

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

**REVIEW PETITION NO.17 OF 2018
IN
WRIT PETITION NO.10998 OF 2016**

Vinayak S/o. Uttamrao Banchod .. Petitioner

Versus

Maharashtra Public Service Commission .. Respondent

Mr.S.S.Jadhavar, Advocate for the petitioner

Mr.A.S.Shinde, AGP for the respondent/State

Mr.M.B.Kolpe, Advocate for respondent Nos.1 & 3

**CORAM : S.V. GANGAPURWALA &
S.M.GAVHANE, JJ.**

DATED : 19.01.2018

P.C. :-

. The petitioner seeks review of the order passed by this Court dismissing the writ petition and upholding the judgment of the Maharashtra Administrative Tribunal.

2. Mr.Jadhavar, Learned Advocate for the petitioner submits that at the time of hearing the writ petition the respondents did not place the correct facts on record. From NT-B category two candidates were securing 104 marks. They have to be considered as one and in that manner five candidates are required to be called for one post. Learned Advocate further submits that the said

procedure was followed in case of open competition category and other categories also. According to the learned counsel one of the candidates in NT-B category is a women as such ought to be considered from woman category and one of the candidates who had secured 98 marks does not find place in the final list of qualified candidates. According to the learned counsel this fact is not considered by this Court and as such there is an error apparent on the face of record.

3. We had asked the learned counsel for the petitioner regarding any rule, circular, government resolution to the effect that if two candidates secure the same marks they have to be treated as one, for considering ratio of the candidates to be called for the post. No such rule, Government resolution or circular is pointed out to that effect. The said fact also does not stand to any reason. The petitioner has secured 90 marks. There are two candidates who had secured 104 marks. Two candidates cannot be considered as one. They will have to be considered as two candidates.

4. The other contention that the woman candidate ought to have been considered from woman category also would not be legally correct as there was no horizontal

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reservation in NT-B category and the said woman has applied from NT-B category and as such would not be considered in any other category. In view of the above, no error apparent on the face of record. The review petition stands dismissed. No costs.

[S.M.GAVHANE, J.]

[S.V. GANGAPURWALA, J.]