

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12533 OF 2015

Shrikant s/o Eknath Kachave,
Age : 25 years, Occu. Student,
R/o Post Colony, Old Pedgaon Road,
Parbhani 431 401,
District Parbhani

PETITIONER

VERSUS

1. The State of Maharashtra
2. Chief General Manager (HR),
Maharashtra State Power Generation
Company Ltd.,
Estrellek Batteries Exansion Compound,
1st Floor, Plot No. 1, Dharavi Road,
Dharavi, Mumbai – 400 019
3. Executive Director (HR),
Maharashtra State Power Generation
Company Ltd., Prakashgad, 2nd Floor,
Bandra (East), Mumbai – 400 051
4. Institute of Banking Personnel
Selection, IBPS House, 90 feet,
D.P. Road, Near Thakur Polytechnic,
Off. Western Express Highway,
P.B. No. 8587, Kandivali (East),
Mumbai – 400 101

RESPONDENTS

Mr. V.D. Salunke, Advocate holding for Mr. Sachin V.
Kuptekar, Advocate for the Petitioner
Mr. V.H. Dighe, A.G.P. for respondent No. 1
Mr. A.M. Gaikwad, Advocate for respondent Nos. 2 to 4

CORAM : S.S. SHINDE AND
SANGITRAO S. PATIL, JJ.

JUDGMENT RESERVED ON : 24th JUNE, 2016
JUDGMENT PRONOUNCED ON : 7th JULY, 2016

JUDGMENT (PER : SANGITRAO S. PATIL, J.) :

Rule. Rule made returnable forthwith and with the consent of the learned counsel for the parties, heard finally.

2. The disqualification of the petitioner for the post of Technician-3 on the ground that he produced the certificate of passing I.T.I. trade which was issued after the last date for filing online application for the said post, has been challenged in this petition.

3. Relying on the contents of the petition, rejoinder and the documents produced on record, the learned counsel for the petitioner submits that as per the advertisement dated 20th August, 2014, respondent No.2 invited online applications on or before 10th September, 2014 from the eligible candidates for the post of Technician-3 through the website of the Maharashtra State Power Generation Company Limited. On that day, the petitioner was not possessing the passing certificate in Electrician trade though he had appeared

for the All India Trade Test for Craftsmen Training Scheme held in the month of July, 2014, conducted by the Directorate of Vocational Education and Training, Maharashtra State, Mumbai. Respondent No. 2 issued a notification dated 10th September, 2014 and extended the time for sending online applications for the above mentioned post till 20th September, 2014. On the same day, the petitioner received the National Trade Certificate for having successfully completed the training programme in Electrician trade. Since he became eligible for the said post after receiving that Trade Certificate, he sent online application for that post on 20th September, 2014. Though the date of sending applications through Online was extended till 20th September, 2014, the consequential amendment was not carried out in the application form by substituting the date 20th September, 2014 for 10th September, 2014. Therefore, the petitioner mentioned his date of passing the Electrician trade as 10th September, 2014, whereon his online application came to be accepted.

4. The learned counsel for the petitioner further submits that the petitioner scored highest 48 marks from

VJ-A category in Online Examination held on 16th November, 2014. He was then called upon to produce his documents of eligibility for verification on 22nd April, 2015. Accordingly, he produced all of his documents/certificates for verification on 22nd April, 2015. Though the petitioner had obtained highest marks in the online examination and was fulfilling all the eligibility criterion for being selected for the post of Technician-3, his name was not included in the final select list dated 24th November, 2015. Respondent No. 2 published the list of unsuccessful candidates on 18th December, 2015 with the reasons for their respective disqualifications. In that list, it was mentioned against the number of the petitioner that he produced the certificate of passing I.T.I. Trade Examination, which was issued after the last date for sending Online applications for the post of Technician-3.

5. The learned counsel for the petitioner submits that the petitioner has been wrongly disqualified by respondent No. 2 and has been wrongly deprived of the opportunity to get appointed to the post of Technician-3. He, therefore, prays that the said disqualification

may be quashed and set aside and the respondents may be directed to consider the petitioner for being appointed to the post of Technician-3 from VJ-A category.

