

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

**TRANSFER APPLICATION NO.09/2024 (W.P.NO.1043/2024)
WITH
M.A.NO.218/2024**

DISTRICT :- NANDURBAR

Imrankhan Ahemadkhan Pinjari,
Age : 40 years, Occ. Legal Practitioner,
R/o. Kacheri Road, Taloda,
Tq. Taloda, Dist. Nandurbar.

...APPLICANT

V E R S U S

1. The State of Maharashtra,
Through Secretary,
Home Department,
M.S., Mantralaya, Mumbai - 32.
2. The Deputy Secretary,
Maharashtra Public Service Commission,
Trishul Gold Field, Plot No.34,
Sector 11, CBD, Belapur,
New Mumbai-400 614.
3. Sudesh S/o Devrao Dalvi,
Age : 36 years, Occu. Legal Practitioner,
R/o: 26/B, Chandranagar Society,
N-9, Hudco,
Chhatrapati Sambhajinagar,

...RESPONDENTS

APPEARANCE : Shri Gajendra D. Jain (Bhansali),
Counsel for Applicant in T.A.
: Shri M.B.Bharaswadkar, Chief
Presenting Officer for respondents.
: Shri A. S. Deshmukh, Counsel for
respondent No. 3

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

Date : 26-06-2024

ORAL ORDER

1. Heard Shri Gajendra D. Jain (Bhansali), learned Counsel for the applicant in T.A., Shri A.S.Deshmukh, learned Counsel for Applicant in M.As. and Shri M.B. Bharaswadkar, learned Chief Presenting Officer for respondent authorities.

Shri A.S.Deshmukh, learned Counsel has filed M.As. for intervention and for vacating the interim relief granted on 10-06-2024 in the Transfer Application (T.A.).

2. It is not in dispute that, in so far as the candidates at Sr.No.590, 597 and the applicant in T.A. who is at Sr.No.605 all have received 109 marks. It is the case of the applicant, that in view of the Notification dated 12-09-2022, name of the present applicant ought to have been included in the list of selected candidates and not as the waitlisted candidate since the applicant is the senior-most candidate amongst those who have secured 109 marks each. Learned Counsel for the applicant in T.A. submitted that, even if the criteria of educational qualification is applied, the applicant is senior as shown in the tabular format and the criteria of date of acquiring higher qualification is also in favour of the applicant. In

the circumstances, it is the request of the applicant that he shall be placed in the list of recommended candidates.

3. Learned CPO has pointed out that, Notification dated 12-09-2022 on which the applicant has placed reliance, may not be applicable in the present recruitment process and even MPSC Procedure Rules of 2014 may not be applicable in the present matter since as provided in Rule 10(7) of the Rules of Procedure of the Commission (Amendment dated 23-07-2020) the criteria is to be followed in a sequential manner for deciding ranking of the candidates securing equal marks. As per the amended provision the first preference has to be given to the candidate securing more marks in the Mains (Written) Examination of Screening Test.

4. Learned Counsel, who is appearing for the applicant in M.A.No.218/2024 has brought to our notice "The MPSC Rules of Procedure (2nd Amendment), Rules 2020" published on 23-07-2020, more particularly, clause 2(i) of the same which reads thus (paper book page 65):

"2. In rule 10, sub rule 7, shall be substituted as under:

"While preparing the final recommendation list for deciding the ranking of the candidates securing equal

marks, the following criteria shall be made use of in a sequential manner on after the other :- ”

(i) Candidates securing more marks in the mains (written) Examination or Screening test.”

5. Learned Counsel Shri Deshmukh submits that so far as the present recruitment process is concerned amended MPSC Rules of Procedure, would be applicable. Learned Counsel pointed out that 2022 Rules were to be made prospectively applicable and hence those cannot be made applicable. Similarly, when The MPSC Rules of Procedure were amended before the recruitment process was started the said Rules would govern the recruitment process.

6. We have carefully gone through the amended Rules of 2020 as well as erstwhile Procedure Rules of 2014 and also Notification dated 12-09-2022. Having regard to the date of issuance of the advertisement in the present matter, which we can say the starting point of the recruitment process, it is quite evident that the said recruitment process will be governed by the procedure which is laid down in the Rules of Procedure of the Commission (Amendment dated 23-07-2020). In the circumstances, criteria which we have reproduced above would apply.

7. In the facts and circumstances of the instant case, it does not appear to us that the respondents have committed any error in including the names of the candidates who have secured more marks in the main examination i.e. written examination in preference to the applicant in the list of selected candidates. We, therefore, do not see any case for the applicant to accept the request made by him as name of the applicant is already there in the waiting list at Sr.No.1. Needless to state that, if any of the candidate in the list of selected candidate fails to join or refuses to join, obviously, the applicant who is at Sr.No.1 in the waiting list is likely to be considered.

8. With the observations as above, following order is passed:

ORDER

- [i] T.A.No.09/2024 stands dismissed.
- [ii] M.A. also stand disposed of accordingly.
- [iii] Interim relief granted in favour of the applicant by order dated 10-06-2024, stands vacated.
- [iv] There shall be no order as to costs.

(VINAY KARGAONKAR)
MEMBER (A)

(P.R.BORA)
VICE CHAIRMAN