

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8010 OF 2015

**Maharashtra Krishna Valley
Development Corporation
through its Managing Director
V/s**

..... Petitioners

Shri Pritam Ramchandra Patil & Anr.

..... Respondent

Mr. Vijay D. Patil for Petitioners.

Mr. A.I. Patel, AGP for Respondent No.2/State.

**CORAM : ANOOP V. MOHTA &
A.A. SAYED, JJ.**

DATED : 16 SEPTEMBER 2015

ORDER:

1 Heard.

2 The Petitioners who are original Respondent Nos.1 to 4 have challenged impugned orders dated 22 December 2014 and 7 January 2015 whereby Respondent No.1's Original Application has been allowed by the learned Chairman, the Maharashtra Administrative Tribunal, Mumbai thereby agreeing with the view of Member (Judicial) upon reference made to him after divergence of views of the Bench. The learned Chairman has held thus:

"13. In the result, I am satisfied that the term of reference to the medical board was as regards fitness of candidate for the job for which he was selected. Rule 11 and Appendix III

of Maharashtra Civil Services (General Conditions of Services) Rules, 1981, do not have within its Contemplation the object of having reassessment of the extent or percentage of disability or to conduct a scrutiny for recertification, approval or disapproval of a certificate as regards the extent, percentage or truthfulness of a certificate or the fact or any other aspect as regards candidate's status being a person with disability.

14. Failure of the Government to make any special reference to re-assess or scrutinize the extent or percentage of disability by a Board of Referees while considering a case of fitness under Appendix III under Rule 11 of the Maharashtra Civil Services (General Conditions of Services) Rules, 1981, aforesaid is a conscious legislative omission.

15. It would be unsafe to include power of Superintendence over issue of certificate of disability on the Board of Referees, which is/was not the scheme and intent behind said set of Rules and in particular Rule 11 supra.

16. Therefore, I hold that there was no reference for approval or for scrutiny of the certificate of disability, to the Board of Referees, for the purpose to assess its correctness, genuineness etc.

17. Therefore, the finality attached to the decision of Board of Referees under Clause 4 of Schedule B of Appendix III of Maharashtra Civil Services (General

Conditions of Services) Rules, 1981 is qua fitness for job and not qua the "percentage or extent of disability" or for scrutiny of its genuineness.

18. In the result reference is answered in terms of forgoing Paragraphs 13 to 17. Original Application No.1026 of 2012 succeeds in terms of judgment delivered by Member (Judicial)."

3 After hearing learned Counsel appearing for the Petitioners and after going through the reasons as well as submissions, we see no case is made out by the Petitioners to exercise the writ jurisdiction of this Court to interfere with the impugned orders so passed. The Writ Petition is accordingly dismissed. No order as to costs.

(A.A. SAYED, J.)

(ANOOP V. MOHTA, J.)

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CERTIFICATE

Certified to be true and correct copy of the original signed
Judgment/Order.