

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 724 OF 2019

**DISTRICT:- OSMANABAD/
AURANGABAD**

- 1. Kailas Irappa Khandagale,**
Age-44 years, Occu. Nil-Labour,
R/o. At Post Wagholi (Warud)
Tq. & Dist. Osmanabad
- 2. Smt. Karuna D/o Narayan Bhujang @
Smt. Karuna W/o Ravi Gadve,**
Age : 38 years, Occu. Nil,
R/o Ekta Nagar, Behind Harsool
Central Jail, Jatwada Road,
Harsool, Aurangabad. .. **APPLICANTS**

V E R S U S

- 1) The State of Maharashtra,**
Through Chief Secretary,
Mantralaya, Mumbai 400 032.
- 2) The Secretary,**
Public Health Department,
Mantralaya, Mumbai-32.
- 3) The Director of Health Services,**
St. Georges Hospital Compound,
Fourth Floor,
V.T. Mumbai 400 001.
- 4) The Joint Director of Health Services,**
(Malaria, Falaria & Water Borne
diseases), Survey No. 94/1A Arogya
Bhavan, Alandi Road, Opp. Vishrantwadi
Police Station, Mental Cornar,
Yerwada, Pune 411 006. .. **RESPONDENTS**

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

: Shri M.B. Bharaswadkar, learned Chief
Presenting Officer for the respondent
authorities.

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

DATE : 18.04.2024

ORDER

(Per : Justice Shri P.R. Bora, Vice Chairman)

ORAL ORDER :

Heard Shri Ajay S. Deshpande, learned counsel for
applicant and Shri Mahesh B. Bharaswadkar, learned Chief
Presenting Officer for the respondent authorities.

2. The joint Director of Health Services (Malaria, Falaria &
Water Borne diseases) (respondent No. 4) had issued an
advertisement on 07.10.2008 inviting applications for the
recruitment of Laboratory Technician. Total 1007 vacancies were
notified. 133 posts were earmarked for S.T. category out of which 46
were meant for S.C. General and 39 were for S.C. Female. Both the
applicants belong to S.C. category. Applicant No. 1 secured 56
marks in written examination and 12 marks in interview; whereas
applicant No. 2 secured 59 marks in written examination and 6
marks in the interview i.e. total 68 and 65 marks respectively. As per
the Government Resolution dated 19.10.2007 minimum 45% marks
were required to be secured by the candidates for their selection. It
so happened that in the written examination disproportionately less

number of candidates secured 45% of marks. In the circumstances, the respondent authorities moved a proposal to the Hon'ble Chief Minister and the Hon'ble Chief Minister was pleased to lower down the cutoff marks from 45% to 35%. Accordingly, the revised merit list and select list was published by the respondents.

3. Though the cutoff marks were lowered down to 35% the present applicants could not be selected since they have scored less than 35% marks. It is the grievance of the applicants that while lowering down the cutoff marks in his discretion the Hon'ble Chief Minister must have prescribed different cutoff for the S.C. candidate than the other candidates. Shri Ajay Deshpande, learned counsel appearing for the applicants argued that by prescribing common cutoff for all the candidates that is to say for the S.C. candidates and the open category candidates, the Hon'ble Chief Minister has treated unequals as equals in violation of the Articles 14 and 16 of the Constitution of India. Learned counsel further argued that it has been a general policy adopted by the State Government to reduce benchmark for socially backward classes by 5% than the open candidates. Learned counsel submitted that in the instant matter the said policy has been unjustly done away with culminating in treating un-equals as equals. Learned counsel submitted that as the aforesaid principle has not been followed, the applicants have been deprived from securing the appointment on the subject post. In the circumstances, the applicants have prayed for

setting aside the decision of respondent No. 2 dated 11.03.2019 and have further prayed for direction against the respondents to appoint the applicants as Laboratory Technician by suitably modifying the benchmark of 35%.

4. Despite availing several opportunities the respondents i.e. the State authorities have failed to file the affidavit in reply and in the circumstances the Original Application has been heard without the affidavit in reply of the State authorities.

5. Learned Chief Presenting Officer however has opposed for grant of the relief as sought in the O.A. stating that the Hon'ble Chief Minister in his discretion has already lowered down the cutoff and no further cutoff could have been given by the Hon'ble Chief Minister. Learned C.P.O. further submitted that the recruitment process out of which the present O.A. has arisen has already been concluded. Learned C.P.O. further submitted that thereafter two more recruitment processes were undertaken respectively in the year 2013 & 2015 and the said processes have also been concluded. It is further submitted that against the seats reserved for S.C. candidates also the eligible candidates have been selected and appointment orders are issued in their favour. In the circumstances, according to learned C.P.O., none of the prayer as has been made by the applicants deserves to be

granted. He, therefore, prayed for dismissal of the Original Application.

6. We have carefully considered the submissions made on behalf of the applicant, as well as, the State authorities. At the outset it has to be stated that uncommon issue is raised in the present Original Application. Logic put-forth by the learned counsel Shri Ajay Deshpande though ostensibly appears equitable, we are afraid to what extent the same could be applied in the facts of the present Original Application. As has come on record not only the recruitment process of 2008 from which the present dispute has arisen has been concluded, two more processes of recruitment carried out in the year 2013 and 2016 respectively have also been concluded and adequate number of S.C. candidates have been selected and appointed in the said recruitments. In the above circumstances, no relief can be granted as has been prayed in the Original Application. Hence, the following order: -

ORDER

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

MEMBER (A)

VICE CHAIRMAN