

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10632 OF 2013

The State of Maharashtra through
The Secretary/Chairman,
The Maharashtra Public Service Commission. ... Petitioner.
V/s.
Shri Kantilal Janardhan Pawar. ... Respondents.

A.D.Kanga, AGP the the petitioner-State.

Vinod Joshi with Ms.Lata Patne for the respondent.

**CORAM : NARESH H. PATIL AND
A.S. GADKARI, JJ.**

DATED : 10th February 2015.

PC.

The petitioner-State challenges the judgment and order dated 27th February 2013 passed by the Maharashtra Administrative Tribunal in Original Application No.893/2011. The respondent participated in the selection process initiated for the post of Education Officer under the advertisement No.2/2010 issued by the Maharashtra Public Service Commission ("MPSC" for short). Clause-4.2 of the said advertisement stipulated that in case of exceptional higher qualification and experience, the MPSC would consider relaxation of age limit. Under the advertisement, the age limit for the applicants belonging to backward class was fixed at 45 years. Admittedly, on the date of application, the petitioner had crossed 45 years of age. His age was 46 years 8 months and 29. The respondent approached the Tribunal with the prayer that in view of exceptional qualification and experience which he was possessing,

his name may be included in the list of qualified candidates and directions be given to MPSC to call him for interview. By way of interim order, the tribunal directed MPSC to accept the application of the respondent and interview him. Accordingly, the respondent was interviewed on 18th November 2011. The respondent again approached the Tribunal for declaration of his result as his result was withheld by the MPSC. By the impugned order, the Tribunal directed MPSC to declare the result of the respondent herein. It was further directed that after declaration of result, if it was found that the respondent is meritorious then his name be recommended for being appointed as Education Officer.

2. The respondent had taken out contempt proceeding in the said original application as the order passed was not complied with. By order 21st June 2013, the contempt proceedings were disposed by the Tribunal as the result of the respondent was declared. The respondent was declared unsuccessful.

3. The petitioner- State filed this petition on 11th July 2013. Learned A.G.P. appearing for the petitioner submits that MPSC had discretion to relax or refuse to relax the age limit in favour of the candidate. The MPSC was not inclined to relax age limit in case of the respondent as he did not have exceptional qualification or experience. Under the order passed by the Tribunal, the MPSC had no other option but to interview the respondent and declare his result. Learned A.G.P. placed reliance on the judgment dated 24th December 2014 delivered by Division Bench of this Court at Aurangabad in W.P.No.7679/2014 (*The Maharashtra Public Service Commission v. Dr.Digambar Murlidhar Devang*).

4. It is now an admitted position that the the order of the Tribunal was complied with. The respondent was interviewed and his result was declared. He was, however, declared unsuccessful in the examination. Therefore, there was no question of giving appointment order to the respondent.

5. The respondent had approached the Tribunal by filing Original Application No.308/2013 as he was not recommended for the post. The tribunal vide order dated 15th December 2014 dismissed the said original application. We have perused the said order placed before us today. We have also perused the judgment dated 24th December 2014 delivered by Division Bench in W.P.No.7679/2014 and the order impugned in this petition. In the advertisement, it was mentioned that the MPSC had discretion whether to give relaxation of age limit to the candidate or not. The respondent has no legal enforceable right to seek direction to the petitioner herein for relaxation of age limit, allow him to apply and call for interview. The fact remains that the tribunal had passed interim order under which the respondent was called for interview and his result was declared. Admittedly, the respondent failed in the examination as he could not be successful in getting required marks.

6. The order of the Tribunal has already been implemented, we do not find that any purpose would be achieved by setting aside the order passed by the Tribunal. In view of the observations made above, petition stands disposed of.

(A.S. GADKARI, J.)

(NARESH H. PATIL, J.)