

FARAD CONTINUATION SHEET
THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI, BENCH AT AURANGABAD.

OFFICE NOTES

TRIBUNAL'S ORDERS

ORIGINAL APPLICATION NO. 803 OF 2024

(Pooja B. Jadhav Vs. State of Maharashtra & Ors.)

(Speaking to minutes)

CORAM : Justice Shri V.K. Jadhav, Member (J)

and

Shri Vinay Kargaonkar, Member (A)

DATE : 14.10.2024

ORAL ORDER :

Heard Shri Bhargav Kulkarni, learned counsel holding for Smt. Supriya Bhilegaonkar, learned counsel for the applicant and Shri V.G. Pingle, learned Presenting Officer for the respondent authorities.

2. The present matter is not on board. At the request of learned counsel for the applicant it is taken on board.

3. This is motion for speaking to minutes in the order dated 11.10.2024.

4. Learned counsel for the applicant submits that in para No. 2 of the order dated 11.10.2024, it is incorrectly mentioned as 'Group-A' instead of 'Group-B'.

5. Learned Presenting Officer has also accepted the same.

6. In view of above, in the first line of para No. 2 of order dated 11.10.2024 the words 'Group-A' shall be corrected as 'Group-B'. The motion for speaking to minutes is accordingly disposed of.

MEMBER (A)

KPB ORAL ORDER 14.10.2024

MEMBER (J)

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 803 OF 2024

DISTRICT:- JALNA

Pooja D/o Babasaheb Jadhav,
Age-24 years, Occu. Education,
R/o 1 AT-Kailas Nagar, Zirpi Tanda,
Tq. Ambad, Dist. Jalna

..

APPLICANT

V E R S U S

Maharashtra Public Service Commission,
Through its Secretary,
Trishul Gold Field,
Plot No. 34, Opp. Sarovar Vihar
Sector-11, CBD, Belapur,
Mumbai.

.. **RESPONDENT**

APPEARANCE : Shri Bhargav B. Kulkarni, learned
counsel holding for Shri Rohit S.
Sarvadnya with Smt. Supriya
Bhillegaonkar, learned counsel
for the applicant.

: Shri V.G. Pingle, learned Presenting
Officer for the respondent MPSC.

**CORAM : JUSTICE SHRI P.R. BORA, VICE CHAIRMAN
AND
: SHRI VINAY KARGAONKAR, MEMBER (A)**

DATE : 11.10.2024

O R A L O R D E R

(Per : Justice Shri P.R. Bora, Vice Chairman)

Heard Shri Bhargav B. Kulkarni, learned counsel
holding for Shri Rohit S. Sarvadnya with Smt. Supriya

Bhillegaonkar, learned counsel for the applicant and Shri V.G. Pingle, learned Presenting Officer for the respondent MPSC.

2. The applicant applied for the post of PSI from Group-
 (A) ^B as well as for the post of Clerk-cum-Typist from Group-C category in pursuance of the advertisement published in that regard. The applicant belongs to BANJARA caste/tribe, which is recognized as Denotified tribe (DTA) by the Government. The applicant possesses the caste certificate and also caste validity certificate evidencing that she belongs to Banjara Caste which is a Denotified Tribe. It is the contention of the applicant that while filling in application form for both the aforesaid posts common mistake has occurred in mentioning the reservation category of which the benefit is claimed by the applicant. It is the contention of the applicant that though she belongs to 'DT(A)' category, she inadvertently mentioned the category as 'OBC'. It is the contention of the applicant that insofar as the recruitment for the post of PSI is concerned she had succeeded in passing written examination, successfully undergone the skill test and has also been interviewed. It is the contention of the applicant that at the time of interview it was revealed that the applicant had committed a mistake in mentioning the reservation category of which she was claiming the benefit. As

*
 Corrected as
 per Honble
 Tribunal's order
 dated - 14/10/2024.
 JUDGE
 18/10/2024
 DCR.

mentioned above in the application form the applicant had wrongly mentioned the said category as OBC when she belongs to DT(A) category.

3. After realizing that such mistake had occurred, the applicant made a representation to respondent, Maharashtra Public Service Commission (for short 'the Commission') on 23.07.2024. Apprehending that she is likely to be excluded from selection process the applicant approached this Tribunal by filing the present Original Application on 29.07.2024 seeking the following reliefs: -

"A. Original Application may be allowed.

