

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO.587/2023(D.B.)

1. Yogesh Hanumantrao Telange,
Aged about 35 Years, Occ.: Service,
O/o Taluka Agriculture Office,
Wardha, District Wardha.
2. Smt.Durgatai Shrawan Yerne,
Age about 39 years, Occ.: Service,
Taluka Bij Guanani Centre, Dongargaon,
Tahsil Mohadi, District Bhandara. (Deleted)
3. Smt. Dipali Vasantrao Vaidya,
Aged about 35 years, occupation service,
O/o Taluka Agriculture Officer,
Wardha, Distt. Wardha.
4. Smt. Vandana Shrawanji Khairkar,
aged about 35 years, Occupation service,
O/o Taluka Agriculture Officer,
Deoli, District Wardha.

Applicants.

Versus

- 1) State of Maharashtra,
through its Secretary,
Department of Agriculture,
Animal Husbandry, Dairy Development
and Fisheries Department,
Mantralaya, Mumbai-32.
- 2) The Commissioner of Agriculture,

M.S., Pune.

- 3) The Divisional Joint Director of Agriculture,
Nagpur Division, Administrative Building No.2,
Civil Lines, Nagpur.

Respondents

Shri G.K.Bhusari, Ld. Counsel for the applicants.
Shri M.I.Khan, Ld. P.O. for the respondents.

Coram:- Hon'ble Shri M.A.Lovekar, Member (J) &
Hon'ble Shri Nitin Gadre, Member (A).

Dated:- 17th October, 2024.

JUDGMENT

Judgment is reserved on 9th October, 2024.

Judgment is pronounced on 17th October, 2024.

Per : Member (A).

Heard Shri G.K.Bhusari, learned counsel for the applicants and Shri M.I.Khan, learned P.O. for the respondents.

2. The submission of the applicants in the application dated 15.06.2023 is as follows.

The applicants are working in the Agriculture Department as Agriculture Assistants. The respondent No.3 issued advertisement dated 12.01.2023 to fill 113 posts of Agriculture Supervisors by holding limited departmental competitive examination and inviting applications from the suitable candidates.

The Divisional Joint Director of Agriculture, Nagpur declared the

result of the State Examination on 21.04.2023. The names of the applicants were reflected in the said list at serial number 111 to 114 respectively. Each applicant had secured 96 marks in the said examination. Applicants further claim that there was no Clause for providing any reservations for filling the post of Agriculture Supervisor. However, in the promotion order dated 31.05.2023, the names of the applicants were not included whereas some candidates who secured only 90 marks were included. The applicants have stated that these candidates belong to the handicapped category and therefore the respondent No.2 might have issued appointment orders in their favour. They have further submitted that three posts of Agriculture Supervisor are still vacant and by not giving appointments to the applicants who have secured more marks, they have been deprived from their legitimate rights.

3. The respondents 1 to 3 have submitted their reply on 25.09.2023. The material portion is as follows:

It is submitted that it is specifically provided in the G.R. dated 05.03.2022, 29.05.2019 and 20.04.2023 in respect of reservation of handicap employees in promotion. It is specifically submitted that as per G.R. 20.04.2023, the respondents has selected 4% handicap employee for promotion, i.e. 5 posts out of total 113 posts of Agriculture supervisor. It is further submitted that the said general rule of the handicap reservation is known to all Government

employees and therefore it was not necessary to specifically mention it in advertisement dated 12.01.2023. It is further submitted that the advertisement dated 12.01.2023 it is specifically mentioned in the Clause No.7.3 that all the decision related to the examination shall be taken by respondents and decision of respondents shall be final in such matter. The copy of G.R. dated 20.04.2023 is annexed as Annexure-R-I for the perusal of this Hon'ble Tribunal.

They have further submitted that they have implemented reservation scheme as mentioned in the G.R. dated 20.04.2023 as follows.

It is specifically submitted that Shri Moreshwar Rameshwar Tembekar is handicap employee of the respondents and promoted as per G.R. dated 20.04.2023. It is specifically submitted that Shri Baban Kisnaji Malkhede is also handicap employee of the respondents. It is specifically submitted that the respondents has selected 108 employees from examination for promotion as per merit list and 2 (two) employees selected in handicap quota as per G.R. dated 22.04.2023 and 3 (Three) post which were left in resaved quota for handicap employee are kept vacant for next year promotions. It is specifically submitted that Shri Malkhede name is not visible in 108 employees of merit list and therefore, he is promoted from handicap quota. Therefore, the other contents of these paras are denied being false and vague submissions.

4. From this discussion, the facts of the matter can be listed as below:

The respondents had issued an Advertisement on 12.01.2023 to fill in 113 posts of Agriculture Supervisors by holding

limited departmental competitive examination. It is nowhere mentioned in this Advertisement that there is any provision for the reservation for handicapped persons. The result was declared on 21.04.2023. However, the General Administration Department on 20.04.2023 issued a G.R. describing a revised scheme for providing reservation to handicapped persons. The relevant portion of the G.R. is as follows.

