

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 1102 OF 2022

DISTRICT:- JALGAON

Mehebab Noor Mahammad Rangarej,
Age-31 years, Occ. Nil,
R/o. at City Police Line L-1,
Bhusawal, Dist. Jalgaon

AND ALSO

At 30/1, R.Y. Park,
Shivaji Nagar, Jalgaon.

..

APPLICANT

V E R S U S

1. The State of Maharashtra,
Through the Secretary,
Industry, Energy and Labour Department,
Mantralaya, Mumbai 32.
2. The Deputy Secretary (Energy-5),
Industry, Energy and Labour Department,
Mantralaya, Mumbai.
3. The Chief Electrical Inspector,
Industry, Energy and Labour Department,
3rd floor, Administrative Building,
Ramkrishna Chemburkar Road,
Chembur (East), Mumbai.
4. The Executive Engineer,
Divisional Electric Observation Circle,
Industry, Energy and Labour
Department, Shivdas Trade Center,
Plot No. 11, 1 Floor, Trimurti Square,
Jawahar Colony, Aurangabad.
5. The Executive Engineer,
Pune Divisional Electric Observation Circle,
Date Bunglow, Govt. Milk Dairy Compound,
Khadki, Pune.

.. RESPONDENTS

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

ORAL ORDER

2. The present applicant had applied for the post of Peon in pursuance of the advertisement issued by the respondents. The applicant had claimed the seat reserved for Sports person. One post was reserved for the Sports person. The applicant was selected against the said post. However,

during the course of documents verification the Sport certificate submitted by the applicant was forwarded for revalidation and in the revalidation it was invalidated on the ground that the Maharashtra Baseball Association which held the concerned competition was not recognized by the Indian Olympic Association. In the circumstances, no appointment order was issued in favour of the applicant and respondent No.6 who was only candidate in the waiting list was given appointment.

3. The applicant approached the Hon'ble High Court by filing W.P.No.6054/2017 and the Hon'ble High Court passed the following order in the said petition: -

*“4. In the light of above, the respondents are required to verify the sports certificate issued to the petitioner presuming that the event conducted by the Association on 17th to 20th November, 2012 was valid. Of course, the respondents will verify the genuineness of the certificate and all other aspects of the matter. The same shall be verified in accordance with Government Resolution dated 19th January, 2017 **(Exhibit – I).**”*

4. In pursuance of the order passed by the Hon'ble High Court, the Joint Director of Sports and Youth Department, Maharashtra State, Pune re-verified the sports certificate issued in favour of the applicant and vide its report dated 13.04.2018

held the said certificate to be valid and accordingly suggested to issue him order of appointment and accordingly inform the said department. It is the contention of the applicant that no decision was taken on the said letter and inspite of repeated requests made by applicant, the respondents did not issue him the order of appointment. In the circumstances, the applicant has approached this Tribunal by filing the present application seeking the following reliefs:-

“A. The Original Application may kindly be allowed.

B. In view of the above facts and circumstances, this Hon’ble Tribunal would be pleased / Sec. 19 of Administrative Tribunals Act, 1985, to direct the Respondent to decide his representation dated 05/04/2022 and application dated 23/04/2022 and to issue appointment order and posting to the applicant according to the selection dated 29/04/2015 and declare that the dated of eligibility i.e. 13/04/2018 and applicant is eligible for.

B-1. In view of the above facts and circumstances, this Hon’ble Tribunal would be pleased/Sec. 19 of Administrative Tribunal Act, 1985, and to direct the Respondent to decide the communication dated 28/04/2022 issued to Respondent No.1 and 2 and to direct the Respondent to issue appointment order to the applicant according to the selection.

C. In view of the above facts and circumstances, this Hon'ble Tribunal would be pleased / Sec. 19 of Administrative Tribunal Act, 1985, to quash and set aside the appointment order issued in favour of Respondent No. 6 and he is not eligible for appointment from the sports category."

5. The contentions raised in the O.A. are resisted by the respondents by filing the affidavit in reply. In the affidavit in reply, it is contended that the request of the applicant has been rejected on the ground that the sport certificate held by him was not valid. We are surprised to have such an affidavit by the respondents. The order passed by the Hon'ble High Court in the aforesaid Writ Petition as well as further recommendation made by the Joint Director of Sports are part of the present application, copies of which were served upon the respondents. It appears to us that, without going through the documents filed on record or contentions raised in the application, reply has been prepared and filed before this Tribunal. The reason which has been stated was no more in existence. The certificate was held valid and thereafter the applicant has approached the authority concerned. Since he did not receive any positive response, he has filed the present application. The documents on record further reveal that, recommendations were made to the respondents by the

subordinate office for considering the request of the applicant by referring the order passed by the Hon'ble High Court, however, appointment was not given to the applicant. Learned counsel for the applicant submitted that the applicant was consistently pursuing the request and every time it was told by the officer concerned that his proposal is under consideration. He also pointed out one such correspondence wherein the aforesaid fact is reflected.

