

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 2008 OF 2015

The Secretary, Maharashtra Public Service Commission, Mumbai

-vs-

Shri Shrikant Vitthalrao Padwar and another

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mrs. Neeta Jog, counsel for the petitioner.
Mr. S.B.Palshikar, counsel for the respondent No.1.
Mr.Prakash Tembhare, AGP for the respondent No.2.

CORAM : SMT. VASANTI A. NAIK &
A.S.CHANDURKAR, JJ.

DATE : 05.02.2016.

By this petition, the petitioner-Maharashtra Public Service Commission has challenged the order of the Maharashtra Administrative Tribunal, dated 04/09/2014 allowing an original application filed by the respondent No.1 and directing the petitioner-Commission to consider the respondent No.1 for appointment on the post of Assistant Public Prosecutor Group-A.

An advertisement was issued by the petitioner-Commission on 13/03/2012 calling applications from candidates interested in seeking appointment on the post of Assistant Public Prosecutor Group-A. The respondent No.1 filled online form before the last date for its submission, on 27/03/2012. The interviews were conducted on 10/09/2012 and 18/09/2012 and since the respondent No.1 was not called for interview, the respondent No.2 made a grievance in that regard to the petitioner-Commission and also filed an original application before the Maharashtra Administrative Tribunal. According to the respondent No.1, the respondent No.1 had an experience of more than five years as an Advocate and hence, his candidature could not have been rejected on the ground that he had passed the LLB Examination on 07/07/2007 and did not possess five years experience as an Advocate on the date of submitting the

application form on 27/03/2012. The respondent No.1 came up with the case that he had passed the LLB Examination in the year 2002 and had an experience of nearly ten years at the time of submission of the application. The respondent No.1, therefore, sought a direction to the Maharashtra Public Service Commission to interview the respondent No.1 and consider his candidature for the post of Assistant Public Prosecutor Group-A. The petitioner-Commission filed the reply before the Maharashtra Administrative Tribunal. It was the case of the petitioner-Commission that it was stated by the respondent No.1 in the application submitted by him online that he had passed the LLB Examination on 07/07/2007 and hence, he did not have five years experience as an Advocate on 27/03/2012, when he submitted the application form. The petitioner-Commission, therefore, opposed the prayer made by the respondent No.1 in the original application. The Maharashtra Administrative Tribunal, however, on an appreciation of the material on record, allowed the original application filed by the respondent No.1 and directed the petitioner-Commission to consider the candidature of the respondent No.1 after interviewing him. The order of the Maharashtra Administrative Tribunal is impugned by the petitioner-Commission in the instant petition.

On hearing the learned counsel for the parties and on a perusal of the impugned order, it appears that there is no reason to interfere with the same, in exercise of the writ jurisdiction. It was the case of the respondent No.1 that the respondent No.1 had not committed any mistake whatsoever in mentioning the date on which he had passed the LLB Examination. It was the case of the respondent No.1 that he did not mention in the online application that he had passed the LLB Examination on 07/07/2007. It was the case of the respondent No.1 that the petitioner-Commission had committed some mistake in considering the date of passing of the LLB Examination by the petitioner. It was stated that the respondent No.1 had mentioned that he had passed the LLB Examination in the year 2002. In the circumstances of the case, the Tribunal held that even assuming that there was an inadvertent mistake on the part of the respondent No.1 in mentioning the date and year of passing of the LLB Examination, the

petitioner-Commission ought to have called the respondent No.1 for the interview and ought to have considered the candidature of the respondent No.1. The documents submitted by the respondent No.1 along with the application showed that the respondent No.1 had passed the LLB Examination in the year 2002. Also, the respondent No.1 had applied in pursuance of an advertisement issued by the Maharashtra Public Service Commission in the year 2009 for appointment on the post of Assistant Public Prosecutor and the candidature of the respondent No.1 was considered in pursuance of the advertisement of the year 2009. The Tribunal considered the judgments relied on by the parties to hold that the relief sought by the respondent No.1 was required to be granted in the circumstances of the case. The Tribunal found that the respondent No.1 had not only secured the LLB Degree in the year 2002, but he was also enrolled and registered with the Bar Council of Maharashtra on 13/09/2002. The Tribunal held that the petitioner-Commission ought to have considered the certificate issued in favour of the respondent No.1 by the Principal District and Sessions Judge, Yavatmal that the respondent No.1 had an experience of more than five years as a practicing Advocate. In the circumstances of the case, we do not find that the Tribunal committed any error in granting the relief in favour of the respondent No.1. It is well settled that even if two views are possible in a matter arising out of the orders passed by the Judicial or Quasi Judicial Authorities, this Court would be loath to interfere with the orders, in exercise of the writ jurisdiction.

In view of the aforesaid, the writ petition is dismissed with no order as to costs.

JUDGE

JUDGE