

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

WRIT PETITION NO.302 OF 2019

Maharashtra Public Service Commission
Bombay, through its Secretary .. Petitioner

Versusu

Ramprasad Shivprasad Lahoti and anr. ..Respondents

Mr M.S. Kulkarni, Advocate for petitioner
Mr M.S. Deshmukh, Advocate for h/f Mr H.A. Deshmukh, Advocate for
reespondent no.1
Mr P.S. Patil, A.G.P. for respondent no.2

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

DATE : 9th January, 2019

PER COURT

1. Present respondent no.1 has filed Original Application before the Maharashtra Administrative Tribunal, Aurangabad challenging Clause 7.2 of the advertisement issued by the petitioner inviting applications for various posts. The tribunal, under order dated 18.12.2018 passed an interim order directing the present petitioner to accept the application of the present respondent. The matter is kept on 6.2.2019. The said examination is scheduled on 17.2.2019. The dispute is with regard to cut off date and age limit. The petitioner relies on Rule 5(a) and (b) of the Maharashtra Civil Services (Provision of upper age limit for recruitment by nomination) Rules 1986, whereas respondent no.1 relies on Clause 4 and 6 of the said rules.

2. Mr Kulkarni learned Counsel for the petitioner relies on a judgment of Dr. Amilal Bhat Vs. State of Maharashtra and ors, (1997) 6 SCC 614 to substantiate his case that fixing a cut-off date for determining the maximum or minimum age prescribed for a post is

the discretion of a rule-making authority or the employer. One must accept that such a cut-off date cannot be fixed with any mathematical precision and in such a manner as would avoid hardship in all conceivable cases.

3. The tribunal is required to interpret the rules. The tribunal has not yet finally decided the matter. The tribunal by interim order has directed the petitioner to accept the application of present respondent. When the application is directed to be accepted pursuant to the order, it would be subject to the decision of the tribunal. The matter is also kept on 6.2.2019 by the tribunal and the examination is scheduled on 17.2.2019. The petitioner will be at liberty to put forth its contentions on the next date fixed by the tribunal for final disposal and request for final disposal of the original application before the date of the scheduled examination.

4. As the matter is pending before the tribunal, we are not inclined to pass any order that will preempt the decision of the tribunal. Writ Petition disposed of. No costs.

(A.M. DHAVAL, J.)

(S.V. GANGAPURWALA, J.)