6. Respondent Nos. 2 to 4 filed reply and opposed the petition. On the strength of the averments made in the said reply and the documents annexed thereto, the learned counsel for respondent Nos. 2 to 4 submits that though the date for receiving the online applications was extended till 20th September, 2014, the date for considering the eligibility of the candidates for the post of Technician-3 was not extended. Therefore, it was necessary for the petitioner to produce the passing certificate of the Electrician trade that was issued on 10th September, 2014 or prior to that. He submits that initially, certain trades were not included in the advertisement. Therefore, as per the notification dated 9th September, 2014, the said trades were also held to be eligible for the post of Technician-3 and in order to extend necessary opportunity to the candidates having passed the said trades, the date of sending applications was extended to 20th September, 2014. However, the other terms and conditions of the advertisement were

maintained as they were in respect of those candidates also. He submits that the cut-off date for considering the eligibility of the candidates was 10th September, 2014. The petitioner submitted the passing certificate of Electrician trade dated 20th September, 2014. The learned counsel further submits that though the results of the petitioner in respect of Electrician trade were declared on 20th September, 2014, he mentioned the date of having passed the examination of the said trade as "10th September, 2014" in the column of technical details in his application. He gave false information in respect of date of passing the said trade. Therefore, he was liable to be disqualified for the said post. According to him, the petitioner has been rightly disqualified for the post of Technician-3 since he was not possessing the requisite educational qualification of passing Electrician trade on 10th September, 2014. He, therefore, prays that the writ petition may be dismissed.

7. As seen from the advertisement, the last date for sending online applications for the post of Technician-3 was 10th September, 2014. Undisputedly, as

per the notification dated 10th September, 2014, the last date for sending online applications was extended to 20th September, 2014. Certain instructions were given to the candidates sending online applications for the post of Technician-3. Under the caption "Other important instructions to the candidates", at clause-15 of the instructions, it is mentioned that for the post of Technician-3, it is necessary that the educational qualification and other papers/certificates of the candidates should be valid till the last date of the advertisement. The last date for sending online applications was 10th September, 2014 as per the advertisement. As per clause-14, under the same caption, the Maharashtra State Power Generation Company reserved its right to fully or partially cancel the selection process or to make certain changes thereon. It seems that in exercise of this right, respondent No.2 issued notification dated 10th September, 2014 whereby the date for sending online applications for the post of Technician-3 was extended till 20th September, 2014. The said notification reads as under :-

महानिर्मिती

महाराष्ट्र राज्य वीज निर्मिती कंपनी मर्यादित

दिनांक : 10.09.2014

अधिसूचना – मुदतवाढ

महानिर्मिती जाहिरात क्रं.04(Aug)/2014

महानिर्मिती जाहिरात क्रं.04(Aug)/2014 अन्वये प्रसिध्द करण्यात आलेल्या तंत्रज्ञ-3 या पदाच्या सरळसेवा भरतीच्या अनुषंगाने उमेदवारांना कळविण्यात येते की, मा. सक्षम अधिका-यांनी दिलेल्या मंजूरीनुसार सदर पदाकरीता ऑनलाईन अर्ज करण्याची अंतिम मुदत दि.20.09.2014 पर्यंत वाढविण्यात आलेली आहे.

स्वाक्षरी—
मुख्य महाव्यवस्थापक (मास)
महानिर्मिती

The said notification in English would read thus :

MAHANIRMITI

**Maharashtra State Power Generation Company
Limited**

Date : 10.09.2014

NOTIFICATION – EXTENTION OF TIME

MAHANIRMITI ADVERTISEMENT NO. 04(Aug)/2014

In connection with Mahanirmiti Advertisement No. 04 (Aug)/2014, published for recruitment for the post of Technician-3, it is informed to the candidates that in pursuance of the sanction granted by the competent authority, the last date for sending online applications for the said post has been extended till 20th September, 2014.

Sd/-
Chief General Manager (H.R.)
Mahanirmiti

8. From the contents of the above-mentioned notification, it is clear that the last date for receiving online applications as given in the advertisement was extended till 20th September, 2014. Therefore, in view of clause-15 of the above referred instructions, it will be clear that the documents/certificates pertaining to the requisite educational qualifications of the candidates applied for the post of Technician-3 were required to be valid till 20th September, 2014.