A1. By way of appropriate order or direction in like nature, the letter issued by the Respondent dated 31.07.2024 may kindly be quashed and set aside and further direct the Respondent to declare the result of the Applicant by considering the marks secured by the Applicant in the final interview.

B. By way of appropriate order or direction in like nature, the applicant may permitted to make necessary corrections in caste/category clause in her forms (ANNEXURE-B and C) and for that purpose necessary directions may be issued to respondents.

C. By way of appropriate order or direction in the like nature, the respondent Commission may be directed to consider the candidature of the applicant for final selection process for the post of PIS/Clerk-Typist from Denotified Tribe i.e. DT(A) category initiated pursuant to the advertisements referred in the body of application."

4. During pendency of the Original Application the applicant was informed by the Commission that since she had not recorded the accurate information, as about the reservation category, she cannot be considered for unreserved seat, however, if she secures meritorious position she can be considered from Open category. The applicant after receiving the aforesaid reply got amended O.A. with contextual prayer. In the amended O.A. applicant had prayed for quashment of the communication dated 31.07.2024.

5. The respondent Commission has filed affidavit in reply opposing the contentions raised and prayer made in the Original Application. It is the contention of the respondent that the candidate is expected to scrupulously follow the general instructions while filling in application form for any post advertised by the Commission. Reference is given of the relevant clauses. It is further contended that as per instruction No. 1.2.8(1) of the General Instructions in case the candidate notices that he/she has filled the form erroneously or has made some mistake he/she can fill up fresh online application form along with requisite fee on or before the last date of submitting application. It is the contention of the respondent that the said opportunity has also not been availed by the applicant. It is

further contended that in the form since the applicant claimed to be belonging to OBC category however, could not submit the required certificate in regard to the claim of OBC category, she has been excluded from consideration from both recruitment processes. On the aforesaid ground the respondent has prayed for rejecting the Original Application.

6. Learned counsel appearing for the applicant submitted that applicant belongs to DT(A) Tribe and is residing in a remote village. It is further contended that mentioning of category as 'OBC' by her is purely inadvertent and unintentional mistake committed by her. Learned counsel pointed out that just below the category column, caste certificate number is mentioned by the applicant and next below that the applicant has provided caste validity certificate number with its date of issuance. Learned counsel pointed out that the aforesaid caste certificate and the caste validity certificate were uploaded by the applicant along with her application. Learned counsel submitted a copy of caste certificate and caste validity certificate are produced on record by the applicant along with the present application which bears the same number which are mentioned in the online application form. The applicant has also



submitted on record the Non-Creamy-Layer certificate issued on 02.11.2021 valid for the period up to 31.03.2024.

7. Learned counsel submitted that the applicant was never intending to claim any benefit of the OBC caste and as such there was no reason for her to mention reservation category as OBC and that is purely and inadvertent unintentional mistake. Learned counsel submitted that Courts have always permitted the correction of such mistake to do the substantial justice. Learned counsel further submitted that the applicant has secured 255.4 marks in the written examination. Learned counsel pointed out that the candidates who have shown to have been selected from the DT(A) Female category have scored much less marks than the applicant. Learned counsel pointed out that if the marks of interview are added to the marks obtained by the applicant in the written test probably she may be the highest scoring candidate in her category.

8. Learned counsel submitted that if the mistake is not permitted to be corrected the applicant will lose an opportunity of being selected on her merit for the post of PSI and thus would be suffering irreparable loss. Learned counsel submitted that the Hon'ble Supreme Court has in such circumstances permitted the candidates to rectify the mistakes and compete on

the merit for their selection. Learned counsel referred to and relied upon the judgment of the Hon'ble Supreme Court in the case of **Vashist Narayan Kumar Vs. The State of Bihar & Ors., Civil Appeal No. 1 of 2024** decided on 02.01.2024. He also relied upon the judgment of the Hon'ble Division Bench of the Bombay High Court delivered in the case of **Mr. Shahid Akeel Shaikh Vs. Union of India & Ors., Writ Petition No. 11807/2024** decided on 20.09.2024. In view of the ratio laid down in the said judgment the applicant prayed for allowing the O.A. filed by the applicant.

9. Shri V.G. Pingle, learned Presenting Officer reiterated the contentions raised in the affidavit in reply filed on behalf of the respondents. Learned P.O. submitted that despite opportunity given to the applicant to rectify her mistake it was not rectified by her. Learned Presenting Officer in the circumstances prayed for dismissal of the O.A.

