

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 1020 OF 2019

DISTRICT:- OSMANABAD

Deepak Bhagwanrao Patil,
Age-51 years, Occu. Service as
Full Time Teacher in Electronics
Technology, Govt. Technical High
School, Osmanabad,
R/o C/o Hariom Departmental
Stores, Near Central Building,
Osmanabad-413 501.

.. **APPLICANT**

V E R S U S

- 1. The State of Maharashtra,**
Through the Secretary,
Skill Development & Entrepreneurship
Department, Mantralaya,
Mumbai-400 032.
- 2. The Director of Vocational Education
& Training, 3, Mahapalika Marg,**
V.T. Mumbai 400 001.
- 3. Maharashtra Public Service Commission,**
5th, 7th & 8th Floor,
Kuprej Telephone Exchange Building,
Maharshi Karve Road, Kuprej,
Mumbai-400 021.
Through its Secretary.

.. **RESPONDENTS**

APPEARANCE : Shri Ajay S. Deshpande, learned counsel
for the applicant.

: Shri V.G. Pingle, learned Presenting
Officer for the respondent authorities.

**CORAM : JUSTICE SHRI P.R. BORA, VICE CHAIRMAN
AND
: SHRI VINAY KARGAONKAR, MEMBER (A)**

RESERVED ON : 16.04.2024

PRONOUNCED ON : 02.05.2024

ORDER

[Per : Shri Vinay Kargaonkar, Member (A)]

Heard Shri Ajay S. Deshpande, learned counsel for the applicant and Shri V.G. Pingle, learned Presenting Officer for the respondent authorities.

2. Brief Facts.

The applicant is working as Full Time Teacher in Government Technical High School, Osmanabad. The applicant had applied to the post of Principal and he was selected and recommended by respondents for the post of Principal, however, on the basis of a complaint from a private individual the applicant was held ineligible and he was not appointed to the post of Principal. Therefore, he has filed this Original Application.

3. Pleadings and arguments by the applicant.

(i) The applicant passed diploma in Industrial Electronics in the year 1988 and on that basis, he was appointed as Full Time Teacher in Government Technical High School, Aurangabad for the trade "Electronics Technology". Although initially the applicant was appointed on *ad hoc* basis, the services of the applicant was regularized from the initial date of appointment by

policy decision through Government Resolution dated 08.03.1999. The applicant has been working as Full Time Teacher in Government Technical High School at Aurangabad and at Osmanabad. While in service, the applicant completed Diploma in Electrical Engineering from Government Polytechnic, Pune, through correspondence i.e. under Distance Learning Programme. The applicant thus, had 28 years' experience in teaching line, out of which 8 years' experience is in Post Diploma in Electrical Engineering.

(ii) The applicant submitted that, respondent No. 3 had published an advertisement for filling in 71 posts of Principal etc. from Maharashtra Education Services Group 'A' (Junior) (Technical) on 01.11.2013. Out of 71 posts, 20 posts were unreserved and applicant competed for these unreserved posts. Respondent No. 3 had released on internet duties of the post of Principal and those duties did not involve imparting education to the students or a teaching assignment to the pupils.

(iii) The applicant further submitted that in addition to the advertisement No. 90, respondent No. 3 had also published two more advertisements for the post of Principal, however, in different grade. Advertisement No. 89/2013 was for Group 'A' senior, whereas advertisement No. 91/2013 was for Group 'B'. Respondent No. 3 had conducted combined competitive examination for all three posts and as per application and preferences, recommended selected candidates for appointment. Although, applicant had applied in response to the

advertisement No. 89/2013 and advertisement No. 90/2013, he qualified only for the post of Principal, Group 'A' (Junior) (Technical) in response to the advertisement No. 90/2013. After the selection of the applicant, respondent No. 3 issued recommendation letter to respondent No. 1 for the post of Principal, Industrial Training institute in Maharashtra Education Services – Group 'A' (Junior) (Technical) under communication dated 16.09.2016. The applicant appeared for document verification and for other compliances in terms of communication from respondent No. 1. The applicant subsequently appeared for the Medical Examination and he was declared 'fit' by Medical Board. While the applicant was anticipating an order of appointment anytime in the midst of 2017, to his dismay, he did not receive it. It ultimately transpired that, on the basis of complaint of one Mr. Santosh Natha Salunke from Nashik, raising objection to the eligibility of the applicant, his appointment was withheld. Subsequently it transpired that, respondent No. 1 had sought a report from respondent No. 2 as to whether or not the applicant possesses eligibility in terms of the advertisement. Respondent No. 2 is reported to have stated that the applicant does not possess eligibility to be considered for appointment. Respondent No. 1 claims to have sought opinion of the Law & Judiciary Department as to the eligibility of the applicant qua advertisement and has declined to issue appointment order to the applicant.

