

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 847 OF 2014

The State of Maharashtra

.. **Petitioner**

Versus

Jayshree Dharmendra Teli

.. **Respondent**

Shri S. G. Karlekar, A.G.P. for the Petitioner.

Shri Vishal A. Chavan h/f Shri R. S. Deshmukh, Advocate for the Respondent / Sole.

CORAM : **S. V. GANGAPURWALA &**
SUNIL K. KOTWAL, JJ.

DATE : **4th June, 2018**

PER COURT :

1. The respondent had filed original application challenging the order terminating her service. The respondent was appointed on compassionate ground on account of the death of her husband while in service. The respondent was appointed on 22.5.2012. The order of termination was issued on the ground that as per the Government Resolution dated 6.12.2010 the respondent did not pass the MS-CIT examination within the period of six months as stipulated in the said Government Resolution.

2. Mr. Karlekar, learned Assistant Government Pleader submits that the Government Resolution dated 6.12.2010 supersedes all the previous Government Resolutions. The tribunal committed an error in not considering the stipulation as laid down in the Government Resolution dated 06.12.2010. According to the learned A.G.P., the reliance placed by the tribunal on the Government Resolution dated 23rd August, 1996, is erroneous. The respondent could pass the examination in respect of 40 w.p.m. in English only on 10th March, 2013 and in respect of 30 w.p.m. of Marathi in August – 2013. The same was beyond the stipulated period. The order of termination was rightly issued.

3. The Government Resolution dated 23rd August, 1996, provides that if within stipulated period the candidate failed to pass the typewriting examinations and services are terminated, the candidate can be reappointed after the candidate obtains the necessary certificate.

4. The petitioner was appointed on compassionate ground.

The petitioner has passed the typewriting in English as well as in Marathi in March – 2013 and August – 2013. The petitioner was appointed on 22nd May, 2012.

5. It is not disputed that the respondent has cleared the required examination though belatedly. The tribunal exercising its discretion directed petitioner to issue fresh order of appointment to the respondent within 15 days from the date of the order. This court while admitting the writ petition specifically refused interim relief. Even after the said order four years have lapsed. The respondent must have been reinstated in service. The respondent has passed both the examinations of English typewriting and Marathi typewriting and thereafter the tribunal has directed the petitioner to give fresh appointment to the respondent. As such when the fresh appointment is being given by the petitioner the respondent has the certificate of English typewriting so also Marathi typewriting.

6. In the light of above, the discretion has been exercised in a plausible manner and as no interim relief is operating in favour

of the petitioner since four years, no case for interference is made out. Writ petition accordingly stands dismissed. Rule discharged.

No costs.

[SUNIL K. KOTWAL, J.] [S. V. GANGAPURWALA, J.]

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