

MAHARASHTRA ADMINISTRATIVE TRIBUNAL**NAGPUR BENCH NAGPUR****ORIGINAL APPLICATION NO.740/2021 (D.B.)**

Sandhya Shankar Meshram
(Before Marriage Name)
@ Smt. Sandhya Dhiraj Popatkar
(After Marriage Name)
Age: 35 years, Occup.: Housewife
R/o: Near Mecca Mazid, Indira Nagar,
Mul-Road, Chandrapur – 442401.

... **APPLICANT**

// V E R S U S //

- 1] State of Maharashtra,
Through it Secretary
Tribal Development Department,
1st Floor, Extension Building Vistari Marg,
Madan Kama Road, Hutatma Rajguru Chowk,
Mantralaya, Mumbai - 400 032
- 2] The Additional Commissioner
Tribal Development Department
Adivasi Vikas Bhavan,
In front of R.T.O. Office, Amravati Road,
Giripeth, Nagpur - 440 001

... **RESPONDENTS**

S/Shri R.D. Hajare, Kalyani M. Joshi, Advs. for applicant.

Shri M.I. Khan, learned P.O. for the Respondents.

**Coram :- Hon'ble Shri Justice M. G. Giratkar,
Vice Chairman and
Hon'ble Shri Nitin Gadre,
Member (A).**

Dated :- 02/12/2024.

J U D G M E N T

Heard the applicant in person and Shri M.I. Khan, learned P.O. for the respondents.

2. The applicant has filed Pursis stating that she herself argue this matter. Pursis is taken on record and marked as Exh-X for identification.

3. The case of the applicant in short is as under :-

The applicant is a Law Graduate holding LL.B. degree. Applicant belongs to Schedule Caste (S.C.) Category and is qualified for being appointed as Clerk-Typist. The respondent authority issued an advertisement for the year 2013-2014 for appointment of Class-III vacant post under its jurisdiction at Nagpur, Bhandara, Devri, Chandrapur, Chimur, Gadchiroli, Aheri, Bhamragarh for their offices, Government Ashram Schools and Government Hostels. As many as 16 various posts, qualification wise, were sought to be filled.

4. In pursuance of the advertisement, applicant had applied for the post of Clerk-cum-Typist reserved for S.C. category. Examination was conducted on 05/09/2014. The result

of the said examination was declared and the name of applicant was shown at Sr. No. 95 in the order of merit. After being selected for the post of Clerk-cum-Typist in the Year 2014-2015, the applicant was waiting for receiving appointment order. On 03/05/2015 a communication was issued to her by Respondent No.2 asking her to remain present on 21/01/2015 for documents verification. Thus, factually there was no hurdle for appointment to the applicant by the respondent authority on the post of Clerk-cum-Typist. However, from the year 2014-2015 till date no step has been taken. Therefore, the applicant approached to this Tribunal for the following reliefs:-

(10)A. The applicant prays for direction to the respondents to grant appointment order in favour of the applicant to the post of Clerk-Typist.

5. The respondent nos.1 and 2 have filed reply. In Para nos.4 and 6, the respondent nos.1 and 2 have submitted that the applicant was not having required qualification. Para nos.4 and 6 are reproduced below –

“4. It is submitted that, while publishing the selection list and waiting list, objections were called from the candidates. However, some candidates had raised objections on waiting list. Therefore, the Respondents called the candidates for

verification of their certificates and records. Upon verification, it had been revealed that the Applicant was not possessing the requisite qualification of Marathi typing 30 w.p.m. as it was the requisite qualification mentioned in the advertisement and thus, the Applicant's candidature had not been considered for appointment for the post of Clerk cum Typist.

6. It is submitted that Applicant was aware of the fact that she did not possess the certificate of Marathi typing of 30 w.p.m. on the date of filling her application which is a mandatory qualification for the post of Clerk cum Typist. Even though she was having knowledge that she is not qualified for the post of Clerk cum Typist she had applied. However, since she had misinformed about her typing qualification, she was allowed to appear in the examination by the Respondents and her name had been included in the select list on basis of her written examination performance. Though she had been permitted for examination and included in list, but as per clause 21 of advertisement, her candidature has been cancelled, as she was not Possessing requisite qualification for the post on the date of advertisement. Therefore, her candidature cannot be considered for the post of Clerk-cum-Typist in accordance with the recruitment rules.”

6. Heard applicant in person. She has pointed out the merit list. As per her submission, her name is at Sr. No.95. Applicant was not having required qualification. Applicant herself admits that at the time of advertisement, she had not passed Marathi Typing 30 w.p.m. examination. She had only passed English Typing 40 w.p.m. examination.

7. The advertisement is very clear. As per the advertisement for the post of Clerk-cum-Typist, the required qualification is as under:-

- (1) Passing of S.S.C. Examination
- (2) Marathi Typing 30 w.p.m.
- (3) English Typing 40 w.p.m.
- (4) Ms-CIT / DOECC Certificate

The material portion of advertisement is reproduced below:-

११	लिपिक-टंकलेखक वेतनश्रेणी ५२००- २०२०० ग्रेड पे १९००/-	१. महाराष्ट्र राज्य माध्यमिक शालांत परिक्षा उत्तीर्ण २. टंकलेखन मराठी ३० व इंग्रजी ४० श. प्र. मि. वेग मर्यादा. (गव्हर्नमेंट कमशियल सर्टिफिकेट) अर्हता धारण करतात. MSCIT/DOECC प्रमाणपत्र धारण करणे आवश्यक
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8. There is no dispute that, the applicant was not having Marathi Typing 30 w.p.m. certificate. Therefore, she was not qualified on the date of advertisement itself. Her form was accepted and she was allowed for written examination. Appointing Authority cannot go against the Recruitment Rules. Hence, applicant cannot be appointed on the basis of her name mentioned in the Select List. The applicant was not qualified for the post she applied for.

9. The examination was conducted in the Year 2014. The applicant approached to this Tribunal in the Year 2021. Now the waiting list may not be available, because, the recruitment process is already over. This Tribunal cannot direct the respondents to appoint the applicant. Applicant herself was not qualified as per Clause No.11 of the advertisement. At this stage, much more delay is there. The recruitment process was completed in the Year 2014 itself. Now after 10 years, we cannot say that there is any post vacant in the establishment of Department. Moreover, the applicant herself approached to this Tribunal belatedly in the Year 2021. The examination process was conducted in the Year 2014. The validity period of waiting list is only one year from the date of recruitment process. Hence, we pass the following order:-

O R D E R

The O.A. is dismissed with no order as to costs.

(Nitin Gadre)
Member (A).

(Justice M.G.Giratkar)
Vice Chairman.

Dated :-02/12/2024.
***PRM.**

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

Name of Steno : Piyush R. Mahajan.

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

Judgment signed on : 02/12/2024