

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 7331 OF 2014

1. Vijay Shrinivasrrao Sharma,
Age: 41 years, Occu- Business,
Shivaji colony Rmapur Road,
Degloor, Tq. Degloor, Dist. Nanded.
2. Syed Asef Syed Sharifuddin,
Age- 36 years, occ- Business,
r/o Raj Galli, Majalgaon
Tq. Majalgaon, Dist. Beed.
3. Mohd. Iliyas Osman,
Age-45 years, occ- Business,
r/o Julekha Manzil, Momin Galli,
Degloor, Tq. Degloor,
Dist. Nanded.
4. Khan Shafaatullah Samiullah,
Age- 37 years, occu- business,
Azad ward, Near Madina Masjid
Umerkhed, Tq. Umerkhed,
Dist – Yeotmal – 445 206.

...PETITIONERS

versus

1. The State of Maharashtra
Through Secretary, Public
Transport Department,
Mantralaya, Mumbai.
2. The Maharashtra State
Road Transport Corporation
Through its General Manager,
(Personal and Industrial Relations)
'Vahatuk Bhavan' Mumbai Central,
Bhaikala Road, Mumbai – 400 008.

...RESPONDENTS

.....
Mr. V.D. Salunke, Advocate for petitioner
Mr. S.S. Dande, AGP for respondent No. 1
Mr. D.S. Bagul, Advocate for respondent No. 2
.....

**CORAM : R.M. BORDE AND
K.K. SONAWANE, JJ.**

DATED : 18th OCTOBER, 2016.

ORAL JUDGMENT :- [Per : R.M. Borde, J.]

1. Heard.
2. Rule. Rule made returnable forthwith. With the consent of the parties, petition is taken up for final decision at admission stage.
3. The petitioners are objecting to the action of respondent – Corporation of its failure to consider their claim to appoint them on the posts of Auto Electrician. The respondents have invited applications for various posts under the advertisement. The petitioners, who possess required qualifications as specified in the advertisement, have tendered their applications seeking appointments. The petitioners appeared for written test and were declared successful, however, at the stage of trade test, the petitioners were not allowed to participate in the process, on the ground that they do not possess experience of Auto Electrician Trade.
4. Affidavit-in-reply is presented on behalf of respondent No. 2 wherein it has been contended that considering the nature of work and functioning of respondent – Corporation, the Corporation needs candidates, who possesses experience in Auto Electrician (Motor Mechanic) Trade. Looking to the functioning of respondent – Corporation, it is reasonable for respondents to select the candidates, who possess experience of Auto Electrician (Motor Mechanic) Trade.

There does not appear to be unreasonable classification while pursuing process of selection.

5. So far as petitioner No. 1 is concerned, it is pointed out that he has worked with respondent-Corporation for one year and do possess certificate of apprenticeship in Auto Electrician Trade. Thus, petitioner no. 1 do possess experience in Auto Electrician Trade. Advertisement issued by respondents inviting applications prescribe qualification for the posts of electrician/auto electrician. If we strictly consider the specifications in the advertisement, petitioner No. 1 can be considered for the post and shall have to be held qualified to compete since he possess experience and certificate of apprenticeship is issued to him by the employer. The employer does have freedom to appoint suitable candidates for the post considering requirement of job.

6. On consideration of the job requirement, it cannot be said that claim of petitioner No. 1 can be thrown out for the reason that he does not possess certificate and his experience in Auto Electrician Trade as apprentice needs to be considered. Petitioner No. 1 does possess requisite certificate in respect of Auto Electrician Trade and does have experience in relevant trade.

7. In the circumstances, in exercise of powers under Article 226 of the Constitution of India, we direct respondent - Corporation to consider claim of petitioner No. 1 for employment. Petitioners No. 2 to 4 have no experience in relation to Auto Electrician Trade, as such, the employer is justified in refusing to consider the claim of petitioner nos.

2 to 4. However, respondents are directed to consider claim of petitioner no. 1 for employment.

8. Rule is made absolute to the extent as specified above, so far as petitioner No. 1 is concerned. Writ petition stands disposed of accordingly. There shall be no order as to costs.

[K. K. SONAWANE, J.]

[R.M. BORDE, J.]

MTK