

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
AURANGABAD BENCH AURANGABAD
TRANSFER APPLICATION NO. 10 of 2013
IN WRIT PETITION NO. 5976 of 2013 (D.B.)

Shrihari S/o Digambarrao Ghogare,
Age : 28 years, Occ. Education,
R/o Suppa, Tq. Gangakhed,
Dist. Parbhani.

Applicant.

Versus

- 1) The State of Maharashtra,
through the Directorate of
Municipal Administration, IIIrd floor,
Govt. Transport Service Building,
Sir Pochakhanwala Road,
near RTO, H.Q., Warali, Mumbai-400 030.
(copy to be served on G.P. at High Court of Bombay,
Bench at Aurangabad).
- 2) The District Collector,
President of District Selection Committee,
Parbhani, Tq. & Dist. Parbhani.
- 3) The Res. Dy. Collector,
Secretary of District Selection Committee,
Parbhani, Tq. & Dist. Parbhani.
- 4) Shankar S/o Madhavrao Ajegaonkar,
Age : 33 yrs., Occ : Nil,
R/o Saindasgenu Maharajnagar,
Karegaon Road, Opp. Jayakwadi,
Parbhani, Tq. & Dist. Parbhani.

Respondents

Shri Babasaheb Dhengle, Advocate for the applicant.

Shri V.R. Bhumkar, Id. P.O. for the respondent nos. 1 to 3.

None for respondent no.4.

**Coram :- J.D. Kulkarni, Vice-Chairman (J)
AND
P.N. Dixit, Member (A).**

JUDGEMENT

(Delivered on this 7th day of April,2018)

Heard Babasheb Dhengle, learned counsel for the applicant and Shri V.R. Bhumkar, learned P.O. for respondent nos. 1 to 3. None for respondent no.4.

2. The applicant has filed Writ Petition no.5976/2013 before the Hon'ble High Court of Judicature at Bombay, Bench at Aurangabad and said petition has been relegated to this Tribunal and as such was registered as Transfer Application no.10/2013. In this petition the applicant is claiming direction to respondent nos. 1 to 3 not to appoint respondent no.4 on the post of Maharashtra Municipal Water Supply and Sewreg Engineering Services, Class-III.

3. From the admitted facts it seems that in response to the advertisement dated 21/12/2012 issued by respondent nos. 2 and 3, the applicant as well as respondent no.4 applied for the post of Maharashtra Municipal Water Supply and Sewreg Engineering Services, Class-III. The total posts advertised were four in numbers. Out of which two posts were reserved for Schedule Caste (SC) and Schedule Tribe (ST), one post for Open (female) and one for Open

(General) category. On 13/01/2013, 47 candidates appeared, out of which 13 candidates were declared as successful and were called for oral interview on 16/01/2013. The respondent no.4 has been shown selected for Open category subject to scrutiny of qualification and other documents etc., whereas, the applicant has been shown in the wait list at sr.no.2. According to the applicant, as per the advertisement a candidate must possess Degree / Diploma in Mechanical / Environmental Engineering or Post Graduate Degree / Diploma in Environmental Science from the recognized University. The applicant got information from which it seems that the respondent no.4 is possessing educational qualification of B.E. (Civil) and M.E. (Civil Water Management) and though the said qualification is alleged to be equivalent to B.E. (Mechanical / Environmental Science) or Post Graduate in Environmental Science as per the advertisement, the same is not a reality. The respondent no.4 is not qualified at all as per the qualification required and mentioned in the advertisement and recruitment rules and therefore the applicant ought to have been selected. The respondent authorities are not taking decision as regards appointment to be given to the applicant and therefore the applicant has prayed that the selection of respondent no.4 by the District Selection Committee as per select list dated 16/01/2013 to the post of Maharashtra Municipal Water Supply and Sewreg Engineering

Services, Class-III be cancelled and respondents be directed to issue appointment order as per advertisement in favour of applicant.

4. The respondent nos. 2&3 have filed reply-affidavit. Admitting most of the contents of the O.A. it is stated that Scrutiny Officer scrutinized the application of respondent no.4 and found that the respondent no.4 is having M.E. (Civil- Water Management) and as such was eligible and therefore respondent no.4 was allowed to appear for written and oral examination.

