



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8985 OF 2023

The Secretary,
Maharashtra Public Service Commission,
Mumbai, having office at Trishul Gold
Field, Plot No.34, opposite Sarovar
Vihar, Sector 11, CBD Belapur,
Navi Mumbai – 400 614.

..Petitioner

Versus

1. Mayur Chandrakant Bhave,
Age:- 30 years, Occupation:- Student,
Residing at Deepstamp Foundation,
Manobal, Plot No.42, Housing Society,
Near Sahyog Critical Care Hospital,
Backside of District Court, Jalgaon-425 001.
2. The State of Maharashtra,
Through Additional Chief Secretary,
General Administration Department,
Mantralaya, Mumbai – 400 032.
3. The Principal Secretary,
Women and Child Development Department,
having office at New Administrative Building,
3rd Floor, Madam Cama Road, Hutatma
Rajguru Chauk, Mantralaya, Mumbai – 400032. ..Respondents

Mr. Shekhar Jagtap a/w. Ms. Sairuchita Chowdhary & Mr. Venkatesh Shinde i/by. J. Shekhar Associates for the Petitioner.
Mr. Sandeep S. Dere a/w. Ms. Aarti Patil Dere & Ms. Sonali Pawar for Respondent No.1.
Mr. N. C. Walimbe, Addl. G. P. a/w. Mr. A. R. Deolekar, AGP for Respondent Nos.2 & 3-State.

**CORAM : A. S. CHANDURKAR &
JITENDRA JAIN, JJ.**

DATE : 12th APRIL 2024.

Judgment :- (Per Jitendra Jain, J.)

1. **Rule.** Rule made returnable forthwith. Heard finally by consent of the parties.

2. By this Petition under Article 226 of the Constitution of India, the Petitioner-MPSC seeks to challenge an order dated 24th January 2023 passed by the Maharashtra Administrative Tribunal, Mumbai (for short “Tribunal”) in Original Application (OA) No.1286 of 2022, whereby the Tribunal directed the Petitioner-MPSC to grant benefit of Circular dated 7th July 2022 to Respondent No.1 and further rejected the contention of the Petitioner-MPSC that Respondent No.1 has played fraud by uploading blank page along with his application although he was not holding the typing certificate.

Brief facts are as under:-

3. On 21st December 2021, the Petitioner-MPSC issued an advertisement for Group-C services in various departments of Respondent No.2-State. On 3rd April 2022, the Petitioner-MPSC conducted preliminary examination pursuant to the said advertisement and in which the Respondent No.1 appeared for the post of Clerk-Typist (Marathi/English) and Tax Assistant and cleared the exam. On 28th

June 2022, the Petitioner-MPSC published advertisement for conducting main exam for the said vacant post. Meanwhile, on 7th July 2022, the Respondent No.2-State issued a Government Resolution for candidates from “Orphan” Category by which such “Orphan” candidates were permitted to clear typewriting examination within a period of two years from the date of appointment they need not have cleared the said typewriting examination at the time of appointment. The Respondent No.1 appeared for the main exam and qualified for the same. The Petitioner-MPSC thereafter issued a Notification stating that qualified candidates will have to give a typing test. Being aggrieved by the said Notification, the Respondent No.1 approached the Tribunal seeking exemption from appearing for the said typing test, in view of Circular dated 7th July 2022. The Tribunal vide its order dated 24th January 2023 allowed the Original Application of Respondent No.1, whereby Respondent No.1 was exempted from appearing from typewriting exam in accordance with the decision of the Tribunal in the case of ***Arjun Ramkrishnarao Tarke vs. The State of Maharashtra & Anr.*** The Tribunal further rejected the contention of the Petitioner-MPSC that by uploading a blank paper to show that the Respondent No.1 was holding typing certificate, he has played a fraud, and therefore, on this very ground, the Respondent No.1 be disqualified. It is on this backdrop that the Petitioner-MPSC is before us today.

4. We have heard the learned counsel for the Petitioner and the learned counsel for the Respondents and with their assistance have perused the documents annexed to the Petition.

5. Insofar as, the issue relating to benefit of Government Resolution dated 7th July 2022 with regard to exemption for candidates in “Orphan” category to submit typing certificate at the time of application was not applicable but same has to be cleared within two years from the date of appointment is concerned, the Coordinate Bench of this Court in the case of *The Secretary Maharashtra Public Service Commission, Mumbai vs. Arjun Ramkrishnarao Tarke & ors.*¹ held that even though the said Government Resolution dated 7th July 2022 was post the advertisement dated 21st December 2021, but the same would be applicable even to the advertisement issued prior to the date of Government Resolution. The Petitioner-MPSC before us has fairly accepted that the said issue is covered by the said decision, and therefore, no fault can be found in the Tribunal’s order insofar as this issue is concerned. In the light of the said admission, insofar as the applicability of Government Resolution dated 7th July 2022 is concerned the same is concluded by the decision of this Court in the case of *The Secretary Maharashtra Public Service Commission, Mumbai vs. Arjun Ramkrishnarao Tarke & ors. (supra)*.

1 Writ Petition No.12210 of 2022 dtd. 19th October 2022

6. The second issue is with respect to the conduct of Respondent No.1 in uploading blank sheet while uploading his document at the time of making the application. It is the contention of the Petitioner-MPSC that Respondent No.1 has played a fraud by uploading the said blank paper to avoid the compliance of requirement of uploading typing certificate since on the day when Respondent No.1 made an application he did not possess the same. The Petitioner submitted that such course of action at the very beginning of the recruitment process indicates the intention of Respondent No.1 to mislead the Petitioner, and therefore, the process of application is vitiated by playing such a fraud.

7. The learned counsel for the Respondent No.1 supported the order of the Tribunal and submitted that there is no perversity in the impugned order since the Tribunal has accepted the explanation of the Respondent No.1 as to why the extra page was uploaded so that the process of application will be further processed by the Computer. The Respondent No.1 further submitted that uploading of the typewriting certificate was not the requirement of the advertisement, and therefore, the whole submission made by the Petitioner falls to ground. The Respondent No.1 has prayed for dismissal of the present petition.

8. Clause 12.2 of the advertisement dated 21st December 2021 provides for uploading of PDF document by a candidate in support of his

application. The documents specified therein includes orphanage certificate, sport certificate, other reservation certificate, defence certificate, etc. The documents specified in the said clause does not refer to any typing certificate to be uploaded. Therefore, in our view, Respondent No.1 is justified in contending that the submissions made by the Petitioner that Respondent No.1 has uploaded the blank page to suppress his non-possession of typing certificate is incorrect, since there was no requirement of uploading the typing certificate at the first place itself. Furthermore by virtue of Government Resolution dated 7th July 2022, the Respondent No.1 was exempted from appearing for typing exam and he was granted benefit to clear the typing exam within two years from the date of appointment. Admittedly, there is no dispute that the Respondent No.1 belongs to orphan category, and therefore, as observed by us above he was entitled to the benefit of Government Resolution dated 7th July 2022. Therefore even on this count, the submission made by the Petitioner is to be rejected. The Tribunal has accepted the reason given by Respondent No.1 that the blank page was uploaded so that the computer would accept his application. We do not find any perversity in such acceptance of the reason by the Tribunal moreso, when the page was a blank page and not a page on which anything was certified with respect to typing speed.

9. In view of above, we are not inclined to interfere with the Tribunal order dated 24th January 2023 in Original Application No.1286 of 2022. The Writ Petition is dismissed with no order as to costs.

(JITENDRA JAIN, J.)

(A. S. CHANDURKAR, J.)