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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 11581 OF 2019

Maharashtra Public Service Commission ..Petitioner

vs.

Jitendra Patil & anr.

..Respondents

.....

Mr. A.M. Kulkarni for petitioner.

Ms. Vaishali Jagdale for respondent No.1.

Ms. V.S. Nimbalkar, AGP for State.

.....

**CORAM : RANJIT MORE &
M.S.KARNIK, JJ.**

DATE : 14th NOVEMBER, 2019

P.C.:-

Heard.

2. The petitioner - Maharashtra Public Service Commission ('MPSC' for short) is challenging the judgment and order dated 13/6/2019 passed by the Division Bench of the Maharashtra Administrative Tribunal in Original Application No. 314 of 2017. By the said order respondent No.2 - State is directed to appoint respondent No.1 on the post of Principal/Vice Principal, Industrial Training Institute, Maharashtra Education Services, Class - II.

3. In pursuance of the requisition by the Government, the advertisement bearing No. 91/2013 dated 1/11/2013 was issued by the MPSC inviting applications for 88 posts. Out of these 88 posts 2 posts are reserved for physically handicapped (blind/low vision) candidates.

4. We are concerned in this Petition about the posts for physically handicapped (blind/low vision), Open Category. The results were declared by the MPSC on 8/9/2015. From the candidature of the physically handicapped (blind/low vision) Open category following 4 candidates stood in the merit list :

(1) Shri Sali, (2) Shri Kulkarni, (3) Shri Bhadane and (4) respondent No.1.

5. Shri Sali obtained 95 marks, Shri Kulkarni obtained 86 marks and Mr. Bhadane obtained 86 marks and respondent No.1 obtained 81 marks. In terms of the requisition and posts available for the category of blind / low vision (open) category the petitioner - MPSC recommended the name of the Shri Sali and Shri Kulkarni for the said posts. Mr. Sali, however, did not join and

therefore, the Government sent requisition on 4/2/2016 and in pursuance of this requisition, Mr. Bhadane was recommended to the said post. Mr. Kulkarni, who was second candidate in the said category did not appear for verification of the documents and did not join. The Government, however, did not send any requisition to the MPSC for filling of this vacancy which arose because of non submission of the documents for verification by Shri Kulkarni.

6. At this stage, respondent No.1 approached the MAT seeking direction to the petitioner - MPSC to recommend his name for the post of Principal/Vice Principal, Industrial Training Institute, Maharashtra Education Services, Class - II under low vision category and for further direction to the respondent No.2 to appoint him on the said post.

7. The Division Bench of the Maharashtra Administrative Tribunal having considered the fact that Shri Kulkarni did not appear for verification of the documents and consequently one post from blind/low vision

category could not be filled in, and as the respondent No.1 being the next candidate who is eligible to be appointed in terms of the merit, directed respondent No.2 to appoint present respondent No.1 to the said post.

8. It is pertinent to note that respondent No.2 has accepted the impugned order as they have not challenged the same. We also find that the impugned order is passed in the peculiar facts and circumstances of the case. Since respondent No.1 is the only person eligible to be appointed to the said post subsequent to the non submission of the documents for verification by Shri Kulkarni, we are not inclined to interfere with the impugned order. The Petition is dismissed.

9. The petitioner – MPSC is granted 4 weeks time to comply with the impugned order.

(M.S.KARNIK, J.)

(RANJIT MORE, J.)

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