9. The learned counsel for respondent Nos. 2 to 4 points out to the notification dated 9th September, 2014, issued in connection with the said advertisement by respondent No. 2 whereby the candidates who had passed the additional five trades, were informed that they should possess the necessary training certificates issued on or prior to 10th September, 2014. Therefore, according to him, the extension of date for receiving online applications from 10th September, 2014 to 20th September, 2014 as per the notification dated 10th September, 2014 would not have the effect of extending

the date by which the training certificates were required to be possessed by the candidates i.e. 10th September, 2014. We are not inclined to accept this contention. The notification dated 10th September, 2014 does not at all specify that the date for holding the requisite training certificates would remain unchanged i.e. 10th September, 2014, even if the date for receiving online applications is extended till 20th September, 2014. Therefore, whatever is not specifically mentioned in the notification dated 10th September, 2014, cannot at all be read therein to indicate that the date for possessing the necessary certificate regarding educational qualification was 10th September, 2014 only.

10. In the advertisement, there is no specific mention that the candidate should have acquired the educational qualification on or before 10th September, 2014. When the date for sending online applications for the post of Technician-3 was extended from 10th September, 2014 to 20th September, 2014, the natural consequence would be extension of the date of acquiring the educational qualification till the last date of sending online application. In the circumstances, we

hold that the date of possessing the requisite educational qualification for the post of Technician-3 would be 20th September, 2014 only i.e. the last date for sending online applications for the said post.

11. When the date for sending online application was extended by respondent No. 2 as per the notification dated 10th September, 2014, it was necessary to make necessary changes in the column of "Technical Details" so as to substitute the date 20th September, 2014 for 10th September, 2014. However, no such change was made in the online application form. There is no explanation coming from the side of the respondents as to what was the rationale behind keeping the said date unchanged in the online application form though the last date for sending application was extended to 20th September, 2014. No special reason has been assigned by the respondents for maintaining the last date for holding requisite educational qualification on 10th September, 2014 only. As seen from the certificate of the petitioner, he had completed the training programme in Electrician trade and appeared for the All India Trade Test held in the month of July, 2014, the result of which was declared on

20th September, 2014. He obtained 477 marks out of 700. The petitioner was possessing the passing certificate in Electrician trade on 20th September, 2014. Therefore, he was eligible for the post of Technician-3 on that date, which was the last date for sending online applications.

12. The last date for possessing the requisite educational qualification in the online application form ought to have been changed since the said date was extended till 20th September, 2014 as per the notification dated 10th September, 2014. The petitioner cannot be said to have intentionally given false information in the online application, showing his date of passing the Electrician trade as 10th September, 2014, since he could not have sent his application by mentioning the date of passing the requisite trade as 20th September, 2014 as the computer system would not have accepted his application. Moreover, he has not been disqualified for the reason that he mentioned false information in his online application.

13. As stated above, the only reason given in the list dated 18th December, 2015, published by respondent No. 2, for disqualification of the petitioner is that

his Electrician trade passing certificate was issued after the last date for sending online application. We have already clarified that the last date of sending online application was 20th September, 2014. As such, on that date, the petitioner was qualified for the post of Technician-3.

14. In the above facts and circumstances of the case and in view of above discussion, we pass the following order :-

- (i) The decision of respondent No. 2 recorded in the list, published on 18th December, 2015, holding the petitioner as disqualified for the post of Technician-3, is quashed and set aside.
- (ii) The respondents are directed to re-consider the candidature of the petitioner for the post of Technician-3 from VJ-A category, on its own merits and if he is found suitable for the post of Technician-3, to re-consider him for being appointed to that post without disqualifying him on the ground which has been mentioned against his name in the list published on 18th

December, 2015 or on the ground that he furnished false information as to the date of passing the Electrician trade.

(iii) Rule is made absolute accordingly.

(iv) The Writ Petition is disposed of with no costs.

Sd/-
[**SANGITRAO S. PATIL**]
JUDGE

Sd/-
[**S.S. SHINDE**]
JUDGE

npj/wp12533-2015