

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8247 OF 2013

Abhaysinh Balasaheb Suryawanshi	}	Petitioner
versus		
The State of Maharashtra and Ors.	}	Respondents

Mr. Ramdas Shelke for the petitioner.

Mr. Neha Bhide 'B' Panel Counsel for
respondent no. 1.

Mr.G.S.Hegde for respondent nos. 2 and 3.

**CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.
DATED :- FEBRUARY 24, 2017**

P.C. :-

1. The petitioner's counsel submits that the Maharashtra State Road Transport Corporation (MSRTC) had issued an advertisement inviting applications, *inter alia*, for the post of Conductor. The petitioner fulfills the eligibility criteria and is otherwise qualified to be appointed. However, he was not appointed on the specious ground that on the date when he submitted his application, he did not have, in his possession, a licence from the Regional Transport Officer (RTO) to work as a Conductor. The licence relied upon was not subsisting, but had expired.

2. Mr. Shelke would submit that this is completely erroneous and incorrect way of reading the advertisement and particularly the terms and conditions therein. The advertisement, together with its terms and conditions binds both, the petitioner and the corporation. A public body like the MSRTC is bound by the advertisement. In it, it is clearly indicated that till the last date, namely, 10th September, 2012, valid applications, duly filled and valid as on 10th September, 2012 would be entertained and considered. In the present case, on 10th September, 2012, the petitioner had a valid and subsisting licence from the RTO. That is how Mr. Shelke would rely upon clauses 15, 17 and 19(4) of the advertisement.

3. On a reading of the entire petition together with its annexures and the impugned communication, we are unable to agree with Mr. Shelke. Firstly, there are no malafides nor it can be said that the corporation acted arbitrarily in order to single out the petitioner. It is indicated that the recruitment process was initiated by this advertisement dated 7th August, 2012. That the petitioner's application was found valid. That was, therefore, forwarded by the recruiting agency, namely, Maharashtra Knowledge Corporation Limited (MKCL), Pune. The petitioner's application was for the post of Conductor (Junior). In the

candidates, who were short listed, the name of the petitioner was appearing. Hence, the petitioner was invited for a scrutiny of his documents and certificates. During the course of such scrutiny, the document, namely, the RTO licence, which was a mandatory pre-condition, was verified. This licence was not found to be valid and subsisting as on 5th September, 2012. The licence was dated 19th August, 2011 and it was renewed only on 10th September, 2012. That means, on 5th September, 2012, it was not valid and subsisting. The respondents reckoned this as the last date of forwarding the application for the job. The reliance on clause 17 of the advertisement and insistence that it should be read in isolation is incorrect. In clause 15, it has been said very clearly that the application has to be made on-line. The on-line application/registration of the same, therefore, is permissible till 11.30 p.m. on 5th September, 2012. Clause 15 further says that just because there is registration of the application, that does not mean that it has been duly filled in. After the registration on-line is obtained, the applicant must go to the State Bank of India's branch and draw up a challan in favour of the corporation. That would be a challan so as to pay the amount of the advertisement/recruitment process fees. Clause 17 only guides how to fill in the application. The application should be forwarded from 7th August, 2012 to 5th September, 2012. From 7th August,

2012 to 7th September, 2012, the facility of approaching the State Bank of India's nearest branch would be available. Thereafter, those candidates who have fulfilled the requirement of obtaining the computerised challan from the State Bank of India could have presented their application by 10th September, 2012.

4. The petitioner does not argue that his application came via the mode pointed out and stated in clause 17. Meaning thereby, he first obtained the challan and then presented the application on 10th September, 2012. If that had been the position, then, the reliance could have been placed on clause 17. The rejection of the petitioner's application is on the ground that his on-line registration form and duly forwarded did not contain the details with regard to the valid RTO licence and subsisting as on the date of the on-line registration, namely, 5th September, 2012. That is why the corporation understood this to be a non compliance with the terms and conditions of the advertisement. So long as the interpretation of the corporation on the terms and conditions is bonafide and there are no malafides and discrimination, it is not possible for this court to interfere with the recruitment process. We do not, therefore, find any merit in the writ petition. It is accordingly dismissed.

5. We do not permit the corporation to entertain any application from a candidate like the petitioner by a back door method. If the post is still not filled in, we expect the corporation to include this post in the future advertisement and to be filled in by a process recognised and known in the matter of public employment.

(B.P.COLABAWALLA, J.)

(S.C.DHARMADHIKARI, J.)