

**THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL,  
MUMBAI**

**ORIGINAL APPLICATION NO.1504 OF 2023**

**DISTRICT: Kolhapur**  
**Subject: Appointment Process**

Smt Anita Jeevan Bodake, )  
Age 57 years, Occ : Service, R/o 714/5, )  
Tararani Colony, Racecourse Naka, )  
Sambhaji Nagar, Kolhapur. )...Applicant

Versus

Maharashtra Public Service - )  
Commission, through its Secretary, )  
O/at Trishul Gold Field, Plot No.34, )  
Opp. Sarovar Vihar, CBD Belapur, )  
Navi Mumbai 400 614. )....Respondent

Shri B. R. Mandlik, the Counsel for the Applicants.

Ms. S. P. Manchekar, the Chief Presenting Officer for the Respondents.

CORAM : Justice Mridula Bhatkar, Chairperson  
Shri Debashish Chakrabarty, Member (A)

DATE : 14.02.2024.

**JUDGEMENT**

1. Heard Shri B. R. Mandlik, learned Counsel for the Applicants and Ms S. P. Manchekar, learned Chief Presenting Officer for the Respondents.

2. The learned Counsel for Applicant submits that the Respondent No.1-MPSC had issued Advertisement Bearing No.116 & 117 of 2023 on 26.10.2023 for the post of 'Principal/Director (Government Colleges/ Institutions for Arts, Commerce and Science). The last date of submission of Application Form was 20.11.2023.

3. The Applicant prays for direction to the Respondent to permit applicant to participate in the appointment process for the post of

'Principal/Director (Government Colleges for Arts, Commerce & Science) in pursuance of and as per the Advertisement No.116 & 117 of 2023, dated 26.10.2023.

4. Learned Counsel for Applicant submits that MPSC had published an Advertisement No.116 & 117/2023 on 26.10.2023 for the post of 'Principal/Director (Government Colleges/Institutions or Arts, Commerce and Science). According to the said Advertisement, the period to apply for the said post was fixed from 30.10.2023 to 20.11.2023.

5. Learned Counsel for Applicant further submits that the Applicant is 'In Service' Candidate' and was working as the 'In-charge Principal' at Government College i.e Ismail Yusuf College of Arts, Science and Commerce, Jogeshwari (E), Mumbai and is currently working as at the Rajaram College, Kolhapur. He submits that Applicant is working as a 'Lecturer' since 1994 and thereafter as 'Assistant Professor' and 'Professor' respectively since 2002 and 2021. He, therefore, states that Applicant is a 'Government Employee' and fulfills all the 'Eligibility Criteria' and 'Qualifications' for post of 'Principal/Director (Government Colleges/Institutions or Arts, Commerce and Science)'.

6. Learned Counsel then submits that Applicant is 57 Years old. According to the said Advertisement No.116 & 117 of 2023 dated 26.10.2023, the 'Upper Age Limit' for Reserved Category is fixed at 59 years. The Applicant, therefore, applied for the post of 'Principal/Director (Government Colleges/Institutions or Arts, Commerce and Science)' from the Reserved 'OBC' Category. As per the Advertisement No.116 & 117 of 2023 dated 26.10.2023, the Candidate is required to submit 'NCL Certificate' (Non-Creamy Layer Certificate), if he/she applied from the Reserved 'OBC' Category.

7. Learned Counsel for Applicant then states that Applicant is permanent resident of Kolhapur City and she was required to obtain the said 'NCL Certificate' within a very short span of time, after the said Advertisement No.116 & 117 of 2023 was published by MPSC on 26.10.2023, she tried to obtain the said 'NCL' Certificate in 1<sup>st</sup> week of

November, 2023 but she found it impossible to obtain 'NCL Certificate' within such short period of One Week.