6. Respondent No.6 has opposed the Original Application stating that he has been appointed from Sports category since he was at Sr.No.1 in the list of waitlisted candidates and he was only candidate in Sport category and hence, was selected and has been working with the department since more than 06 years. Learned counsel appearing for respondent No.6 submitted that the applicant was negligent in prosecuting his matter and hence is disentitled from claiming any relief. Learned counsel submitted that though the applicant has prayed for cancellation of the order passed in favour of respondent No.6, it would be unjust to cancel the appointment of respondent No.6 after he has served with the department for the period of more than 8 years. Learned counsel submitted that now respondent No.6 has also been

promoted to the post of Junior Clerk. Learned counsel submitted that even though the applicant may have become eligible, in the meanwhile period the appointment has been given to the respondent no.6, in view of the fact that he was the only eligible candidate and his name was included in the list of waitlisted candidates. Learned counsel in the circumstances prayed for rejecting the request of the applicant insofar as cancellation of appointment of respondent No.6 is concerned.

7. We have duly considered the submissions made on behalf of the applicant, State authorities as well as respondent No.6. As noted above, the reason for not considering the candidature of the applicant was that his Sports certificate was invalidated on the ground that the Indian Olympic Association has w.e.f. 11-02-2011 withdrawn the recognition of Maharashtra Baseball Association which held the concerned competition. However, subsequently vide G.R. dated 19-01-2017, the Government took a decision to consider the sports certificates granted to the sports persons securing meritorious position in the said tournament held upto 31-12-2013 valid, irrespective of the fact that, Indian Olympic Association had withdrawn the recognition of the Association

holding such competition. We deem it appropriate to reproduce the relevant contents of the said G.R. which reads thus:

“अ) इंडियन ऑलिम्पिक असोसिएशनने दिनांक ११ फेब्रुवारी, २०११ पासून मान्यता काढलेल्या अधिकृत राष्ट्रीय संघटनांनी व अशा अधिकृत राष्ट्रीय संघटनांनी संलग्नता दिलेल्या राज्य संघटनांनी, आयोजित केलेल्या, दिनांक ३१ डिसेंबर २०१३ पर्यंतच्या राष्ट्रीय / राज्य स्पर्धेमध्ये सहभाग घेउन प्राविण्य प्राप्त करणा-या खेळाडूंची ५ टक्के खेळाडू आरक्षणातर्गत विविध विभागामार्फत संचालनालयास पडताळणी करण्याकरिता प्राप्त होणारी, कीडा प्रमाणपत्रे पडताळणी करताना, संबंधित खेळाच्या राष्ट्रीय संघटनेस इंडियन ऑलिम्पिक असोसिएशनची मान्यता आहे, असे गृहित धरून पडताळणी करून द्यावी.”

8. The applicant had participated in the State level baseball competition held during the period between 17 to 20th November, 2012 organized by Maharashtra Baseball Association at Chalisgaon, Dist. Jalgaon and has secured the second individual merit (prize). Said certificate was invalidated on the ground that, recognition of Maharashtra Baseball Association was withdrawn by the Indian Olympic Association w.e.f. 02-02-2011. It was, therefore, held that the competitions which were organized by the Association not recognized by the Indian Olympic Association cannot be held valid. However, in view of the aforesaid G.R. now State Government has resolved to

consider the certificates granted in respect of sports competitions held by the respective Associations till 31-12-2013 to the prize winners in the said competitions as valid irrespective of the fact that such Associations have been derecognized by the Indian Olympic Association w.e.f. 02-02-2011.

9. Hon'ble High Court also in its order has reproduced the relevant portion of the G.R. dated 19-01-2017. In view of the said G.R. office of the Deputy Director, Sports has validated the certificate of the applicant and has suggested the appointing authority to issue the order of appointment to the present applicant accordingly. In view of the directions given by the Hon'ble High Court and re-verification accordingly done of the applicant's sports certificate by the Deputy Director of Sports, respondents could not have taken any contrary view. We reiterate that, previously it was invalidated on the only ground that the Maharashtra Baseball Association which had held the said competition stood de-recognized at the time when the competitions were held. Now the Government itself has issued a G.R. dated 19-01-2017 providing validity to the Sports Certificate issued by various Associations till 31-12-2013 irrespective of the fact that the said Association stood de-

recognized by the Indian Olympic Association w.e.f. 02-02-2011. For the reasons stated as above, we hold the Sports Certificate submitted by the applicant as valid and consequently hold the applicant eligible to be appointed against the seat reserved for Sports persons.

10. Now, the question arises what relief can be granted to the applicant, since in the meanwhile period the respondent no.6 has been appointed on the said post. Admittedly, there was only one post for the sports persons. It is the matter of record that, there is no interim relief in favour of the applicant. In the circumstances, the candidate in the waiting list i.e. respondent no.6 was appointed on the said post and now he has completed the period of 8 years of his service on the said post. However, the further facts which have come on record also deserve to be considered.

11. It has come on record that the respondent no.6 has been now promoted to the post of Clerk. Consequently, the post on which he was working has fallen vacant. According to the information of the applicant said post has not been yet filled by the respondents. Learned P.O., however, has not confirmed the said position. Learned P.O. also has not made any statement that said post has been filled in by the respondents. In the

circumstances, it appears to us that the applicant can be accommodated on the post which has fallen vacant because of the promotion granted to respondent no.6 if the said post would be still vacant. Hence, we are inclined to pass the following order:

ORDER

- (i) The respondents are directed to consider the candidature of the applicant for his appointment from Sports category on the post of Peon which has fallen vacant due to promotion of respondent no.6, if it is still vacant, within eight weeks from the date of this order.
- (ii) The Original Application stands allowed in the aforesaid terms without any order as to costs.

MEMBER (A)

VICE CHAIRMAN

Place : Aurangabad.

Date : 25-06-2024.