3. Learned Presenting Officer has submitted that the applicant has been transferred on administrative ground and necessary approval has been obtained from the Civil Services Board, Aurangabad. He has submitted that the transfer of the applicant is as per the provisions of the Transfer Act of 2005. On telephonic instructions from Shri Jayraj Karbhari, Residential Deputy Collector, Nanded, he has made a statement that the applicant is not yet relieved from his present posting. His statement is accepted and taken on record.

4. On perusal of the impugned transfer order, it reveals that the applicant has been transferred on administrative ground. It seems that the approval of the Civil Services Board, Aurangabad, has been obtained for effecting the transfer of the applicant. The applicant has not completed his normal tenure of three years at Nanded. No reason has been mentioned in the transfer order. The applicant is yet to be relieved from his present posting. In these circumstances, it is just and proper to direct the respondents to maintain the status quo till filing of their affidavit in reply.

5. Hence, the respondents are directed to maintain the status quo, if the applicant is not already relieved from the

present posting till filing of the affidavit in reply by the respondents.

6. In the meanwhile issue notices to the respondents, returnable on 15th June, 2017.

7. Tribunal may take the case/s for final disposal at this stage and separate notice for final disposal shall not be issued.

8. Applicant is authorized and directed to serve on respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondent is put to notice that the case would be taken up for final disposal at the stage of admission hearing.

9. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the question such as limitation and alternate remedy are kept open.

10. The service may be done by hand delivery, speed post, courier and acknowledgment be obtained and produced along with affidavit of compliance in the Registry before due date. Applicant is directed to file affidavit of compliance and notice.

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O.A. NO. 306 OF 2017

11. S.O. to 8th June, 2017.
12. Steno copy and hamdust is allowed to both the parties.

MEMBER (J)

ORAL ORDERS 31.05.2017 – HDD(SB)