(iv) The applicant submitted that clause-4 of the advertisement deals with eligibility and clause 4.3 deals

with educational qualifications and experience. Clause 4.3(iv) requires a candidate to possess a Diploma in Mechanical or Electrical Engineering or in both, at least in 2nd Class with 7 years' experience as mentioned in the paragraph (iii). Clause 4 (3)(3) reads thus:

“Have professional experience in a responsible position or experience of teaching the subject in any recognized Technical Institute or combined professional, teaching and research experience, for not less than three years, gained after acquiring the basic academic qualifications mentioned above in para No. (i) or (ii), or”

(v) The applicant submitted that he is serving as Full Time Teacher in Electronics Technology from 1991 and thus possessed 22 years' experience on the date of application. The applicant submitted that basic subjects in Engineering are Civil, Electrical and Mechanical. With the changing horizons in the field of Engineering, there are now more than 50 subjects in Engineering faculty, upon micro-segregation of subjects from basic 3 Engineering subjects. Electronics is one of such segregated subject from Electrical Engineering and is absolutely inseparable from Electrical Engineering. Therefore, possessor of a qualification in Electronic Technology has always a basic knowledge of Electrical Engineering as well. The applicant submitted that even as a Full Time Teacher of Electronic Technology, the applicant is required to impart a complete paper of 100 marks of Basic Electricity and even the other subjects are necessarily allied to Electrical Engineering, inasmuch as Electronic Technology itself is an offshoot of Electrical Engineering. The applicant submitted that he

has acquired Diploma in Electrical Engineering from Government Polytechnic, Pune in the year 2005 and thus possesses the required expertise in the field of Electrical Engineering also.

(vi) The applicant submitted that the job responsibilities attached to the post of Principal etc. in MES Group-A (Junior) (Technical) does not include teaching assignment at all, and therefore, whether the applicant was teaching subjects in Electrical Engineering or otherwise would hardly assume any significance. The post of Principal is predominantly a post enjoined with administrative responsibilities and assignment of teaching work to Principal is not contemplated at all. In none of the Industrial Training Institutes of the Government, Principal is supposed to impart education to the students.

(vii) The applicant submitted that one Shri Santosh Natha Salunke from Nasik had filed O.A. No. 315/2017 before the Principal Seat of this Tribunal at Mumbai by making party to the applicant as respondent No. 3, seeking multiple reliefs including cancellation of his recommendations made by respondent No. 3. The applicant further submitted that he has caused appearance in the said O.A. and opposed the claim made against him. Principal Seat of this Tribunal declined to peep into the issue as to the eligibility possessed by the applicant and directed respondent No. 1 to issue appointment order to the applicant in OA No 315/2017. This Tribunal declined to afford opportunity of hearing to the applicant stating that, no orders against the applicant

are being passed and without making any observation about the applicant, O.A. No. 315/2017 came to be allowed by the Principal Seat of this Tribunal at Mumbai by order dated 19.06.2019. The applicant submits that since O.A. No. 315/2017 was pending before the Principal Seat of this Tribunal at Mumbai, he had no occasion to make grievance, especially because he has yet not been communicated about his alleged ineligibility.

(viii) The applicant further submitted that it is foremost requirement and cardinal principle of natural justice that, before taking any adverse decision against an individual, he is required to be afforded an opportunity of hearing. However, the decision of his non-appointment was taken by respondent Nos. 1 & 2 without affording him an opportunity of hearing and till date he has not yet been informed about any such decision.

(ix) The applicant submitted that respondent Nos. 1 & 2 have singled him out in the process of non-selection, inasmuch as there are many more incumbents who were teaching subjects other than Mechanical and Electrical Engineering and still they have been offered appointment and they are presently working as Principal. The applicant submitted that other applicants who were teaching subjects like Civil Engineering, Maths, Engineering Drawing who had no experience in teaching either Electrical or Mechanical Engineering were also afforded an appointment as Principal. The applicant in his affidavit has given names of five such candidates, who were not teaching Mechanical or Electrical Engineering

subjects and they were afforded an appointment as Principal. The applicant claims that these 05 examples show fallacy in the claim of the respondents that the applicant does not hold experience as per the advertisement. The applicant claims that he holds both the qualifications prescribed under the advertisement and has been teaching Electrical Engineering subject since beginning for 100 marks. Therefore, rendering the applicant ineligible on the ground of so called “lack of experience” is not only unjust and unsustainable but illegal too.

