

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

WRIT PETITION NO. 1473 OF 2018

Deepak s/o Diliprao Nagargoje

...Petitioner

Versus

The Selection Committee,
Managing Director,
Maharashtra State Road Transport
Corporation, Mumbai and Anr.

...Respondents

Mr V.B. Wagh, Advocate for Petitioner

Mrs. R.D. Reddy, Advocate for Respondent Nos. 1 and 2

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

DATE : 31ST JANUARY, 2019

ORAL ORDER:

1. Pursuant to the advertisement bearing No. 1/2017, petitioner applied for the post of Assistant Traffic Superintendent (Junior), Traffic Inspector (Junior) and Store Supervisor (Junior). The petitioner claims to belong to NT-D category and he also filled in his form from Project Affected Person (PAP) category. The petitioner secured 142 marks. According to Mr Wagh, the learned Counsel, in PAP category, the other persons securing less marks than the petitioner are being considered for appointment. However, the petitioner is not considered only on the ground that he had applied from NT-D category. The same is erroneous. There is no post meant for PAP in NT-D category and petitioner had specifically applied from PAP category.

2. Mrs. Reddy, the learned Counsel for the respondent Nos. 1 and

2 submits that as the petitioner had applied from NT-D category, and there is no post meant for PAP category, he is considered for the post reserved for NT-D category only. The petitioner could have applied from open (PAP) category. The advertisement describes that there is no post meant for NT-D (PAP) category. The petitioner cannot be considered for the post of open (PAP) category. The petitioner has also paid fees meant for reserved category candidate.

3. We have considered the submissions. In fact, the advertisement ought to have clarified the manner in which the post is to be filled in. The petitioner has specifically shown that he belongs to Project Affected Person Category and also possess Non-Creamy Layer certificate. There is no post meant for PAP in NT-D category. Naturally, the PAP post for which the petitioner has applied ought to have been considered. The PAP category post is only in open competition category. It cannot be said that there is compartmentalized horizontal reservation for PAP as PAP post is only shown in open competition category and in no other category, the PAP posts are shown.

4. In horizontal reservation, the person from one category cannot jump to another category. However, in the present case, there is no compartmentalized reservation for PAP category. The post of PAP is only meant in open competition category and in no other reserved category. The petitioner has specifically shown himself to belong to PAP category and also possessing Non-Creamy Layer certificate. The payment may not be relevant in the present matter.

5. In view of the above, the case of the petitioner shall be considered for the post meant for PAP category wherever available according to the marks obtained by the petitioner.

6. It is submitted by the learned Counsel for the respondents that the process is going on. In view of that, the case of the petitioner can be considered by the respondents in the light of the observations made herein above.

7. The writ petition is disposed of. No costs.

[A. M. DHAVAL]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

mta