

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI
ORIGINAL APPLICATION NO.482 OF 2019**

Shri Balkrishna M. Yadav ..Applicant
Versus
The State of Maharashtra & Ors. ..Respondents

Smt. Punam Mahajan – Advocate for the Applicant

CORAM : Shri P.N. Dixit, Vice-Chairman (A)
DATE : 23rd May, 2019

ORDER

1. Heard Smt. Punam Mahajan, learned Advocate for the Applicant. Ld. Presenting Officer Shri A.J. Chougule, has communicated his inability to remain present.
2. Issue notice returnable on 12.6.2019.
3. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need not be issued.
4. Applicant is authorized and directed to serve on Respondents intimation/notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A. Respondents are put to notice that the case would be taken up for final disposal at the stage of admission hearing.



5. This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.
6. The service may be done by hand delivery/ speed post/courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within one week. Applicant is directed to file affidavit of compliance and notice.
7. In case notice is not collected within three days and if service report on affidavit is not filed three days before returnable date, OA shall stand dismissed without reference to Tribunal and papers be consigned to record.
8. Ld. Advocate for the Applicant points out that the Applicant has been rejected vide impugned communication dated 21.5.2019 (Annexure A-8 page 42 of OA). The relevant portion reads as under:
- “आपण सादर केलेल्या अनुभव प्रमाणपत्राची संबंधित अधिका-यांनी तपासणी केली असता आपला एकूण अनुभव १५ वर्ष, ५ महिने, १० दिवस पैकी ८ वर्ष, १६ दिवस प्रशासकीय अनुभव असल्याने आपणास प्रथमदर्शनी पात्र केले. तथापि, आपण आःोगाने निश्चित केलेला निकष “Have practical and administrative experience in a Radio Communications Organization of repute for not less than 15 years 5 months 17 days out of which experience for not less than 5 years should be Practical experience.” ची पूर्तता करीत नसल्याने आपणास निकषानुसार अपात्र करण्यात आलेले आहे. यास्तव नुष्टर्विलोकनाअंती पुर्वी कळविलेल्या निर्णयात बदल करण्याची आवश्यकता नाही.”*
- (Quoted from page 42 of OA)
9. Ld. Advocate for the Applicant prays to waive the interim relief mentioned in prayer clause 10(a).

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10. Ld. Advocate for the Applicant prays for interim relief in terms of prayer clause 10(b), which reads as under:

"10(b) That in the alternative this Hon'ble Tribunal be pleased to direct the Respondent no.2 to interview the Applicant and credentials of all the candidates be scrutinized, and entire results should not be declared till admission and hearing of the present original application."

(Quoted from page 12-A of OA)

11. The grounds on which the relief has been sought and interim relief is being prayed are mentioned at para 6.13, which reads as under:

6.13.3 To the best of the knowledge of the Applicant, the candidates who have been called for interview, especially at Sr. No.1 to 3 do not possess the requisite qualification as per clause 4.3 and 4.4 of the advertisement and therefore the short-listing criteria of 15 years and 5 months and 17 days is totally illegally and bad in law.

6.13.4 The ratio of 1:5 will be violated as the criteria laid down in clause no.4.4.1 and 4.4.2 has not been followed, as the certificate of the experience has not been properly examined. There is total arbitrariness and callousness in verification of the documents by the MPSC.

6.13.6 The candidates who were eligible when the short listing criteria was of 21 years have now become ineligible even after the short listing criteria is reduced to 15 years 5 months and 17 days. Ex. Nitin Prabhakar Joshi who was earlier eligible and is now ineligible. This clearly establishes that MPSC has not scrutinized the experience certificate as per the criteria laid down in the advertisement.

6.13.7 *The experience of the Applicant has not been considered as per the certificate of experience and this experience as Police Inspector, Wireless and Assistant Commissioner of Police, Wireless has not been taken into consideration at all.*

(Quoted from page 10-11 of OA)

12. The Ld. Advocate for the Applicant has averred in para 6.12 as under:

“6.12

To the best of the knowledge of the Applicant the candidates who have been short listed for the interview scheduled on 24.5.2019 do not fulfill the criteria laid down in clause 4.4.2 of the advertisement.”

(Quoted from page 9-10 of OA)

13. The averment suggests that the candidates who have been called for interview specially at Sr. Nos.1 to 3 do not possess the requisite qualification. The Applicant further mentions in para 6.13.6 that one Shri Nitin Prabhakar Joshi was earlier eligible is now treated as ineligible.

14. Prima facie there appears to be a case to suggest that the candidates who have been called may not be possessing the necessary eligibility. It further shows that the ratio of 1:5 is likely to be violated resulting into arbitrariness by Respondent no.2. It, therefore, prima facie appears to be a case fit for considering the prayer clause 10(b) in the form of interim relief.

15. Ld. Advocate for the Applicant relies on the order dated 16.5.2019 passed by this Tribunal at Aurangabad Bench in OA No.433 of 2019 (Dr. Sunder V. Kulkarni Vs. State of Maharashtra & Ors.) in similar

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circumstances. The relevant portion of the order in similar circumstances reads as under:

"17. Hence, Applicant has made out a case for grant of interim relief for a direction that the Applicant be interviewed, his credentials be scrutinized, and entire results should not be declared till admission hearing of present OA."

16. This Tribunal is, therefore, inclined to direct the Respondent no.2 to interview the Applicant, scrutinize the credentials of all the candidates and before declaring the final results, the Respondent no.2 should satisfy the Tribunal about the same.

17. Steno copy and hamdast is granted. Office of Ld. CPO is directed to communicate this order to the Respondent no.2 for compliance.

Sd/-

(P.N. Dixit)
Vice-Chairman (A)
23.5.2019

Dictation taken by: S.G. Jawalkar.