

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.349 OF 2017**

Mr. Kailas Vishwanath Patil, )  
16, Prem Nagar, Opp. Maharana Pratap )  
High School, At post. Tal. )  
Dist. Jalgaon 425 001 ) **....APPLICANT**

**VERSUS**

1) The State of Maharashtra, )  
Through Secretary, )  
Planning Department, )  
Mantralaya, Mumbai 400 032 )  
2) The Director, Economics & )  
Statistical Directorate, State of )  
Maharashtra, 8<sup>th</sup> floor, )  
Administrative Building, Bandra )  
(East), Mumbai 400 051 )  
**...RESPONDENTS.**

Mr. S.S. Dere, learned Counsel for the Applicant

Ms. K.S. Gaikwad, learned Presenting Officer for the Respondents.

**CORAM** : **Justice Mridula Bhatkar (Chairperson)**  
**Ms. Medha Gadgil, Member (A)**

**DATE** : **26.04.2024**

**J U D G M E N T**

1. Applicant prays to call for the record and proceedings of the office note dated 10.05.2016 for examination and therefore hold and declare the reasons for denial to consider the proposal dated

17.02.2016 submitted by Respondent No.2, and thereby rejecting the request of the applicant to appoint him to the post of Driver. Applicant further prays to direct the Respondent No.2 to issue the appointment order in favour of the Applicant for the post of Driver by cancelling the order dated 12.03.2015.

2. Learned Counsel for the Applicant has submitted that the Advertisement was issued on 22.10.2012 for various posts including 22 posts of Driver, out of which 4 posts were earmarked for OBC Category. Learned Counsel has submitted that the Applicant had participated in the said recruitment process. Applicant's name was at Serial No.9 for OBC Female. Thereafter the appointment order dated 02.12.2014 was issued. After 18 days of working on the appointed post show cause notice dated 20.01.2015 was given to the Applicant and by order dated 12.03.2015 he has been terminated from service. Learned Counsel has submitted that the initial select list was prepared only on the basis of marks without considering the date of birth which is required as per G.R. of 2008. The said G.R. states that when the candidates secure equal marks, selection is to be made on the basis of date of birth. As a result of this, the select list was revised and therefore Mr. Kute, candidate from Open General Category is

pushed down to OBC Category hence, applicant was out of the list. Learned Counsel has submitted that the Applicant was given appointment on the basis of merit and he worked for 18 days and therefore he should not have been removed.

3. Learned P.O. has relied on the affidavit-in-reply dated 04.07.2017 filed by Mr. Sanjay V. Kale, Deputy Director (Administration) in the office of the Directorate of Economics and Statistics, wherein at paragraph 3 it is stated that in the old merit list applicant was at Serial No.4 and selected in OBC Category as he acquired 70 marks. After the revised list was published consistent with G.R. dated 27.06.2008 and in the said revised merit list in OBC Category one Ms. Rekha Manish Rameshrao who secured 74 marks was shown at Serial No.1 as meritorious and the candidate at Serial No.4 i.e. Mr. Kute Sachin Uddhavrao last candidate secured 71 marks and hence, applicant who has secured 70 marks i.e. less marks, was out of the select list and therefore though he was given appointment, within 18 days his appointment was terminated after giving show cause notice.

4. Considered the submissions. The Applicant though was shown initially meritorious in fact was not meritorious as only four posts for OBC Category were reserved and the last candidate

secured more marks than the applicant. Therefore the Department has taken correct steps though it is unfortunate it was legally correct decision to terminate the service of the Applicant hence, no indulgence is required.

5. In view of above, O.A. stands dismissed.

SD/-  
**(Medha Gadgil)**  
**Member(A)**

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

prk