

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12517 OF 2015**

Maharashtra Public Service Commission
Mumbai ... Petitioner

Vs.

Mrs. Sunita Ashish Amritsagar ... Respondent

....
Mr. Nitin P. Dalvi Advocate for Petitioner
Mr. Sandeep Dere Advocate for Respondent
....

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

DATE : FEBRUARY 24, 2016

ORDER [PER SMT. V.K.TAHLIRAMANI, J.] :

1 Heard learned counsel for the parties.

2 The petitioner - Maharashtra Public Service Commission ("MPSC" for short) has preferred this petition being aggrieved by order dated 13.8.2015 passed by Maharashtra Administrative Tribunal Bench at Mumbai ("the Tribunal" for short) in Original Application No. 82 of 2014 preferred by the respondent.

3 Brief facts of this case, are as under:

 The respondent applied for State Services (Main) Examination-2013 from female Open category, pursuant to the advertisement issued by the petitioner-MPSC on 23.1.2013. The respondent appeared for written examination held on 18.5.2013 and was called for interview on 7.1.2014. However, the respondent was not allowed to appear for the interview as according to the petitioner, the respondent did not have latest Non Creamy Layer (NCL) Certificate. Being aggrieved thereby, the respondent preferred Original Application. The said Original Application came to be allowed by order dated 13.8.2015 and the petitioner was directed to interview the respondent within a period of three months and if found suitable, to recommend her for appointment, to the State Government in an appropriate post, hence, this petition.

4 According to the petitioner, as the respondent did not have the necessary Non Creamy Layer (NCL)Certificate as stipulated in the advertisement which was issued on 23.1.2013, she was not allowed to appear for the interview. It is an

admitted fact that when the petitioner was called for interview on 7.1.2014, she produced NCL Certificate of the financial year 2011-2012. Learned counsel for the petitioner submitted that Paragraph 2.2.3.4 of the General Instructions to the candidates, states that candidate has to produce NCL Certificate of the financial year prior to the year in which the advertisement was issued. Hence, the petitioner ought to have produced NCL Certificate for the financial year 2012-2013 and as the petitioner has not produced the same at the time of interview, she was not allowed to appear for the interview.

5 The advertisement was issued on 23.1.2013 which means that it was issued in the financial year 2012-2013. Paragraph 2.2.3.4. of the General Instructions to the candidates, clearly states that the candidate has to produce necessary NCL certificate of the financial year prior to the financial year in which the advertisement was issued. As stated earlier, the advertisement was issued on 23.1.2013 i.e. in the financial year 2012-2013. We find the contention of the learned counsel for the petitioner unacceptable that the petitioner should have produced NCL Certificate of the year

2012-2013. We cannot accept the contention that as the advertisement was issued on 23.1.2013, the previous financial year would be 2012-2013. The financial year prior to the year when the advertisement was issued, is 2011-2012. Non Creamy Layer certificate of the financial year 2011-2012 was admittedly produced by the respondent at the time of interview. As this was the only ground on which the respondent was not allowed to appear for the interview, we find the said ground to be untenable.

6 In view of the above, no interference is called for in the order of the Tribunal dated 13.8.2015, hence, writ petition is dismissed.

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

[CHIEF JUSTICE]