10. In the case of **Vashist Narayan Kumar** (cited supra) the mistake had occurred by the said petitioner in filling in his date of birth. He has written his date of birth in the application form as '08.12.1997', whereas in the school record his date of birth was recorded as '18.12.1997' on that count he was excluded from the selection process. The Hon'ble Supreme Court

directed the respondent State to treat the date of birth of the applicant as '18.12.1997' and to issue the appointment order in favour of the said candidate. In the said matter, the question for consideration for the Hon'ble Supreme Court was "whether the error committed in the application form which was uploaded is material error or trivial error and was the State justified in declaring the appellant as having failed on account of the same? As stated above the Hon'ble Supreme Court held the mistake committed by the applicant in mentioning his date of birth a trivial error and not the material error. In the said matter arguments was advanced by the side of the Government that the mistake committed by the petitioner therein was a grave error and amounts to misleading information. The Hon'ble Supreme Court however, rejected the said contentions.

11. In the instant case we have to determine 'whether the error committed by the applicant in mentioning the category of reservation in the application form can be said to be a fatal error so as to oust her from the selection process?'

12. It is not in dispute that though the applicant while filling in the application form stated her category as OBC, the caste certificate and the caste validity certificate which the



applicant uploaded along with her application form were of the Banjara caste which is Denotified Tribe. The question is whether the mistake occurred on part of the applicant can be held so grave as to constitute wrong or misleading information and to oust the applicant on that count from the entire selection process. It does not appear to us that there was any ill-motive or intention of the applicant in mentioning the category from which she was claiming reservation as OBC when she uploaded along with the said application form caste certificate and the caste validity certificate belonging to DT(A) category. From the caste certificate and the caste validity certificate produced on record in the present O.A. we have verified that same numbers are mentioned in the caste certificate and the caste validity certificate which are appearing on both the certificates. In such circumstances, it *prima facie* appears that the respondent has on technical ground rejected the request of the applicant and has excluded her from consideration despite the fact that she is most meritorious candidate in DT(A) category.

13. The present matter was in fact heard yesterday for some time and the learned Presenting Officer was asked to take instructions from the respondents as about the stage of the selection process and more particularly whether selection

process has been completed, meaning thereby that whether the final list of selected candidates has been published or it is yet to be published. Learned P.O. accordingly has placed on record the communication dated 10.10.2024 received to the office of the C.P.O. from respondent office. From the contents of the said communication it is revealed that for the post of PSI though the provisional selection list was published on 19.09.2024, the final select list has not yet been prepared. Insofar as the selection for the post of Clerk-Typist is concerned, though the preliminary examination and the main examination, as well as, the skill test has been carried out, the final results are not yet declared.

14. In the affidavit in reply filed on behalf of the respondent it is disclosed that the result of main examination of the recruitment for the post of PSI was published by the Commission on 13.3.2024 and as per the said result, the applicant had secured total 255.5 marks. It is further stated that cut-off marks for OBC Female category was fixed as 207 marks to be qualified for the interview and as the applicant secured more marks than the cut-off, she was qualified for the interview for the post of PSI. It is thus evident that excluding marks of the interview, the applicant has scored such good



number of marks and such meritorious position. In the circumstances, it does not appear to us that only on the count of unintentional mistake occurred by her in filling in the application form that she shall be deprived from getting selected on her own merits.

15. The law laid down by the Hon'ble Supreme Court in the case **Vashist Narayan Kumar** (cited supra) would squarely apply to the facts of present case. Since the final selection list has not yet been prepared, the Commission can still consider the candidature of the applicant from DT(A) category for her selection and if she is found possessing merit for that category, she can be considered for her selection for the post of PSI and even in that case for the post of Clerk-Typist.

16. For the reasons stated above, we deem it appropriate to pass the following order:-

ORDER

(i) The respondent shall treat the applicant as a candidate falling in DT(A) female category and consider her candidature at the first instance for the post of PSI by adding marks of interview in the written examination marks scored by her and if



she is found to be falling in order of merit, recommend her name for her appointment.

(ii) The Original Application stands allowed in the aforesaid terms without any order as to costs.

MEMBER (A)

VICE CHAIRMAN

O.A.NO.803-2024(DB)-2024-HDD-selection