

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI,
BENCH AT AURANGABAD.**

ORIGINAL APPLICATION NO. 981 OF 2023

DIST. : LATUR

Swati Shivajirao Maknikar,
Age. Major, Occu. : Nil,
R/o Laxmi Colony, Old AUSA Road,
Latur, Tq. & District Latur.

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APPLICANT

V E R S U S

1. State of Maharashtra,
Through Principal Secretary,
Home Department, Mantralaya,
Mumbai - 32.
2. The Director General of Police,
State Police Headquarters,
Old Council Hall,
Shaheed Bhagat Singh Marg,
Mumbai - 1, Maharashtra - 400 001.
3. The Additional Director General
Of Police, Mohammad Ali Chowk,
Chaya Talkies Rd., Joshibaug,
Kalyan, Maharashtra - 421 301.
4. The Special Inspector General of Police,
Training and Special Squad,
Chhatrapati Shivaji Maharaj Marg,
Colaba, Mumbai, Maharashtra 400 001.
5. Vice Principal,
Police Training Center, Babhalgaon,
Latur, Tq. & Dist. Latur.

.. RESPONDENTS

APPEARANCE :- Smt. Swati Shivajirao Maknikar – party
in person.

: 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 : **29.04.2024**

ORDER

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

1. Heard Smt. Swati Shivajirao Maknikar, party-in-person and Shri V.R. Bhumkar, learned Presenting Officer for respondent authorities.

2. The present applicant had applied for the post of Law Instructor at Police Training Centre, Babhalgaon, Latur. The applicant has not been issued the order of appointment on the ground that she scored less than 50% marks. It is the grievance of the applicant that she has been disqualified and not selected for wrong reasons. It is her contention that she has been working on the said post since last more than 10 years and during the entire said period there was no complaint against her on the ground that she has no requisite knowledge in the subject, which she was teaching.

3. The applicant has alleged that in the interview 02 questions were asked to her out of syllabus and hence she could not answer the said questions. It is her further contention that when she was called for interview in the midst of her interview she lost her voice and hence she gave the answers of the questions put to her in the interview in her own handwriting. It is the contention of the applicant that total 04 questions were asked to her in the interview out of which she appropriately answered 02 questions, which were relating to the syllabus. However, she could not answer other 02 questions for the reason that they were out of syllabus. In the circumstances, it is her contention that she must be held to have scored 50% marks and consequently she could not have been rejected on the ground that she did not score 50% marks as were prescribed.

4. It is the further contention of the applicant that the respondents did not consider her 12 years of service in the same Department and have wrongfully rejected her candidature. Hence, the applicant has approached this Tribunal seeking the following reliefs:-

“A) This Original Application may kindly be allowed and call for original record of interview.

B) Kindly be directed to revoke the order dated 21/09/2018 passed by the respondent no. 3 against the present applicant is annexed at annexure – ‘4’ of this original application.

C) Pending admission, hearing and final disposal of this Original Application, stay to the order dated 21.09.2018 issued by the respondent No. 3 against the present applicant and directed to continue the previous service of the applicant.

D) Any other suitable, equitable relief to which the present applicant is entitled in the peculiar facts and circumstances be granted in favour of present applicant.”

5. Respondent no. 05 has filed the affidavit in reply, thereby opposing the contentions raised in the Original Application, as well as, prayers made therein. The sum and substance of the affidavit in reply filed by the said respondent is that the applicant failed in the interview and, as such, has not been selected. It is contended that at the time of interview the applicant could not speak and submitted the answers in writing. It is further contended that since the applicant received only 19 marks out of 50, she has not been selected.

6. The party-in-person has submitted her written note of arguments, whereas Shri V.R. Bhumkar, learned Presenting

Officer appearing for the respondents has prayed for treating the affidavit in reply filed on behalf of respondent no. 05 as the arguments on behalf of all the respondents.

