

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.10452 OF 2014

Shaikh Ali Ahmed s/o. Shaikh Ahmed
Deceased through L.Rs.

- 1] Smt. Nazmunnisa Begum w/o. Shaikh Ali Ahmed,
Age: 51 Years, Occu. Household
- 2] Shaikh Khadir Ahmed s/o. Shaikh Ali Ahmed,
Age: 33 Years, Occu.: Unemployed,
- 3] Shaikh Atikh Ahmed s/o. Shaikh Ali Ahmed,
Age: 30 Years, Occu. Unemployed,
- 4] Rajiya Begum Samad Khan,
Age : 36 Years, Occu.: Household,

All R/o. Galli No.8, Pir Burhan Nagar,
Nanded, Tq. and District Nanded

[Amendment carried out as per
Court's Order dtd.13.07.2015 passed
in CA No.7225/2015 in WP No.10452
of 2014]

PETITIONERS

VERSUS

- 1] The State of Maharashtra,
Through the Principal Secretary,
Irrigation Department, Mantralaya,
Mumbai-32.
[Copy to be served upon the Government
Pleader High Court Bench at
Aurangabad].
- 2] The Secretary,
Irrigation Department,
Mantralaya, Mumbai-32.

- 3] The Superintending Engineer,
Upper Pen Ganga Project Circle,
Nanded, Tq. and District Nanded
- 4] The Executive Engineer,
Upper Pen Ganga Project Division No.7,
Nanded, Tq.and District Nanded
- 5] The Executive Engineer,
Upper Pen Ganga Project Division No.8,
Nanded, Tq.and District Nanded
- RESPONDENTS**
[Orig. Respondent]

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Mr. A.S.Shelke, Advocate for the Petitioner
Mr. S.K.Kadam, AGP for the Respondent Nos.1 & 2
Mr. S.C.Arora, Advocate for the Respondent Nos.3 to 5

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**CORAM: S.S.SHINDE &
P.R.BORA, JJ.**

Reserved on : 15.09.2015
Pronounced on: 22.09.2015

JUDGMENT: [Per S.S.Shinde, J.]:

1] This Petition takes an exception to the Judgment and Order dated 30.08.2013 passed by the Maharashtra Administrative Tribunal, Bench at Aurangabad in Original Application No.376/2008.

2] It is the case of the petitioner that, he was appointed as Electrician on daily wages since August, 1985. However, the respondent Department designated the petitioner as Pump Operator, and paid daily wages admissible to the post of Pump Operator. On raising the

grievance for non-payment of daily wages of the post of Electrician, the Superintending Engineer, by letter dated 20.11.1991, approved the proposal for grant of daily wages of the post of Electrician to the petitioner. Accordingly, the respondent No.5 sanctioned the same with effect from 1st June, 1991. The respondent authorities, subsequently, stopped daily wages of the post of Electrician. Therefore, the petitioner approached to the Maharashtra Administrative Tribunal at Mumbai by filing Original Application No.1251/1992, seeking directions to grant daily wages of Rs.63/- per day to the petitioner, and also direction to send the proposal as regards correction about the date of appointment and date of promotion i.e. sanction of grade of Electrician to the petitioner.

3] It is further case of the petitioner that, during pendency of the Original Application, the respondent authorities forwarded the proposal of the petitioner to bring him on Converted Regular Temporary [CRT] Establishment, after completion of 5 years of continuous service. It is the case of the petitioner that, the respondent No.3 sent the proposal dated 20th January, 1996 to the State Government for bringing the petitioner on CRT on the post of Electrician.

The petitioner fulfills the criteria for being regularized as Electrician, as he possessed necessary, requisite expertise and Vocational Certificate issued by the recognized University. The petitioner approached to the MAT by filing Original Application No.1251/1992, pending the proposal for making him on CRT with State Government. It is further case of the petitioner that, on assurance from the respondent authorities, the petitioner withdrew Original Application No.1251/1992 on 16th October, 1998. Upon withdrawal of the Original Application, the Sub-Divisional Officer of Upper Pen Ganga, Project Division No.45, Mudkhed served order of CRT to the petitioner on 1st July, 1999. The petitioner accepted the order under protest reserving his right on the post of electrician. It is further case of the petitioner that, the Government of Maharashtra issued Government Resolution dated 24th April, 2001 for bringing the employees working on daily wages on CRT Establishment, and on 28th May, 2001 thereby giving relaxation of conditions of age limit and educational qualification in respect of 6 employees working on the respondent No.3 Division. According to the petitioner, one Shri Deoram G. Machapure, who was junior to the petitioner as Pump Operator, was regularized as Pump Operator on

