

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 7680 OF 2017

Kavita Sushil Bhale

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri P. R. Katneshwarkar, Advocate h/f Shri P. M. Nagargoje,
Advocate for the Petitioner.

Mrs. M. A. Deshpande, Addl.G.P. for Respondent Nos. 1 and 2.

Ms. Manisha Dhule (Patil), Advocate h/f Shri A. S. Shivpuje,
Advocate for the Respondent No. 3.

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVAL, JJ.**

DATE : 09TH APRIL, 2018.

FINAL ORDER :

. The petitioner assails the selection of the respondent No. 3 as a law officer.

2. An advertisement was issued on 27.02.2017 inviting applications from the eligible candidates for filling in the post of law officer on contract basis. Along with the petitioner and respondent No. 3 other candidates had applied. The respondent No. 3 is selected. The selection of the respondent No. 3 is assailed on the ground that the respondent No. 3 had crossed 45

years of age and was ineligible.

3. Mr. Katneshwarkar, the learned counsel for the petitioner submits that, as per the Government Resolution dated 30.07.2011 maximum age to be considered for appointment is 45 years. Even as per the advertisement the maximum age of the candidate as on 17.03.2017 should not be more than 45 years. The respondent No. 3 as on the said date was more than 46 years of age, as such was ineligible to be selected.

4. The learned Additional Government Pleader for respondent Nos. 1 and 2 submits that, the petitioner was appointed in the year 2012 and was granted reappointment for three times. As after the third reappointment, the reappointment cannot be granted, as such the petitioner had filled in the form pursuant to the advertisement and was selected. In view of that, maximum age of 45 years would not apply. When the provisional selection list was published at that time the petitioner did not object.

5. The learned advocate for the respondent No. 3 submits that, maximum age for appointment of law officer as per the G. R. dated 26.06.2007 is 60 years. The learned counsel further submits that, it is a case of reappointment. In view of that, maximum age does not apply. The respondent No. 3 has worked for seven months pursuant to the order of appointment dated

23.06.2017. Only four months tenure has left.

6. We have considered the submissions canvassed by the learned counsel for respective parties.

7. The clause in the advertisement dated 27.02.2017 specifically states that, the age of the candidate as on 17.03.2017 should not be more than 45 years. The appointment is to be made on contract basis. The Government Resolution dated 30th July, 2011 also states that, the law officers to be appointed on contract basis should not be more than 45 years.

8. The respondent No. 3 is working since the year 2012 and was granted reappointment three times, as such for the fourth time reappointment could not be given. The respondent No. 3 participated in the selection process pursuant to the advertisement dated 27.02.2017. Naturally, the candidates would be governed by the terms and conditions of advertisement and the government resolution dated 30th July, 2011. The advertisement and the government resolution does not permit the candidate above 45 years to apply for the post. It is not disputed that, the respondent No. 3 was more than 45 years of age as on 17.03.2017. On that count itself, the respondent No. 3 was ineligible to apply.

9. In the light of the above, it is held that, as on the date of application the respondent No. 3 was ineligible to apply pursuant to the advertisement dated 27.02.2017 and as such selection of the respondent No. 3 is erroneous and the same is set aside. The writ petition is accordingly disposed of. No costs.

[A. M. DHAVALA, J.]

[S. V. GANGAPURWALA, J.]

bsb/April 18