

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

WRIT PETITION NO.1812 OF 2015

[Smt. Anju w/o Ramchandra Athawale .vs. Maharashtra State Road Transportation Corporation,
Mumbai and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri N.R. Saboo, counsel for the petitioner,
Shri V.G. Wankhede, counsel for the respondents.
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CORAM : SMT. VASANTI A. NAIK AND
A.I.S. CHEEMA, JJ.

DATED : SEPTEMBER 01, 2015.

Heard.

By this petition, the petitioner challenges the communication of the respondent-corporation, dated 10.3.2015 informing the petitioner that the name of the petitioner has been removed from the select list for the post of Assistant Traffic Superintendent (Junior).

The petitioner was working as a Conductor with the respondent-corporation. In pursuance of an advertisement issued by the respondent-corporation calling applications from the freshers and also in-service candidates for appointment on the post of Assistant Traffic Superintendent, the petitioner applied for the said post. The petitioner was permitted to appear at the written test and at the interview. The name of the petitioner was included in the select list. Since the petitioner was not appointed on the post of Assistant Traffic Superintendent, the petitioner made an inquiry and she was served with the impugned communication, dated 10.3.2015, thereby removing her name from the select list on the ground that punishment was inflicted upon the petitioner after holding a departmental inquiry. The respondent-corporation informed the petitioner that the past service record of the petitioner was bad, inasmuch as minor penalties were

imposed upon the petitioner on 11 occasions. The petitioner has impugned the communication in the instant petition and has sought a direction to the respondent-corporation to appoint the petitioner on the post of Assistant Traffic Superintendent.

On hearing the learned counsel for the parties and on a consideration of the circumstances of the case, it appears that the relief sought by the petitioner cannot be granted. Firstly, a selected candidate does not have a right to seek appointment on the post for which he is selected. Secondly, the petitioner, who was an in-service candidate had a blemished service record, inasmuch as minor penalty was imposed on the petitioner on 11 occasions and after holding a departmental inquiry, the respondent-corporation had terminated the services of the petitioner. In a departmental appeal, no doubt, the penalty was reduced, but a major penalty was imposed, inasmuch as, the petitioner was granted a fresh appointment, thereby wiping out her previous service. While considering the candidature of the petitioner, the respondent-corporation was bound to consider the antecedent record of the petitioner. The learned counsel for the respondents has rightly relied on the judgment of the Hon'ble Apex Court reported in (1996) 11 SCC 605 (Delhi Administration through its Chief Secretary and others .vs. Sushil Kumar) to canvass that the denial of appointment to a candidate on the ground of undesirability after verification of the character and antecedents would not be improper. In the circumstances of the case, a direction cannot be issued to the corporation to appoint the petitioner on the post of Assistant Traffic Superintendent.

Since there is no merit in the writ petition, the same is dismissed, with no order as to costs.

JUDGE

JUDGE