4. **Submissions and arguments by the respondents.**

(i) On the basis of complaint received from Mr. Santosh Natha Salunke with reference to the appointment of the applicant, the report was sought from respondent No. 2. Respondent No. 2 formed a Three Members Committee to verify the credentials of the applicant in terms of his educational qualification, experience certificate and other documents. Three Members Committee submitted report to respondent No. 1 vide its letter dated 03.05.2017. In the said letter it was opined that the applicant is working as a Full Time Teacher (Electronic Technology) and, therefore, the experience certificate does not appear to be related to the subject of Mechanical or Electrical Engineering as mentioned in the advertisement as per Recruitment Rules.

(ii) The said report dated 03.05.2017 was send by respondent No. 2 to respondent No. 1 and respondent No.

1 forwarded it to Law and Judiciary Department, Mantralaya, Mumbai. Law and Judiciary Department opined that the applicant does not possess the experience required for the post of Principal, Industrial Training Institute and he is ineligible for the said post.

5. **Conclusions and reasoning:**

Applicant is not considered for the post of Principal, Industrial Training Institute as he does not possess the experience required for the post. Respondents have stated that applicant possess teaching experience of more than 7 years in Electronic Technology and not in Electrical Engineering. Eligibility condition required for the post of Principal, Industrial Training Institute as given in the advertisement is reproduced below:

“४.३ शैक्षणिक अर्हता व अनुभव:-

(i) Possess a Bachelor's degree in Mechanical or Electrical Engineering or in both at least in **Second Class** or a Master's degree in Mechanical or Electrical Engineering or in both, **or**

(ii) Possess a Diploma in Mechanical or Electrical Engineering or in both at least in Second Class and have passed sections A and B of the Associate Membership Examination of the Institution of Engineers (India), and

(iii) Have professional experience in a responsible position or experience of teaching the subject in any recognized Technical Institute or combined professional, teaching and research experience, for not less than three years, gained after acquiring the basic academic qualification mentioned above in the **para (i) or (ii), or**

(iv) Possess a Diploma in Mechanical or Electrical Engineering or in both at least in Second Class with Seven years experience as mentioned in above in the **para (iii).**”

Clause (iii) mentions three types of experience.

- (a) Either applicant should have professional experience in responsible position OR
- (b) Experience of teaching the subject in any recognized Technical Institute OR
- (c) Combined professional, teaching and research experience, for not less than three years'.

6. Experience clause does not specify experience of teaching which subject is required. There are three conditions of experience as mentioned in the advertisement and any condition of experience is sufficient to meet the selection criterion. Applicant is full time Teacher in Government Technical School and he seems to meet all three abovementioned criterion. A Principal of a Technical High School holds an administrative role primarily focused on overseeing the school's operations, managing staff, implementing educational policies and maintaining a conducive learning environment. Unlike teachers, principals do not engage directly in teaching students. Instead, they work to ensure the smooth functioning of the school and support the educational needs of both students and faculty. Their responsibilities encompass strategic planning, budget management, student discipline, and maintaining relations with all stakeholders, all aimed at facilitating student success and school effectiveness. Therefore insistence on teaching experience of one particular

subject does not sound logical. While teaching experience undoubtedly provides valuable insights into the educational process, being an effective principal of a technical high school requires a diverse skill set beyond teaching expertise alone. A background in teaching can offer understanding of pedagogy and student needs, a successful principal also needs strong leadership, organizational, and managerial skills. They must excel in areas such as strategic planning, budget management, staff development, and stakeholder engagement. Therefore experience in teaching Electronic Technology or Teaching Electrical Engineering is same as far as role of Principal, Industrial Training Institute is considered. Applicant in his affidavit has sighted five cases where teaching experience was in the field of Civil Engineering, Maths or Engineering drawing and still they were considered for the post of Principal, Industrial Training Institute. The principle of equality, enshrined in Article 14 of the Constitution, ensures that all individuals are treated fairly and without discrimination under the law. When two sets of applicants are not treated equally, it violates Article 14 of the Constitution. It is essential for institutions and authorities to uphold the principle of equality in all their actions and decisions, ensuring fairness, justice, and equal opportunities for all individuals, regardless of their differences. Any violation of

this principle not only undermines the ideals of democracy but also hampers the overall progress and development of society. Respondents have appointed 5 applicants who did not have experience in teaching Electrical Engineering but they have denied appointment to the applicant on the ground that he doesn't have experience in teaching Electrical Engineering. Denying appointment to the applicant for the post of Principal, Industrial Training Institute is violative of Article 14 of the constitution. Hence, the following order : -

ORDER

- (i) Original Application is allowed.
- (ii) Respondents shall issue order of appointment to the applicant as Principal, MES Group 'A' (Junior) (Technical) within two months from the date of this order.
- (iii) All service benefits, except salary, shall be extended to the applicant which is extended to his counterpart who is immediately below him in order of merit.
- (iv) There shall be no order as to costs.

MEMBER (A)

VICE CHAIRMAN