

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

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WRIT PETITION NO. 5901 OF 2015

RAMA @ SADHANA SUNTOSH UKHALE
VERSUS
MAHARASHTRA STATE ROAD TRANSPORT CORPORATION
AND OTHERS

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Advocate for Petitioner : Mr. Patil Paresh B.
AGP for Respondent/State : Mr. S.D. Kaldate
Advocate for Respondent no.3 : Mr. Bagul D.S.

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CORAM : S.S. SHINDE & P.R. BORA, JJ.**Dated: December 10, 2015**

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PER COURT:-

Rule. Rule made returnable forthwith and heard finally by consent of the learned counsel appearing for the parties.

2. By way of filing this Writ Petition, the petitioner is seeking directions to the Respondents to appoint the petitioner on compassionate basis on the post of Junior Traffic Controller or Clerk as per qualification of the petitioner.

3. In pursuant to the notice issued to the respondents, Respondent No.3 has filed the affidavit in reply. It is stated in para 5 of the said affidavit in reply that, since the petitioner was held eligible for the post of Traffic

Controller (Junior), her name was included in the waiting list. As on today, her name stands in a waiting list at Sr. No.5 for the post of Traffic Controller (Junior), and as and when, the vacancies arise in future, considering the other necessary eligibility criteria, Respondent No.3 undertakes to issue appointment order in favour of the petitioner. It is stated in the affidavit in reply that, there are 22 vacant posts of clerks, however, the petitioner is not eligible to be appointed on the post of clerk since the petitioner possesses the degree issued by Bambai Hindi, vidyapith, Bambai and according to the respondents, said qualification is not considered equivalent to B.A. Degree by the Respondent No.1.

4. The learned counsel appearing for the petitioner invited our attention to the Government Resolution dated 23rd August, 2011, issued by the General Administration Department, Government of Maharashtra and submits that, the degree of Sahitya Sudhakar issued by the Bombay Hindi University possessed by the petitioner is treated as equivalent to B.A. Degree, and this equivalence is applicable for appointment in State Government and Corporations working under the control of the Government. He further invited our attention to the order by passed by this Court in the case of **Pawan Subhash Marale V/s Maharashtra State Road Transport Corporation, Mumbai and others in Writ Petition No. 6505 of 2013**, decided on 30th July, 2014 and para 3 thereof and submits that, it is not open for respondent no.3 to state that, the degree of Sahitya

Sudhakar possessed by the petitioner is not equivalent to B.A. degree.

5. We have heard the learned counsel appearing for the petitioner, the learned A.G.P. and the learned counsel appearing for the Respondent no.3.

6. Undisputedly, the petitioner was held eligible for the post of Traffic Controller (Junior) and rightly name of the petitioner is included in the waiting list, wherein the petitioner stands at Sr. No.5. It is not in dispute that, the appointment on compassionate ground can be made on class III or class IV posts including the post of clerk. As on today, as stated in the affidavit in reply, 22 posts of clerk are vacant on the establishment of Respondent No.3. Para 3 of the judgment in the case of **Marale** reads thus :-

“3. We have perused the Government Resolution and its corrigendum dated 14.06.1999, which has unequivocally laid down that the degree of Sahitya Sudhakar issued by the Bombay Hindi University is equivalent to B.A. Degree and this equivalence is applicable for appointment in State Government and corporations as per G.R. Dated 28.02.2007.”

7. In view of the judgment of this Court and in particular para 3 thereof, the contention raised by Respondent No.3 in para 8 that, the degree issued by the Bambai Hindi, Vidyapith, Bambai possessed by the

petitioner is not equivalent to B.A. degree, and therefore, the petitioner's case cannot be considered for the appointment on the post of clerk cannot be countenanced.

8. In that view of the matter, and in view of the discussion hereinabove, we direct the Respondents to consider the case of the petitioner even for the post of clerk, in addition to already she is held eligible for the post of Traffic Controller (Junior), however subject to fulfillment of other eligible criteria, in accordance with procedure. Needless to observe that, whenever the turn of the petitioner will come as per the seniority, the petitioner's case shall be considered for both posts namely Traffic Controller (Junior) and Clerk.

9. Rule made absolute in above terms. The Petition is partly allowed and same stands disposed of.

(P.R. BORA, J.)

(S.S. SHINDE, J.)

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