6. Learned CPO for Respondents points out Clause 7.2 & Clause 7.2.2 of the Advertisement No.116 & 117/2023 dated 26.1.2023 which reads as under:-

“7.2 वयोमर्यादा :-

वयोमर्यादा गणण्याचा दिनांक	किमान वय अमागास/मागा सवर्गीय/आ.दु. घ.	कमाल वय						दिव्यांग उमेदवार
		अराखीव (खुला)	मागासवीर्य/आ. दु.घ./अनाथ	प्राविण्य प्राप्त खेळाडू		माजी सैनिक, आणिवानी व अल्पसेवा राजदिव्ट अधिकारी		
				अराखीव (खुला)	मागासवीर्य/ आ.दु. घ/अनाथ	अराखीव (खुला)	मागासवीर्य/आ.दु. घ/अनाथ	
१ फेब्रुवारी २०२४	१९	५४	५९	५४	५९	सैनिक सेवेचा कालावधी अधिक ३ वर्षे		५४

“7.2.2 महाराष्ट्र शासनाचे कर्मचारी, मागासवीर्य उमेदवार, दिव्यांग आणि खेळाडू यांना असलेली वयोमर्यादेतील शिथिलतेची सवलत यापैकी कोणतेही अधिकतम असलेली एकच सवलत देय राहिल.”

8. Learned Counsel for Applicant submits that she got 'NCL' Certificate on 20.11.2023 and the last date for filling of Application Form was also 20.11.2023. The learned Counsel states that 'NCL' Certificate was issued on 21.11.2023 at 9.13.56 AM as it is pointed out from the 'NCL' Certificate placed as 'Exhibit H'. Thereafter, on the same day, Applicant could not upload the said 'NCL' Certificate.

9. Learned Counsel for Applicant further contended that Clause No.7.2.2 of the Advertisement No.116 & 117 dated 26.10.2023 about Age Relaxation for the 'Government Servants' is very vague and Applicant wanted to apply in 'Open' Category and as she being the 'Government Servant' was eligible to get the Age Relaxation of 5 years. At the relevant time, she was just over 57 years and was eligible as age of 'Upper Age Limit' was 54 and with Age Relaxation of '5 Years' it would be 59.

10. We notice that this O.A. is filed on 05.12.2023 i.e. much after the last date of filing of Application Form which was on 20.11.2023. The Applicant had full knowledge of Clause 7.2.2 on 26.10.2023 itself when Advertisement No.116 & 117 was published by MPSC.

11. Learned CPO submits that if at all any mistake is committed by MPSC in Advertisement No.116 & 117 dated 26.10.2023 like Clause 7.2.2. in respect of Age Relaxation, the recruitment rules prevail. She points out 'Rule 3' of "Principal or Director in the Government College of Arts, Commerce and Science, Government Institute, State Institute for Administrative Careers, Pre-Indian Administrative Service Training Centers, Government Institute of Science, Institute of Forensic Science, Sydenham Institute of Management Studies and Research and Entrepreneurship Education, Mumbai in the Government College of Education in the Maharashtra Education Service, Group-A and Government College of Law, in the General State Service, Group-A (Law) (Recruitment) Rules, 2012.

"Rule 3 : Appointment to the post of the Principal or Director in the Government Institute or College of Arts, Commerce and Science, State Institute for Administrative Careers, Pre-Indian Administrative Service Training Centre, Government Institute of Science, Institute of Forensic Science, Sydenham Institute of Management Studies and Research and Entrepreneurship Education, Mumbai in the Government College of Education in the Maharashtra Education Service, Group-A and Government College of Law, in the General State Service, Group-A (Law) shall be made in the relevant discipline by nomination from amongst the candidates who –

- (i) are not more than 54 years of age and have not less than 5 years to the age of superannuation."

11. Learned CPO, therefore, submits that Applicant who is Government Servant is not separately entitled to the benefit of Age Relaxation in view of her age of just over 57.

