

**FARAD CONTINUATION SHEET No.**  
**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH AT NAGPUR**

**WRIT PETITION NO.2323/2016**

SHARAD RAMDAS MHASKE **VERSUS** STATE OF MAHARASHTRA & OTHERS)

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

Court's or Judge's orders

Shri A.S. Kilor, counsel for the petitioner.  
 Mrs.R.A. Deshpande, A.G.P. for the R-1 & 2.  
 Shri S.U. Nemade, counsel for the R-3.

**CORAM : SMT.VASANTI A. NAIK AND**  
**V.M. DESHPANDE, JJ.**

**DATE : APRIL 20, 2016.**

By this petition, the petitioner challenges the order of the Maharashtra Administrative Tribunal, dated 10.09.2015 allowing an original application filed by the respondent no.3 and directing the State Government to consider appointing the respondent no.3 on the post of Peon, against the quota reserved for the physically challenged.

In pursuance of an advertisement issued by the respondent nos.1 and 2 on 17.07.2013 inviting applications for appointment on the post of Peons in several categories, the petitioner and the respondent no.3 had applied for the post from the quota reserved for the physically challenged. The respondent no.3 was selected as the petitioner had secured lesser marks than the respondent no.3. After the selection of the respondent no.3, the respondent no.3 was referred to the Medical Board and the Medical Board found that the disability suffered by the respondent no.3 was not above 40%. The action on the part of the Medical Board to reconsider the extent of the disability suffered by the respondent no.3 and the rejection of the candidature of the respondent no.3 was challenged by the respondent no.3 before the Maharashtra Administrative Tribunal. The Maharashtra Administrative Tribunal allowed the original application and held that the Medical Board

could not have reviewed its earlier decision of holding that the respondent no.3 suffered from more than 40% disability. The Tribunal held that the respondent no.3 could have been examined by the Medical Board like the other candidates that were not appointed from the category of physically disabled. The Tribunal relied on the Government Resolutions dated 14.01.2011 and 18.04.2013 while allowing the original application filed by the respondent no.3.

On hearing the learned counsel for the parties and on a perusal of the impugned order, it appears that the Tribunal was justified in allowing the original application filed by the respondent no.3. The Tribunal relied on the Government Resolutions dated 14.01.2011 and 18.04.2013 that provided for a normal medical examination of the selected candidates from the physically disabled persons category. The Tribunal held that in view of the Government Resolution it was not permissible for the Medical Board to reconsider the issue in regard to the extent of the disability suffered by the respondent no.3. The approach of the Tribunal in deciding the original application filed by the respondent no.3 appears to be just and proper. Since the decision of the Tribunal is based on the Government Resolutions dated 14.01.2011 and 18.04.2013, no fault could be found in the order of the Tribunal so as to interfere with the same in exercise of the writ jurisdiction.

Since the order of the Tribunal is just and proper, we dismiss the writ petition with no order as to costs.

**JUDGE**

**JUDGE**