

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5337 OF 2014**

Sheetal Jalinder Mohite

.. Petitioner /
Ori. Applicant No. 2

Vs.

The Maharashtra Public Service
Commission and others

.. Respondents

....

Mr. Murlidhar L. Patil Advocate for the Petitioner

Mr. A.I. Patel, A.G.P. for the State

Mr. C.B. Kher Advocate i/b Mr. Shami Karande for Respondent
Nos. 4 and 6

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**CORAM : D.H.WAGHELA CHIEF JUSTICE &
SMT.V.K.TAHILRAMANI, J.**

DATE : FEBRUARY 15, 2016

ORAL ORDER [PER SMT. V.K. TAHILRAMANI, J.]:

1 Heard learned counsel for both sides. Rule. By consent, Rule is made returnable forthwith and petition is taken up for final hearing.

2 Pursuant to the advertisement dated 27.5.2011, the

petitioner had applied for the post of Assistant Motor Vehicle Inspector. The examination for the said post was held in 2011. The petitioner was not called for the examination as the petitioner did not have the requisite experience. She therefore, filed Original Application No. 139 of 2014 along with one Vishal Vithoba Kasambe, which came to be disposed of by Maharashtra Administrative Tribunal, Mumbai vide judgment and order dated 19.3.2014 which is the order impugned in this writ petition. In the said order, it was held that the petitioner did not fulfill criteria of necessary experience, hence, she cannot be held eligible to be allowed to participate in the selection process for the said post.

3 The learned counsel for the petitioner submitted that the petitioner appeared for the last paper on 30.4.2010. Petitioner was called for interview on 21.4.2012, hence, from the date of last paper till the last date of receipt of application i.e. 16.6.2011, the petitioner had obtained experience of more than one year, hence, the petitioner was eligible for being called for the selection process.

4 The learned AGP drew our attention to the advertisement calling for the candidates for filling up posts of Assistant Motor Vehicle Inspector. He pointed out that in the advertisement, following qualifications were required for the said post:

- "1. Candidate should possess three years diploma in Automobile Engineering or in Mechanical Engineering awarded by the State Board of Technical Education or any qualification declared by the Central or the State Government to be equivalent thereto;
2. Possess practical experience of repairing and maintenance of light motor vehicles, heavy goods vehicles and heavy passenger vehicles, for a period of not less than one year as full time employee, **gained after acquiring the qualification mentioned above.** "

5 The learned AGP for Respondent-MPSC submitted that the result of the petitioner in relation to his diploma was declared on 6.7.2010. This fact is not controverted by the learned counsel for the petitioner. The learned AGP submitted that in view of the fact that results were declared on 6.7.2010 and the last date of submitting application was 16.6.2011, the petitioner had experience of only 11 months and 11 days after obtaining diploma which experience was less than the

prescribed one year experience as stipulated in the advertisement. From the advertisement, it is clear that for the post of Inspector of Motor Vehicles or Assistant Inspector of Motor Vehicles, there should be working experience of at least one year **gained after acquiring necessary educational qualification**. It is to be noted that the experience is to be counted from the date of acquiring educational qualification till the last date of submitting application i.e. 16.6.2011 which is clearly set out in the advertisement. The advertisement clearly states that the experience of one year is to be counted after acquiring the necessary educational qualification till 16.6.2011.

6 The learned counsel for the petitioner placed reliance on the decision of the Supreme Court in the case of **Subhash S/o Shriram Dhonde Vs. State of Maharashtra**, reported in **1995 (Supp.3) SCC 332**, wherein it was stated that mere possession of working experience of at least one year in a reputed automobile workshop as mentioned under Rule 3(c) is enough and that rule does not make any difference between acquiring of such experience prior to or after acquiring of basic qualification. However, in the decision relied upon, it does not appear that the advertisement was similarly worded as in the

present case.

7 In the present case, the advertisement clearly states that experience is to be counted after the requisite qualification has been acquired by the candidate. The candidate is said to have necessary qualification only when the final results are declared and not when he appears for the last paper, because, even though, a candidate may have appeared for the paper, it is not a necessary corollary that the candidate will pass the examination. A person is said to have requisite educational qualification when he clears the examination that is when he is declared as passed in the examination. In the present case, as the result was declared on 6.7.2010 the petitioner clearly did not have the experience of one year as stipulated in the advertisement, and hence, the petitioner cannot claim the relief sought.

8 In view of the above, no interference is called for in the decision of the Tribunal. Hence, petition is dismissed. Rule is discharged.

[SMT. V.K.TAHILRAMANI,J.]

[CHIEF JUSTICE]