12. The provisions of 'Rule 3' of "Principal or Director in the Government College of Arts, Commerce and Science, Government Institute, State Institute for Administrative Careers, Pre-Indian Administrative Service Training Centers, Government Institute of Science, Institute of Forensic Science, Sydenham Institute of Management Studies and Research and

Entrepreneurship Education, Mumbai in the Government College of Education in the Maharashtra Education Service, Group-A and Government College of Law, in the General State Service, Group-A (Law) (Recruitment) Rules, 2012 do not provide for Age Relaxation beyond 54 years for any categories including Backward Classes, Disabled Persons, Sports Persons Orphan Categories including for Government Servant. Thus, the Upper Age Limit of 54 is 'ex-facie' applicable to all Candidates. However, pertinent to note here is that 'Age Relaxation' is given by way of 'Administrative Instructions' for 'Special Reasons' as is evident from (i) GAD GR dated 25.04.2016 & (ii) GAD GR dated 03.03.2023.

13. The case of the Applicant hinges on the 'Age Relaxation' provided to Government Servants. Hence, it is necessary to reproduced the Clause 7.2.2 of 'Age Relaxation' for Government Servants in (i) Advertisement No.116 & 117 dated 26.10.2023 (ii) Advertisement No.112 dated 18.10.2023 both for recruitment to be done by MPSC for posts under Higher and Technical Education Department.

(i) "महाराष्ट्र शासनाचे कर्मचारी, मागासवर्गीय उमेदवार, दिव्यांग आणि खेळाडू यांना असलेली वयोमर्यादेतील शिथिलतेची सवलत यापैकी कोणतेही अधिकतम असलेली एकच सवलत देय राहिल."

(ii) "महाराष्ट्र शासनाच्या सेवेतील कर्मचा-यांना उच्च वयोमर्यादा ५ वर्षापर्यन्त शिथिलक्षम राहिल."

14. The ambiguously worded Clause 7.2.2 does include any specific provisions of 'Age Relaxation' for 'Government Servant'. Hence, notwithstanding the absence of clarity in words of Clause 7.2.2, the Applicant in all fairness cannot be barred only on grounds of (i) "महाराष्ट्र शासनाचे कर्मचारी, मागासवर्गीय उमेदवार, दिव्यांग आणि खेळाडू यांना असलेली वयोमर्यादेतील शिथिलतेची सवलत यापैकी कोणतेही अधिकतम असलेली एकच सवलत देय राहिल." (ii) "महाराष्ट्र शासनाच्या सेवेतील कर्मचा-यांना उच्च वयोमर्यादा ५ वर्षापर्यन्त शिथिलक्षम राहिल." as she does have some 'Age Relaxation' but it would be available only if she had less than 5 years to 'Age of Superannuation' as per Rule 3(1) of "Principal or Director in the Government College of Arts, Commerce and Science, Government Institute, State Institute for Administrative Careers, Pre-Indian Administrative Service Training Centers, Government Institute of Science, Institute of Forensic Science, Sydenham Institute of Management Studies and Research and Entrepreneurship

Education, Mumbai in the Government College of Education in the Maharashtra Education Service, Group-A and Government College of Law, in the General State Service, Group-A (Law) (Recruitment) Rules, 2012 which reads as “*are not more than 54 years of age and have not less than 5 years to the age of Superannuation*”. In this regard, it is pertinent to note that MPSC Advertisement No.116 & 117 of 2023 was published on 26.10.2023 wherein time provided for submission of ‘Application Forms’ was from 30.01.2023 to 28.11.2023. The Applicant during this period had sent ‘email’ on 13.11.2023 which discloses her age to be 57 Years and 4 Months and evidently therefore she was not below 57 Years of age as on date of MPSC Advertisement No.116 & 117 of 2023 on 26.10.2023. As the age of retirement to post of Principal/Director (Government Colleges/ Institutions for Arts, Commerce and Science) is fixed as 62 years, therefore, the Applicant did not have less than 5 Years of Age of Superannuation. Hence, we are of the considered opinion that case of the Applicant does not have any merit. Hence, the following order :-

**ORDER**

- (A) Original Application is Dismissed.
- (B) No order as to costs.

**Sd/-**  
**(Debashish Chakrabarty)**  
**Member (A)**

**Sd/-**  
**(Mridula Bhatkar, J.)**  
**Chairperson**