

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH**

DIST : MUMBAI

**REVIEW APPLICATION NO 04 OF 2016
IN
ORIGINAL APPLICATION NO 564 OF 2014**

Smt Sujata Manohar Ahire,)
Occ : Nil, R/o Nasik.)
Add for service of Notice :)
Shri A.V Bandiwadekar, advocate)
Having office at 9, "Ram Kripa",)
Lt Dilip Gupte Marg, Mahim,)
Mumbai 400 016.)...**Applicant**

Versus

1. The Chairman)
Regional Selection Committee)
Cum Chief Engineer,)
North Maharashtra Region,)
Water Resources Department,)
Nasik.)
2. The Secretary,)
Women & Child Development)
Department, having office at)
Mantralaya, Mumbai 400 032.)

RB

3. The Principal Secretary,)
General Administration Dept,)
Mantralaya, Mumbai 400 032.)...**Respondents**

Shri D.B Khaire, learned advocate for the Applicant.

Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

CORAM : Shri Rajiv Agarwal (Vice-Chairman)

Shri R.B. Malik (Member) (J)

DATE : 03.05.2016

PER : Shri Rajiv Agarwal (Vice-Chairman)

ORDER


1. Heard Shri D.B Khaire, learned advocate for the Applicant and Smt Kranti S. Gaikwad, learned Presenting Officer for the Respondents.

2. This Review Application has been filed by the Applicant seeking recall of the order dated 5.1.2016 in Original Application no 564/2014 and the Applicant is also seeking that the Original Application be allowed.

3. Learned Counsel for the Applicant argued that there is an apparent error in the judgment of this

Tribunal dated 5.1.2016 in O.A no 564/2014. It has been held that no post from S.C category was required to be reserved horizontally for women, as one post each was to be filled in the year 2012 and 2013 in the office of Superintending Engineer, Jalgaon, as mentioned in the table in para 5 of the judgment. However, as both the posts were filled in 2013, the reservation would be 0.6 on the basis of 30%, reservation for women, which would be rounded off to 1, to make one post from S.C category horizontally reserved for women. The Applicant was eligible to be appointed on that post, as she was No. 1 in the list from S.C Woman category.

4. Learned Presenting Officer, argued on behalf of the Respondents that there is no error in the order of this Tribunal. The case of the Applicant was fully considered by this Tribunal. This will be evident from full reading of para 5 of the aforesaid judgment. It was noted that 90% of the vacant posts were permitted to be filled in 2012 and 10% in 2013. In addition, 3% of the sanctioned posts were permitted to be filled in 2013. Horizontal and vertical reservation for these 90% posts was worked out together, though posts were filled in two phases in 2012 and 2013. Vacancies from 3% of the sanctioned posts were permitted to be filled in 2013 and reservation for those posts were calculated separately. Learned Presenting Officer argued that the Tribunal has not held such calculations as invalid. As such, there is no error in



the judgment of this Tribunal. If the Applicant is not happy with the view taken by this Tribunal upholding the manner in which the horizontal and vertical reservation was worked out by the Respondents, the remedy is not the Review.

5. In our judgment dated 5.1.2016 in O.A no 564/2014, we have observed that:-

“It appears that the Respondents have worked out Circle wise reservation, both horizontal and vertical for vacancies to be filled in 2012 and 2013 together. After deducting the vacancies filled in 2012, the remaining vacancies (plus 3% sanctioned posts) were filled in 2013, keeping the vertical and horizontal reservation intact, as it was worked out for all vacancies.”

It is clear that for all vacancies to be filled in 2012 and 2013, horizontal and vertical reservation was worked out. For Jalgaon Irrigation Circle, 1 S.C vacancy was there, which was actually filled in 2013, though it could have been filled in 2012 also. Another vacancy from S.C category became available in 2013, from 3% sanctioned post which were permitted to be filled in 2013. Reservation for that post was done separately. The reservation worked out by the appointing authority was held to be correct. The claim of the Applicant is that

horizontal reservation should have been worked out separately for 90% posts filled in 2012 and for remaining 10% posts + 3% vacancies to be filled in 2013. This contention of the Applicant, after the selection has already been made cannot be considered now. In the Original Application, the reservation for S.C-women posts was claimed by clubbing all posts from 20 circles together. This is a new issue raised by the Applicant in the Review, which cannot be considered. This Tribunal has already taken a view on the issue of manner in which horizontal and vertical reservation was worked out by the Respondent while deciding O.A no 564/2014. Even if that view is erroneous, the same cannot be a ground to seek review.

6. This Review Application is not maintainable and it is dismissed with no order as to costs.

Sd/-
(R.B. Malik)
Member (J)

Sd/-
(Rajiv Agarwal)
Vice-Chairman

Place : Mumbai
Date : 03.05.2016
Dictation taken by : A.K. Nair.