

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

WRIT PETITION NO. 3785 OF 2016

(Smt. Sunita Bhimrao Pawar vs. MSEDCL, Malkapur thr. its Executive Engineer & Ors.)

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

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
MRS. SWAPNA JOSHI, JJ.
FEBRUARY 07, 2017.**

Heard Shri D.V. Mahajan, learned counsel for the petitioner and Mrs. U.A. Patil, learned counsel for respondent No. 1.

2. The petitioner claims to be suffering 45% disability on the strength of Disability Certificate issued by the Government of Maharashtra in Form-IV.

3. She participated in selection process conducted in pursuance of advertisement dated 30.01.2014 for the post of Vidyut Sahayak by the respondents. She has not been appointed, holding that percentage of disability suffered by her is below 40% and, therefore, she is not entitled to benefit of any reservation.

4. Shri Mahajan, learned counsel submits that as per Ground – D raised by him in Writ Petition, four persons have been appointed accepting identical certificates i.e. certificates in Form-IV issued by the Government of Maharashtra. He further adds that once the petitioner was

selected for appointment, she could not have been sent to Medical Board at Akola and further medical examination to find out whether she suffers disability or not is contrary to mandate of clause (5) of Government Resolution dated 14.01.2011 at Annexure 5 with the writ petition.

5. Mrs. Patil, learned counsel submits that the illustrations pressed into service in support of Ground 'D' of writ petition point out recruitment process carried out in 2006 while the present recruitment process is in pursuance of advertisement published on 30.01.2014.

6. Inviting attention to the procedure for selection, as indicated in this advertisement No. 5/2014, she submits that accordingly all candidates who applied for vacancy in the category of the petitioner were shortlisted and sent to Medical Board at Akola. Those who thereafter were found eligible, have been only selected.

7. After hearing respective counsel, we find that this Court has to consider recruitment effected in terms of advertisement dated 30.01.2014 and terms and conditions of that advertisement. 2006 advertisement, recruitment conducted accordingly or alleged lapses/ irregularities in that recruitment are, therefore, irrelevant in this writ petition.

8. Condition No. 2 of selection procedure in advertisement No. 5 of 2014 stipulates that documents submitted by the candidates or their applications will not be

scrutinized while preparing the select list. The candidates whose name figure in that list will be subjected to detailed scrutiny before appointment. Thus, merely because a list of candidates tentatively found eligible is drawn that does not become a select list in present matter.

9. The respondents have pointed out that all such candidates like the petitioner were then sent to competent Medical Board at Akola and that Board has certified that the extent of disability suffered by the petitioner is less than 40% and, therefore, she has been declined appointment. Communication on these lines sent by the President of the Medical Board to the respondents on 28.03.2016 is filed by the petitioner as Annexure – 7. There is no challenge to this certificate.

10. In this situation, in the light of arguments advanced, we find no case made out. Writ Petition is rejected. However, there shall be no order as to costs.

JUDGE

JUDGE

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