

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

WRIT PETITION NO. 5048 OF 2012

The Chairman MPSC and another .. Petitioners

Versus

Santosh Rajaram Mudholkar and another.. Respondents

Shri Mukul S. Kulkarni, Advocate for Petitioners.

Shri V. L. Dhoble, Advocate for the Respondent No. 1.

Smt. S. A. Dhumal, A.G.P. for the Respondent No. 2.

**CORAM : S. V. GANGAPURWALA AND
V. K. JADHAV, JJ.**

DATE : 15TH JUNE, 2015.

PER COURT :

. Mr. Kulkarni, the learned counsel for petitioners submits that, during the pendency of original application a letter was issued to the respondent No. 1 stating that, the respondent No. 1 does not possess minimum experience as per the advertisement. The same is not illegal. However, said letter was not placed before the Tribunal. No finding is given on the same in the original application.

2. Mr. Dhoble, the learned counsel for the respondent No. 1/original applicant before the Maharashtra Administrative Tribunal submits that, even the present petitioners did not place

on record communication dated 25th November, 2011. The respondent No. 1 has secured first class in B. Ed. As such, the condition of experience is to be relaxed to five years. Even as per the advertisement the present respondent No. 1 has crossed the bench mark. The bench mark was of 92 marks. The present respondent No. 1 has secured 99.5 marks. As per the advertisement also the respondent No. 1 completes the necessary experience. No illegality has been committed by the Tribunal.

3. We have considered the submissions canvassed by the learned counsel for respective parties.

4. An interim order was passed by the Tribunal directing the petitioners to interview the present respondent No. 1 on 11.11.2011. On the said date itself, the Tribunal had made it clear that, it would decide the original application finally on the next date. The final order is passed on 13.12.2011. The responsible person from the Maharashtra Public Service Commission was present with record before the Tribunal. The present petitioners at no material point of time raised the plea that the respondent No. 1 lacked necessary experience. The Tribunal has considered the bench marks and the fact that, the respondent No. 1 has obtained more marks than the bench mark and directed the present petitioners to consider the case of the respondent No. 1.

5. Now for the first time in the writ petition, the point is raised that, the respondent No. 1 does not have seven years experience and has only six years ten months and seven days experience. The respondent No. 1 has passed B. Ed. in Ist class. As per the advertisement clause 4.4 (1)-A, if a person has passed B. Ed. in Ist class, then the experience can be restricted to five years. The respondent No. 1 possesses experience of more than five years.

6. Moreover, anomaly appears in the advertisement. The date which is required to be considered for experience normally is the date, the application is made pursuant to advertisement. However, perusal of the advertisement, it appears that, maximum age limit is of 40 years. The person was required to complete 40 years upto 01.02.2011. It is nowhere stated in the advertisement that, for the purpose of experience, there is any other date to be computed. Moreover, before the Tribunal this was also not the ground raised by M. P. S. C. The petitioners had not at any point of time pointed out that, respondent No. 1 does not possess the minimum experience as per advertisement or that the experience of the respondent No. 1 was considered upto 01.02.2011. Even if, 01.02.2011 date is considered, the respondent No. 1 has seven years experience. Even otherwise the respondent has passed B. Ed. in Ist class so that experience can be relaxed to five years. However, no such ground of lack of experience is raised by petitioners.

7. Considering aforesaid aspects of the matter, we are not inclined to interfere with the order of the Tribunal. The writ petition as such is disposed of. No costs.

[V. K. JADHAV, J.]

[S. V. GANGAPURWALA, J.]

bsb/June 15