

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

WRIT PETITION NO.3534 OF 2015

[Rupali Subhash Aparajit nee Sau. Rupali w/o Shailesh Deshkar .vs. The State of Maharashtra
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.B. Jawade, counsel for the petitioner,
Shri D.B. Patel, AGP for the State.

CORAM : SMT. VASANTI A. NAIK AND
A.I.S. CHEEMA, JJ.

DATED : AUGUST 31, 2015.

Heard.

The petitioner had applied for the post of Clerk from sport/open category in pursuance to the advertisement issued by the respondent no.2 sometime in the month of July, 2012. According to the petitioner, the petitioner was selected from the candidates applying from sport/open quota and the petitioner was asked to tender the relevant certificates to show her proficiency in sport on 26.6.2013. The petitioner tendered the certificates on 29.6.2013. Nothing happened in the matter for long and by the impugned communication dated 22.9.2014, the petitioner was informed that the recruitment process ceased to subsist in respect of the nine posts that were required to be filled from sports quota as the appointments were not made within a period of one year, from the date of issuance of the advertisement. The petitioner's certificates were returned to the petitioner, along with the communication dated 22.9.2014. In stead of challenging the communication by a writ petition, the petitioner filed an original application before the Maharashtra Administrative Tribunal. The Maharashtra Administrative Tribunal permitted the petitioner to withdraw the original application in April, 2015. After the

withdrawal of the original application, the petitioner has filed the instant petition seeking her appointment on the post of Clerk from sport/open quota.

On hearing the learned counsel for the parties, it appears that the relief sought by the petitioner cannot be granted. More than three years have lapsed from the date of issuance of the advertisement. According to the Government Resolution, the recruitment process lapses and the select list gets exhausted after the completion of one year from the commencement of the selection process. Since no candidate from sports quota was appointed within a period of one year from the issuance of the advertisement, by the impugned communication dated 22.9.2014, the petitioner was informed that the recruitment process did not subsist. At this stage, when more than three years have lapsed from the date of issuance of the advertisement, it would not be proper to issue any direction to the respondent nos.1 and 2 to make the appointment of the candidates in sports quota. Even assuming that there was some fault on the part of the respondents in not verifying the certificates and making the appointments within a reasonable time, the petitioner cannot solely blame the respondents. Though the petitioner was informed by the impugned communication dated 22.9.2014 that the recruitment process has ceased to subsist, the petitioner erroneously challenged the said communication before the Maharashtra Administrative Tribunal and a period of nearly eight months was wasted. Also, though only nine candidates were entitled to be appointed in the sports quota, a list of 16 selected candidates was published. It would not be for this court to now consider, whether the petitioner was, in fact, entitled for appointment on the post of Clerk from sport/open quota, after a period of three years from the date of issuance of the advertisement. It is well settled that a selected candidate does not have a right to be appointed on a post. In the circumstances of the case, the relief sought by the petitioner cannot be granted, as it would result in reopening the process of recruitment/appointment which ceased to subsist, after a period of

one year from the date of issuance of the advertisement.

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

JUDGE

JUDGE

Gulande