१०) दिव्यांगांसाठी आरक्षित पदे पुढील भरती वर्षात ओढणे व अंतर्गत परिवर्तनाने पदभरती करणे

१०.१) निवडीने पदोन्नती (Promotion by Selection)

१) दिव्यांग आरक्षणाने पद भरती करताना सुयोग्य दिव्यांग कर्मचाऱ्यांचा दिव्यांग आरक्षणानुसार पदोन्नतीसाठी विचार करावा.

२) संबंधित दिव्यांग प्रवर्गानुसार पुरेसे दिव्यांग कर्मचारी सर्वसाधारण पदोन्नती क्षेत्रात उपलब्ध होत नसतील, तेथे सर्वसाधारण पदोन्नती क्षेत्र ५ पट वाढवावे.

३) पदोन्नती क्षेत्र वाढवून देखील पात्र दिव्यांग उमेदवार उपलब्ध न झाल्यास ती जागा रिक्त ठेवावी आणि पुढील भरती वर्षात ओढावी.

४) पुढील भरती वर्षात देखील पात्र दिव्यांग उमेदवार उपलब्ध न झाल्यास अन्य दिव्यांग प्रकारातून अंतर्गत परिवर्तनाने पद भरती करावी.

५) अन्य दिव्यांग प्रकारातून अंतर्गत परिवर्तनाने देखील पद भरणे शक्य न झाल्यास सदर पद दिव्यांगा व्यतिरिक्त इतर उमेदवारांमधून भरण्यात यावे आणि हे आरक्षण पुढील दोन भरती वर्षाकरिता पुढे ओढावे व नंतर व्यपगत करावे.

१०.२) ज्येष्ठतेने पदोन्नती (Promotions by seniority cum fitness)

१) दिव्यांग आरक्षणाने पद भरती करताना सुयोग्य दिव्यांग कर्मचाऱ्यांचा दिव्यांग आरक्षणानुसार पदोन्नतीसाठी विचार करावा

२) संबंधित दिव्यांग प्रवर्गानुसार पुरेसे दिव्यांग कर्मचारी सर्वसाधारण पदोन्नती क्षेत्रात उपलब्ध होत नसतील, तेथे संबंधित ज्येष्ठता सूचीतून पात्र दिव्यांग उमेदवार मिळेपर्यंत खाली जावे.

३) ज्येष्ठता सूचीमध्ये पात्र दिव्यांग उमेदवार उपलब्ध न झाल्यास ती जागा रिक्त ठेवावी आणि पुढील भरती वर्षात ओढावी.

४) पुढील भरती वर्षात देखील पात्र दिव्यांग उमेदवार उपलब्ध न झाल्यास अन्य दिव्यांग प्रकारातून अंतर्गत परिवर्तनाने पद भरती करावी.

५) अन्य दिव्यांग प्रकारातून अंतर्गत परिवर्तनाने देखील पद भरणे शक्य न झाल्यास तर हे आरक्षण पुढील दोन भरती वर्षाकरिता पुढे ओढावे व नंतर व्यपगत करावे.

As per this Government Resolution, if suitable candidates are not available in the handicapped category in a particular year, the vacant positions reserved for handicapped persons are to be carried forward to the next year. This provision is applicable in filling the post by nomination and also by promotion.

5. In the present case, the post of Agriculture Supervisor is being filled by conducting a limited departmental exam. This means that the post is being filled through the channel of promotion. In the para 17 of the G.R., it is mentioned that this G.R. will be applicable from the date of issue i.e. 20.04.2023. Even though, the Advertisement was issued before this date, the result was declared

on 21.04.2023 and actual promotion orders were issued on 31.05.2023. The limited departmental exam is not the same as the public exam conducted for filling the posts by nomination. This exam is conducted for a limited purpose of giving promotions, based on a merit list instead of the seniority list, of the employees working in a lower cadre. The Advertisement of this examination is mainly to explain the structure of the examination. Therefore, policy in force at the time of awarding promotions is important. The Respondents have followed provisions of the G.R. dated 20.04.2023, which was applicable when the promotion orders were issued on 31.05.2023 and kept three posts reserved for handicapped persons vacant for carrying them forward to the next year, as suitable candidates were not available. Hence, we find no reason to interfere at this stage.

ORDER

1. The O.A. is dismissed.
2. No order as to costs.

(Nitin Gadre)
Member(A)

(M.A.Lovekar)
Member(J)

Dated – 17/10/2024
rsm.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Raksha Shashikant Mankawde.

Court Name : Court of Hon'ble Member (J)
& Hon'ble Member (A).

Judgment signed on : 17/10/2024.

and pronounced on