5. In the meeting of District Selection Committee held on 16/01/2013 it was mentioned that the applicant Ajegaonkar Shankar Madhavrao is degree holder in B.E. (Civil) and M.E. (Civil, Water Management), however the degree of M.E. (Civil- Water Management) whether is equivalent to degree of Environmental Science has not yet been clarified. The name of respondent no.4 was therefore included in the select list subject to condition of verification by the Competent Authority. Since the respondent no.4 has obtained highest marks his name was included in the list of selected candidates and the name of the applicant was mentioned in the wait list.

6. The respondent nos. 2 and 3 admitted that vide letter dated 19/01/2013 opinion was called from respondent no.1 and the Director of Technical Education, Mumbai in regard to equivalency of the educational qualification. The respondent no.1, i.e., Directorate of

Municipal Administration, Mumbai has given its opinion vide letter dated 13/03/2013 and mentioned that M.E. (Civil, Water Management) is not equivalent to the educational qualification mentioned in the Appendix-III of the conditions of recruitment. The Directorate of Technical Education, Mumbai however informed vide letter dated 21/03/2013 and opined that the opinion shall be taken from Swami Ramanand Teerth Marathwada University (in short "SRTMU"), Nanded. Accordingly, a letter was issued to Vice Chancellor of SRTMU, Nanded and its opinion was obtained. The Director, College and Development Board vide letter dated 25/06/2013 also informed about the equivalence of educational qualification as per Exhibit-R-1. On perusal of both the opinions, it was found that there is a difference of the opinions of the authorities and therefore vide letter dated 01/11/2013 the opinion has been called from the Government. However no opinion has yet been received. It is stated that the respondents have not yet appointed the respondent no.4 and after receiving guidance from the respondent no.1, appropriate order will be issued. The respondent no.4 also filed his reply-affidavit. It is stated that the Registrar, SRTMU, Nanded vide Exh-R-1 had opined in writing vide communication dated 25/06/2013 that the respondent no.4's qualification is equivalent and therefore respondent no.4 is qualified to be appointed. However, the respondents are not taking any action and has kept the issue pending unnecessarily. The

respondent no.4 has also placed on record the copy of the opinion received from SRTMU, Nanded. The said copy of opinion is at P.B. page no.53.

7. From the fact as referred above it will be clear that there is no dispute of the fact that respondent no.4 has been shown in the select list and till today no appointment order has been issued in his favour. There seems to be a dispute as regard the fact as to whether the applicant as well as respondent no.4 are eligible to be appointed for the post as per the recruitment rules and as per the qualification given in the advertisement and admittedly different opinions have been received from two authorities and therefore vide letter dated 01/11/2013 guidance has been asked from respondent no.1. However, till today the respondent no.1 has not clarified the position. In view of this, no order is issued either in favour of applicant or in favour of respondent no.4 and the respondent nos. 2&3 are coming with a case that they will issue the order after receiving the requisite opinion from respondent no.1. In view of this, the application can be disposed of by giving certain directions. We, therefore, passed the following order :-

ORDER

- (i) The O.A. is partly allowed.

(ii) The respondent no.1 is directed to take appropriate decision on the letter dated 01/11/2013 issued by respondent no.3 to it as mentioned in para-5 of the reply-affidavit of respondent nos. 2&3 and to intimate the respondent nos. 2&3 as to whether the applicant / respondent no.4 have requisite qualification as per the advertisement and as per the recruitment rules for the post of Maharashtra Municipal Water Supply and Sewreg Engineering Services, Class-III and after receiving such opinion the respondent nos. 2&3 may pass necessary order in respect of appointment of applicant or respondent no.4 as the case may be on its own merits. The respondent no.1 is directed to give its opinion as early as possible and in any case within one month from the date of passing of this order in this matter. No order as to costs.

(P.N. Dixit)
Member (A).

(J.D. Kulkarni)
Vice-Chairman (J).

Dated :- 07/04/2018.

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