

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.2116 OF 2015

(Prashant s/o Tryambakrao Lahudkar vs. Maharashtra Public Service Commission and others)

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

Mrs. R.S. Sirpurkar, Advocate for petitioner.

Smt. A.R. Taiwade, Assistant Government Pleader for respondent
nos.1 to 3.

CORAM : B.P. DHARMADHIKARI AND
KUM. INDIRA JAIN, JJ.

DATED : JULY 5, 2016

Considering the nature of controversy, we have heard
matter finally.

Smt. Taiwade, learned Assistant Government Pleader
has pointed out that her instructions are still awaited. However, as
writ petition has been preferred after judgment delivered in favour
of State Government by Maharashtra Administrative Tribunal and
State Government has filed reply before that Tribunal and its
copies are available on record, we have rejected request of learned
Assistant Government Pleader for adjournment.

The learned Assistant Government Pleader is also
appearing for respondent no.1 MPSC. Respondent no.1 MPSC has
filed its reply.

The advertisement in question required candidate to

possess experience of five years of practice as an Advocate in High Court or in Courts subordinate thereto. The petitioner, who has obtained law degree in 2001, submitted his application duly filled in and complete in all respects in prescribed proforma. In that application, experience is required to be mentioned in a column, which is as under :

Sr. No.	Post held	Nature of Appointment	Nature of Post	Name of Organisation	Ownership of Organisation/ Institute	Pay
1	SAPP	Temporary	Law Practicing	Director of Prosecution (From 2/7/2007 till date)	Government of Maharashtra	O

The petitioner accordingly pointed out that for some time he worked as a Special Assistant Public Prosecutor temporarily with Director of Prosecution and he has also mentioned period thereof, i.e. from 2/7/2007 till date of filing of application.

His application has been rejected. He approached Maharashtra Administrative Tribunal. The learned Tribunal has found that petitioner did not supply necessary details and, therefore, he could not have taken advantage of his own wrong.

Submission of Adv. Sirpurkar for petitioner is that as application was to be filled in online, data as stipulated therein only could have been furnished and accordingly has been furnished. There was no liberty to add anything of his own to petitioner.

However, when petitioner has shown that he has obtained law degree in 2001, according to her, it follows that he was in practice since 2001.

Our attention is also drawn to the instructions issued by Maharashtra Public Service Commission. As per those instructions, veracity of information furnished in online application is to be ascertained only at the time of interview and documents are to be furnished at that stage.

The learned Assistant Government Pleader is relying upon reply filed by respondent no.1 Maharashtra Public Service Commission. Without prejudice to request for adjournment, which we have rejected supra, only to assist the Court, she has also taken us to judgment of Maharashtra Administrative Tribunal.

Only question is if online form itself was defective and did not allow petitioner to furnish necessary data, whether his candidature could have been cancelled on that account ?

Perusal of online form produced on record shows that there is no separate column for mentioning the experience as an Advocate except the portion reproduced supra. There the applicant has to disclose post held by him. Whether a person practising as Advocate for private litigants holds any post under any Organization is the question. If he is not holding any such post, there is no occasion for him to fill in that information.

We find that all this material has not been looked into by the Maharashtra Administrative Tribunal while deciding Original Application.

The other question, which has cropped up during hearing, is what information was supplied by other Advocates, who qualified for the post. Adv. Sirpurkar submits that that data has been asked for after filing of present writ petition under Right to Information Act and is yet to be received.

In this situation, we find that it is necessary for respondent no.1 to suitably modify its application form. Not only this, as grievance of petitioner has not been considered on merits by Maharashtra Administrative Tribunal, we find that it is necessary to place back the entire controversy before it. Only for this purpose, we quash and set aside the impugned judgment dated 22/4/2014 delivered by Maharashtra Administrative Tribunal in Original Application No.244/2013. That Original Application is restored back to file of Maharashtra Administrative Tribunal.

The parties are directed to appear before Maharashtra Administrative Tribunal at Nagpur on 8/8/2016 and to abide by its further instructions in the matter. The Maharashtra Administrative Tribunal shall attempt to take fresh decision in the matter according to law at the earliest.

The writ petition is thus partly allowed and disposed of.
No costs.

JUDGE

JUDGE

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