

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3763 OF 2016**

Dr. Sharad Vilas Gaikwad

.. Petitioner

Vs.

The State of Maharashtra & Ors.

..Respondents

....

Mr. Gunratan Sadavate for the petitioner.

Mr. A.I. Patel, Assistant Government Pleader for the respondents.

....

**CORAM : D.H. WAGHELA ,C.J. &
M.S. SONAK, J.**

DATE : 1 APRIL 2016.

P.C.:

. By order dated 2/3/2016, the Maharashtra Administrative Tribunal dismissed the original application of the petitioner challenging the order dated 7/8/2013 terminating the services of the petitioner as Medical Officer under physically handicapped category. The petitioner was allowed to join the service after his affidavit dated 22/5/2013 as his eligibility for the post was doubtful as the petitioner had submitted certificate dated 22/5/2013 issued by the Medical Officer of J.J. Hospital, Mumbai, showing that he suffered from disability to the extent of 20% and he was selected in the physically handicapped category. Thereafter, his case was referred to the State Health Department to decide whether he was eligible, pursuant to which his services were

terminated on the ground that he was found ineligible for appointment to the post reserved for physically handicapped persons as his disability was less than 40%.

2. There has been no dispute as to disability and applicability of the Office Memorandum dated 29/12/2005. The only issue required to be decided by the Tribunal was as to whether the petitioner was eligible to be appointed in the reserved category for physically handicapped persons. It was argued before the Tribunal and before this Court that since the aforesaid Office Memorandum dated 29/12/2005 and paragraph 22 thereof permitted relaxation of standard of suitability, the persons with disability would be permitted for filling up the reserved posts. The argument has been found to be unreasonable, illogical and illegal and the Tribunal has correctly held that the petitioner was ineligible for appointment under the physically handicapped category. No reasons have been made out to take a view different from the view adopted by the Tribunal in the impugned order.

3. Writ petition is dismissed. The prayer for granting 8 weeks of continuity of interim relief granted herein is rejected.

(M.S. SONAK)

(CHIEF JUSTICE)