

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

WRIT PETITION NO. 2797 OF 2015.

State of Maharashtra & others .vs. Ajay Turerao Kutukale & another

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

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Mr. N. S. Rao, A.G.P. for petitioners,  
Mr. P.A. Kadu, Advocate for respondent no.1.

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

**DATED : JULY 14, 2015.**

The State has preferred this petition challenging the order passed by the learned Maharashtra Administrative Tribunal dated 22.7.2014.

In response to the advertisement issued by the petitioners, the respondent no.1 had applied for the post of Canal Inspector. As per the said advertisement, it was necessary for the applicants to possess a Typing qualification of 30 W.P.M. Since the respondent no.1 was not selected in the said selection process, he approached the learned Maharashtra Administrative Tribunal.

The learned Maharashtra Administrative Tribunal has allowed the Original Application and directed the petitioners to select and appoint the applicant as Canal Inspector on the basis of merit disregarding the fact that he does not have the prescribed Typing qualification.

We do not propose to go into the question as to whether the learned Tribunal was right in holding that an additional qualification cannot be provided in the advertisement

which is not prescribed under the Rules, inasmuch as we find that the petition deserves to be dismissed on another ground.

The perusal of the advertisement itself would reveal that relaxation is granted in so far as possessing Typing qualification for the candidates belonging to project affected, earthquake affected, nominees of the freedom fighters, employees working in 1991 census, the employees working on election duty after 1994 and part-time employees holding degree/diploma. Undisputedly, the respondent no.1 belongs to the category of part-time employees holding a degree/diploma. Since the advertisement itself had provided for relaxation of the said condition, the petitioners could not have denied the said relaxation to the respondent no.1.

In that view of the matter, no merit is found in the petition. The petition is rejected.

The order passed by the learned Maharashtra Administrative Tribunal shall be implemented within a period of one week from today. Needless to state that the respondent no.1 would be put in the seniority list along with the other candidates selected in the said selection process according to merit of the respondent no.1 and for all purposes except the back wages the said date shall be construed as a date on which the respondent no.1 employee is appointed.

**Judge**

**Judge**

J.