

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

WRIT PETITION NO. 1898/2015

(ABHIMAN MEGHAJI RATHOD **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 N.B. Rathod, counsel for the petitioner.
 Shri S.M. Ukey, Additional G.P. for the R-1.

CORAM : SMT. VASANTI A NAIK AND
KUM. INDIRA JAIN, JJ.

DATE : OCTOBER 18, 2016.

By this writ petition, the petitioner challenges the order of the Maharashtra Administrative Tribunal, dated 07.05.2014 dismissing the original application filed by the petitioner.

The Conservator of Forest, Yavatmal sent a requisition to the Employment Exchange on 10.03.2003 for making appointment of two accountants in its establishment. One post of accountant was earmarked for Open (General) and the other was earmarked for the physical challenged. The petitioner as well as the respondent no.3 applied for the post that was earmarked for the physically challenged. According to the petitioner, the written examination was conducted on 18.12.2003 and since some complaints were received, the written examination was again conducted on 29.12.2003. Admittedly, the petitioner received lesser marks in the written examination than the respondent no.3 and the respondent no.3 was selected and appointed on the post of accountant from the category of physically challenged persons. The petitioner then challenged the appointment of the respondent no.3 before the Maharashtra Administrative

Tribunal. After a long lapse of time, i.e. nearly ten years from the filing of the original application, the Maharashtra Administrative Tribunal dismissed the original application filed by the petitioner. The petitioner has impugned the order of the Maharashtra Administrative Tribunal in this writ petition.

Shri Rathod, the learned counsel for the petitioner, has challenged the impugned order as also the appointment of the respondent no.3 only on two grounds. Firstly, according to the petitioner, the respondent no.3 was not sponsored by the Employment Exchange and the respondents-department could have considered the candidature of the persons sponsored by the Employment Exchange in view of the government circular dated 19.11.2003. Secondly, according to the petitioner, favouritism was extended in the examination conducted on 29.12.2003 but, the complaint made by the petitioner in this regard was not decided by the respondent-Authorities.

On hearing the learned counsel for the parties and on a perusal of the impugned order, we do not find that there is any scope for interference with the impugned order in exercise of the writ jurisdiction. Both the grounds raised by the petitioner for challenging the impugned order are liable to be rejected. The respondent no.3 was admittedly a physically challenged candidate and she was already serving in the forest department. In this background, the forest department permitted the respondent no.3 to participate in the selection process for appointment on the post of accountant as she was already working on some other post in the forest department. We do not find any illegality in the action of the forest

department of permitting the respondent no.3 to participate in the selection process. The government circular dated 19.11.2003 would not come in the way of appointment of the respondent no.3 on the post of accountant. Likewise, we also do not find any merit in the second submission made on behalf of the petitioner in regard to the non-disposal of the complaint made by the petitioner in regard to favouritism. We find on a reading of the order of the Maharashtra Administrative Tribunal that the concerned authorities had looked into the complaint made by the petitioner and had not found any substance in it. Admittedly, the petitioner had secured lesser marks than the respondent no.3 and the respondent no.3 was more meritorious. We find that the appointment of the respondent no.3 was made in the year 2004 and more than twelve years have lapsed from the appointment of the respondent no.3 on the post of accountant. In this background, it would not be proper to interfere with the impugned order in exercise of the writ jurisdiction, more so, when the order appears to be just and proper.

In the result, the writ petition fails and is dismissed with no order as to costs.

JUDGE

JUDGE

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