CRT Establishment. According to the petitioner, said Shri Deoram Machapure, whose designation was changed from the post of Pump Operator to Electrician, and who holds the same Technical Qualification, was appointed as Electrician. Though, the petitioner made various representations till the Year 2006, the respondent State did not take any steps for redressal of his grievances, and therefore, he filed Original Application No.376/2008 along with the application for condonation of delay in filing Original Application. The Tribunal, on 30th August, 2013, by the impugned Judgment rejected the said Application. Hence this Writ Petition.

5] The learned counsel appearing for the petitioner submits that, the petitioner has completed more than 5 years service as Pump Operator, and keeping in view his experience and work as Electrician, the proposal sent by the respondent No.3 to the State Government, he should have been appointed on the post of Electrician. It is submitted that, the petitioner fulfills requisite qualification inasmuch as the petitioner has Vocational Certificate in the Trade of Electric Wireman's Course. The petitioner has also completed Electric Motor Rewinder's Course from the Recognized University. It is submitted that, the Irrigation

Department does not have its own recruitment Rules of the post of Electrician. It is also not brought on record that, the Irrigation Department has borrowed the same recruitment Rules from the Public Works Department in so far as post of Electrician is concerned. It is submitted that, the benefit is granted to Shri Deorao Machapure, who is junior to the petitioner and denied to the petitioner, which amounts to discrimination. Therefore, the learned counsel appearing for the petitioner, relying upon the pleadings in the Petition, grounds taken therein, submits that, the Petition may be allowed.

6] On the other hand, the learned counsel appearing for the respective respondents invited our attention to the reasons assigned by the Maharashtra Administrative Tribunal and submits that, the petitioner is not qualified, and therefore, his claim is turned down by the respondents.

7] We have given careful consideration to the submissions of the learned counsel appearing for the petitioner, and the learned counsel appearing for the respective respondents. With their able assistance, we have perused the pleadings taken in the Petition, annexure

thereto and the reasons assigned by the Maharashtra Administrative Tribunal in the impugned Judgment. The Petition is non suited on the ground of inordinate delay in filing Original Application. *Secondly*, there was similar challenge by the petitioner before the Maharashtra Administrative Tribunal in the Year 1992, and *thirdly*, the petitioner does not possess the requisite qualification necessary for the post of Electrician. The learned counsel appearing for the respondent Nos.1 and 2 has tendered across the bar copy of the passing Certificate of the Secondary School Certificate Examination held in October, 74, by Shri Machapure Deorao Gangaram. The said certificate unequivocally shows that, he has passed the Secondary School Certificate Examination held in October, 1974.

8] It is not demonstrated by the petitioner before this Court that, the post Pump Operator on which the petitioner was working, is feeder cadre for the promotion on the post of Electrician. Even if for a moment it is assumed that, the petitioner did file two Original Applications within time, and those were maintainable, nevertheless, admittedly the petitioner was not possessing requisite

qualification. The Maharashtra Administrative Tribunal in para 14 of the impugned Judgment, observed that, as per Government Resolution dated 30th September, 1959, required qualifications for the post of Electrician i.e. *वीजतंत्री* , are that he must possess certificate of Wireman's awarded by the Licensing Board of the Public Works Department of the Government of Bombay, or equivalent recognized qualifications and have worked for 5 years as Wireman in the reputed Firm carrying out electrician wiring work. Admittedly, the petitioner is not possessing these two qualifications.

9] Therefore, upon careful consideration of the material placed on record, and the reasons assigned by the Maharashtra Administrative Tribunal, the view taken by the Maharashtra Administrative Tribunal appears to be in consonance with the documents placed on record. The Writ Petition sans merit, and hence rejected.

Sd/-

[P.R.BORA]
JUDGE

Sd/-

[S.S.SHINDE]
JUDGE