

MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD

ORIGINAL APPLICATION NO. 285 OF 2018

DIST. : AURANGABAD

Meera Janardhan Dolas,)
 Age. 36 years, Occu. Nil,)
 R/o Sanjay Nagar,)
 Smashan Maruti Road, Line No. B-4,)
 Aurangabad.) .. **APPLICANT**

V E R S U S

1. The Director,)
 Vocational Education & Training)
 Directorate, M.S., Mumbai - 1.)
2. The Joint Director,)
 Vocational Education & Training,)
 Regional Office, Aurangabad.)
3. Sunita Dhudku Mahajan,)
 Age. 42 years, Occu. Service,)
 (as Store Clerk, I.T.I.,)
 Malegaon Camp), C/o I.T.I.,)
 Mochi Corner, Malegaon Camp,)
 Malegaon, Dist. Nashik.)
4. Sheetal Ashokrao Joshi,)
 Age. : 34 years, Occu. Nil,)
 R/o At Post Umapur, Tal. Georai,)
 Dist. Beed.).. **RESPONDENTS**

 APPEARANCE :- Shri Avinash S. Deshmukh, learned
 counsel for the applicant.

: Shri V.R. Bhumkar, learned Presenting
 Officer for the respondent authorities.

CORAM : **Hon'ble Shri Justice P.R. Bora,**
Vice Chairman
and
Hon'ble Shri Vinay Kargaonkar,
Member (A)

DATE : 06.03.2024

O R A L - O R D E R

[Per :- Justice P.R. Bora, V.C.]

1. Heard Shri Avinash S. Deshmukh, learned counsel for the applicant and Shri V.R. Bhumkar, learned Presenting Officer for the respondent authorities.

2. The present applicant had applied for the post of Assistant Storekeeper/Store Clerk. Total 46 posts were advertised, out of which 21 were for Open candidates, out of which 08 were reserved for Open Female candidates. Name of the present applicant was included in the merit list. However, she did not receive the appointment. According to the applicant, she has been denied appointment for wrong reasons. As is revealing from the pleadings in the Original Application, for the subject post general test was conducted of 120 marks and in the said test the applicant scored 55.2 marks and consequently the skill test was also conducted for 80 marks, wherein the applicant is shown to have scored 32 marks and thus total score of the applicant was 87.2 marks.

3. In the first affidavit in reply filed on behalf of the respondent nos. 1 & 2 it is their contention that since the

applicant did not score overall 45% marks (i.e. marks in the written + skill test), the applicant was not considered for her selection. In the second affidavit in reply filed to the rejoinder filed on behalf of the applicant it is contended that the applicant was also expected to score 45% marks in the skill test and since the applicant did not score 45% marks in the skill test, she has not been selected.

4. Learned counsel for the applicant referring to the terms and conditions mentioned in the advertisement more particularly clauses 15, 16 & 17 thereof submitted that the condition of scoring minimum 45% marks was applicable only to the written examination and not for practical. Learned counsel pointed out that the applicant has admittedly received more than 45% marks in the written test and in the circumstances she could not have been kept out of consideration. Learned counsel also has referred to the document i.e. Government Resolution dated 27.06.2008, which has been filed on record by respondent No. 1, to buttress his contention that the post of Store Clerk or Assistant Storekeeper comes in the category of ministerial cadre, and that selection depends only upon the written test and the marks scored in the skill test are insignificant. It is also mentioned in the said G.R.

that while considering the candidates for their selection in the ministerial cadre, the candidates who scored more than 45% marks in the written examination only can be permitted to appear for skill test and only such candidates are to be considered.

5. Learned counsel then referred to clause 17 in the advertisement, wherein it is contended that candidates who are working on the post of Senior Clerk and Junior Clerk or Junior Clerk-cum-Typist are to be selected only on the basis of marks scored by these candidates in the general test and in the said general test the said candidates are expected to score more than 45% marks. Learned counsel submitted that if these provisions are conjointly considered, the marks which are relevant in the matter for selection are the marks scored by the candidates in the written test and not in the skill test or practical test. Applying the said criteria, according to learned counsel, the respondents, on the ground that applicant did not score 45% marks in the skill test, could not have kept the applicant out of consideration while preparing the list of recommended candidates.

6. We have considered the submissions made on behalf of the applicant and the respondents. We have gone through

the pleadings of the parties, as well as, documents placed on record and the G.Rs. referred to by the parties. It is not in dispute that the applicant received more than 45% marks in the written test. It is also undisputed that she could not secure 45% marks in the skill test. If the criteria of overall marks is to be applied it is evident that the applicant had not received the minimum marks prescribed as consolidated marks. When the minimum consolidated marks were prescribed as 90 marks, the applicant has received 87.2 marks. General merit list is also there on record.

7. According to the learned counsel for the applicant, the marks secured by the candidate concerned in the written examination only are relevant for the purpose of selection of the candidate. As against it, learned Presenting Officer has submitted that the aggregate marks must be more than 45%, which have not been scored by the applicant. We have gone through the GRs and the Rules, which are referred to by the learned counsel for the applicant and learned Presenting Officer.

8. After having considered all these documents, we have reached to the conclusion that considered from any angle no case can be said to have been made in favour of the applicant, so as to grant relief as has been claimed by her in the present O.A. Specific query was made that whether any Open Female candidate having less marks than the

applicant has been selected by the respondents? On instructions, the learned counsel for the applicant fairly submitted that no such candidate has been selected from the said category. Even the documents on record, demonstrate the same fact. If the argument of the learned counsel is to be accepted that the marks scored in the written test only are to be taken into account, even then after having scrutinized the general merit list and the list of selected candidate, we did not find that any candidate being scored less than 45% marks in the written examination has been selected by the respondents. It also can be gathered from both the aforesaid lists that the candidates who are named in the list of recommended candidates all of them have scored more marks in the written test than the present applicant and their aggregate marks are also more than the applicant.

9. Considering the aforesaid aspects it does not appear to us that any relief is liable to be granted in favour of the applicant. Hence, the following order: -

ORDER

The Original Application is dismissed however, without any order as to costs.

MEMBER (A)

VICE CHAIRMAN

Place : Aurangabad

Date : 06.03.2024

ARJ O.A. NO. 285 OF 2018 (SELECTION)