

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No. 1587 of 2015

The Secretary, Maharashtra Public Service Commission vs. Manish
Ramchandra Patil and another.

Notes, Office Memoranda of

Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's
Orders.

Smt. Neeta Jog, Adv. for the petitioner.

Shri R.V.Shiralkar, Adv. for respondent no.1

Shri S.M.Ghodeswar, AGP for R-2.

CORAM: B.R.GAVAI & INDIRA K. JAIN, JJ
DATE : 12.6.2015

The petitioner - M.P.S.C. has approached this Court being aggrieved by the Judgment and order passed by the learned Maharashtra Administrative Tribunal, wherein it held that the respondent no.1/ original applicant before the learned Tribunal was entitled to apply up to the age of 40 years. The relevant criteria as stated in the Advertisement reads thus:-

“४.१ वय दिनांक १ जून, २०१३ रोजी अमागासप्रवर्गासाठी ३०, मागासप्रवर्गासाठी ३५ वर्षांपेक्षा जास्त नसावे.

४.२ शासन आदेशानुसार संबंधित आरक्षित प्रवर्ग/उपप्रवर्गासाठी वयोमर्यादा शिथीलक्ष्म राहिल.

४.३ महाराष्ट्र शासनाच्या सेवेत नियमित नियुक्ती झालेल्या कर्मचा-यांना उच्च वयोमर्यादा पाच वर्षांपर्यंत शिथीलक्षम राहिल.”

2. The learned Tribunal held that insofar as the respondent no.1/ applicant who belongs to Scheduled Caste category is concerned, the upper age limit as provided is 35 years. It further holds that in view of clause 4.3 since the applicant was in the employment of the State Government, he would be further entitled to the age relaxation by 5 years and as such the upper age limit in the case of the applicant, who belongs to Scheduled Caste category and being in the employment of the State Government, was 40 years.

3. The M.P.S.C. has approached this Court contending that if the contention of the original applicant is to be accepted, it would amount to granting age relaxation to the original applicant twice. It is the contention that the same is not permissible in law.

4. We find that the petition is wholly without merit. Insofar as the clause 4.1 is concerned, though the upper age limit provided for backward class candidates is 35 years, this is

in view of the clause 4 of the Article 16 of the Constitution of India wherein the State is empowered to make special provision for the persons belonging to backward class. However, insofar as the relaxation which is provided in clause 4.3 is concerned, it is provided to a specific class of the employees who are already in Government service. As such all the employees who are in Government service, whether belonging to backward class or not, would be entitled to further relaxation of 5 years. Relaxation in clause 4.1 is by virtue of special provisions under clause 4 of Article 16 of the Constitution of India, whereas the relaxation granted under clause 4.3 is to a special class of the employees of the State Government. We find that the view taken by the learned Tribunal is wholly in accordance with the constitutional mandate and the law.

5. The petition is, therefore, found to be devoid of substance and as such dismissed.

6. At this stage, the learned counsel for the respondent no.1/ original applicant submits that though the respondent no.1/ original applicant is selected in the year 2013

on untenable ground his recommendation has been withheld by the M.P.S.C.. We find that after the learned Maharashtra Administrative Tribunal has decided the matter on 14th July, 2014, there was no reason on the part of the M.P.S.C. to withhold the recommendation of the original applicant. For no valid reason, the original applicant has been deprived of his legitimate right. It further appears that the petition itself challenging the order dated 14th July, 2014, is filed in March, 2015.

7. When the Tribunal of a competent jurisdiction passes an order, unless the same is stayed by a superior court, the Commission is bound to give effect of it. It is not in dispute that the original applicant, having found meritorious, was selected. In view of that we direct the M.P.S.C. to recommend the name of the original applicant within a period of two weeks from today. Needless to state that the State Government, after receipt of the recommendation, shall issue necessary orders within a period of two weeks thereafter.

8. Since we find that the approach of the Maharashtra Public Service Commission is of the nature of flouting the

order passed by the competent Tribunal, issue notice to the Secretary, Maharashtra Public Service Commission, Bank of India Building, Hutatma Chowk, 3rd Floor, M. G. Road, Fort Mumbai 400 001, calling upon him to show cause as to why an action should not be taken against him, for not giving effect to the order passed by the learned Maharashtra Administrative Tribunal dated 14th July, 2014 in reasonable period. Notice to be returnable on 26.6.2015.

JUDGE

JUDGE

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