

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3309 OF 2015**

The Secretary
Mah. Public Service Commission,
Fort, Mumbai

.. Petitioner

Vs.

Chitra Damodar Deore and Anr.

.. Respondents

....

Mr. S.R. Ganbavale Advocate for Petitioner

Mr. Sagar Mane Advocate i/b Mr. Bhushan A. Bandiwadekar
Advocate for Respondent No.1

Mr. C.P. Yadav A.G.P. for the Respondent No.2-State

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

DATE : FEBRUARY 26, 2016

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 This petition has been preferred by the petitioner being aggrieved by the order dated 13.10.2014 passed by the

Maharashtra Administrative Tribunal Mumbai in Original Application No. 115 of 2012 preferred by the respondent.

3 Brief facts are as under:

The petitioner-Maharashtra Public Service Commission ("MPSC" for short) published an advertisement No. 2 of 2010 dated 21.10.2010 on their website calling for applications for the post of Education Officer Group "A" (Administrative Branch). The respondent submitted her application on the website of the petitioner on 16.11.2010. Then Admit Cards were issued to the candidates who featured in the list of eligible candidates and Admit Card was also issued to the respondent. After screen test was conducted the petitioner-MPSC had to call eligible candidates for interview. Even after the screen test, number of applications was still large and hence, the petitioner scrutinized all the applications again and published a list of ineligible candidates in three parts. The respondent's name featured on the 3rd Reject List dated 5.12.2011. Her name was at Sr. No. 53 and it was followed by remarks "No requisite experience (three years teaching experience) after B.Ed. as per the advertisement".

The respondent submitted representation on 17.1.2012 stating that she is eligible for the post and her application may be considered. As according to the petitioner-MPSC, the respondent did not qualify, the representation was not considered. The respondent being aggrieved by the order dated 5.12.2011 holding her as ineligible for the post of Education Officer Class-I M.P.S. Group "A" (Administrative Branch) for want of three years teaching experience post B.Ed., preferred Original Application No. 115 of 2012. The Original Application preferred by the respondent came to be allowed by order dated 13.10.2014. The petitioners were directed to reconsider the case of the respondent and if found eligible to hold interview and then take a final decision. Being aggrieved thereby, this petition has been preferred.

4 It is an admitted fact that the respondent with effect from 1.8.2006 till date, has been working as an Extension Officer (Education) (Permanent), the nature of the work mentioned in the post by her was administrative and the earlier two posts were of teaching. According to the respondent, from 9.10.1992 to 4.12.1995 and from 5.12.1995

to 30.7.2006, the respondent worked as an Assistant Teacher (Permanent). In such case, the Tribunal held that after B.Ed. the respondent had about six years of teaching experience which met criteria stated in the advertisement. As far as educational qualifications are concerned, it is not in dispute that the respondent meets the criteria of educational qualification. However, according to the petitioner-MPSC, the respondent did not meet the criteria of experience. Reliance was placed by the learned counsel for the petitioner on the advertisement. It was pointed out that according to the advertisement, the qualification a candidate should have for the said post, is five years of experience (inclusive of minimum three years experience of teaching). However, in clause 4.4 of the advertisement, it is further stated that out of these five years experience, experience of three years in teaching shall be after obtaining degree of graduation. This means that the respondent should have at least three years of teaching experience after obtaining her B.Ed. degree. This is clearly stated in advertisement No. 2-10 dated 21.10.2010 pursuant to which the respondent applied for the post of Education Officer.

5 Having read the advertisement No. 2 of 2010 dated 21.10.2010, we find that the Tribunal was in error in holding that the condition of post B.Ed. minimum experience is not set out therein. If clause 4.4 of the advertisement is read, it shows that the candidate should be a graduate holding B.Ed. degree and the candidate should have five years of experience of which three years in teaching shall be after the degree of graduation. On a careful reading of the advertisement, this clearly means the B.Ed. degree. Thus, the respondent had to have at least three years experience of teaching after obtaining her B.Ed. degree.

6 The original record was produced before the Tribunal and on perusal thereof, the Tribunal has observed that it does appear that in the column of experience, the present respondent did not give a proper break-up of her career and it does give an impression that she worked as an Extension Officer (Education) Zillha Parishad Nashik from 9.10.1992 till date. Thus, in view of the fact that the respondent did not give proper break up of her career nor was it clearly stated in her online application that she had requisite three years teaching

experience after her degree of graduation, the Tribunal ought not to have allowed the original application filed by the respondent.

7 In view of the above facts and in view of the clear observations of the Tribunal that it does appear that in the column of experience the applicant (the present respondent) did not give proper break-up of her career and break-up provided by her gives an impression that she worked as Extension Officer (Education) Zillha Parishad Nashik from 9.10.1992 till date, the order of the Tribunal cannot be sustained. Moreover, the petitioner is only a recommendatory body and the appointing authority i.e. the Government was not made a party before the Tribunal. Moreover, there is no interim relief in favour of the respondent. The advertisement was of the year 2010. The posts were filled in long back. Today on account of passage of time and subsequent developments, the Tribunal ought not to have issued such directions, hence, the order of the Tribunal dated 10.10.2014 passed in O.A. No. 115 of 2012, is set aside.

7 Writ petition is allowed in above terms. Rule is made absolute.

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

[CHIEF JUSTICE]

Kandarkur