7. We have gone through the written note of arguments submitted by the applicant, as well as, the pleadings in the O.A. and the contentions raised in the affidavit in reply filed on behalf of respondent no. 05. Applicant has sought quashment of the communication dated 21.09.2018 whereby the applicant was declared ineligible for to be appointed on the post of Law Instructor in Police Training Centre on contract basis. The aforesaid order is sought to be quashed by applicant on 03 grounds, first that she has been working as Law Instructor since last about 11 years and as such she could not have been held ineligible. The second ground raised by the party-in-person is that out of syllabus questions were asked to her in the interview and 3rd that her performance in the interview has not been properly assessed by the interview committee.

8. Insofar as the first objection is concerned, though it is true that the applicant has been working as a Law Instructor since last 10 years, only on that basis she was not liable to be selected and the selection was mainly depending upon her performance in the interview. As contended by the

respondents, the applicant could secure only 19 marks out of 50 in the interview, whereas the benchmark was fixed of 50% marks. The applicant has raised a plea that at the time of her interview she lost her voice and in the circumstances, she was constrained to record her answers in writing. The aforesaid contention of the applicant is not disputed by the respondents.

9. During the course of the hearing of the present O.A. a prayer was made by the applicant that the record of the interview shall be called for and be perused by the Tribunal, which will remove all the doubts. Accordingly the learned Presenting Officer had submitted the original record, which we have carefully perused. Perusal of the record revealed that the interview committee had asked 04 questions to the applicant to which the applicant had given replies in writing. We perused the said answer-sheet. On the request of the applicant the said answer-sheet was shown to her. On perusal of the said answer-sheet the applicant denied that the answers recorded therein were in her handwriting meaning thereby that the respondents have placed on record a forged document.

10. We have carefully gone through the said document. It reveals that total 04 questions were asked to the applicant to which the applicant has given answers in her handwriting.

Though the applicant took a bold stand that the handwriting in the said paper was not her handwriting, thereby impliedly making an allegation that some forged document was produced before the Tribunal, the applicant did not take any further step to substantiate that the handwriting on the said document was not her's. The applicant, however, admitted that the same 04 questions were asked to her in the interview. She also further stated that the last 02 questions asked to her were beyond syllabus. It was also not her contention that the answers to the first 02 questions were not recorded as answered by her.

11. From the facts as aforesaid, it can be reasonably inferred that the answers recorded are in her handwriting. It is significant to note that based on the said document itself it was argued by the applicant that when she had answered 02 out of 04 questions rightly, she was liable to get 50% marks. The argument so made is liable to be rejected at the threshold. The aforesaid cannot be the criteria for giving marks. Usually some preliminary questions are asked to test the basic knowledge of the candidate and if the committee finds that the candidate concerned even does not know the basic provisions may not ask any further question. Moreover, the Tribunal cannot sit over

the performance assessment done by the committee, as an appellate authority.

12. The fact remains that in the interview the applicant secured only 19 marks. Though no such document was brought to our notice prescribing cutoff marks for selection, the record, which we perused of the interviews, revealed that the committee has declared only such candidates eligible, who have scored more than 25 marks in the interview and all the candidates, who scored less than that have been held ineligible. In the circumstances, even if it is assumed that no cutoff was prescribed earlier, it would not take the case of the applicant any further as the interview committee did not recommend any candidate, who had scored less than 25 marks. The allegation made by the applicant is thus without any substance and appears false.

13. It has to be further stated that the facts, which are stated by the applicant in her written note of arguments are beyond the pleadings in the O.A. We therefore need not give any weightage to such submissions. The applicant had made an allegation against her superior officers, as well as, against some political persons. The allegation is also made against one Hon'ble sitting Judge of Bombay High Court without bothering

for the consequences of making such bold allegation. The applicant has not made out any case in support of her prayer. The Original Application, therefore, deserves to be dismissed. Hence, we pass the following order:-

ORDER

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

MEMBER (A)

VICE CHAIRMAN

Place : Aurangabad

Date : 29.04.2024