

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.7555 OF 2018

(The Maharashtra Public Service Commission vs. Prashant s/o Tryambakrao Lahudkar and others)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri Abhay Sambre, Advocate for petitioner.

Shri B.M. Lonare, Assistant Government Pleader for
respondent nos.2 and 3.

CORAM : PRADEEP NANDRAJOG, C.J.
 AND R.K. DESHPANDE, J.

DATED : AUGUST 16, 2019

P.C. :

Heard learned Counsel for the parties.

2) Challenge is to the judgment dated 4/12/2017 allowing Original Application No.244/2013 passed by the Maharashtra Administrative Tribunal, Nagpur Bench.

3) An advertisement was issued to recruit 154 Assistant Public Prosecutors and inter alia eligibility required experience of five years as an Advocate in the High Court or a Court subordinate to it. Applications were to be filled up on-line. The first respondent filled up the application on-line and indicated therein by filling up the relevant column that he had been practising as an

Advocate holding the post of Special Assistant Public Prosecutor for a total period of 4 years 8 months and 28 days. The first respondent fell short of requisite experience by 3 months and 2 days and for which he took the stand that prior to that, he had been practising as Advocate and was on the roll of Bar Council of Maharashtra and Goa since 7/11/2001. The problem was that the space in the form did not permit addition of experience, if it related to different period.

4) The petitioner relied upon applications filed on-line by other candidates where they had added additional column to list out the experience as Lawyer and the stand was that if others could do so, why not the first respondent.

5) The view taken by the Tribunal is that once the Authorities set a format of the application to be submitted on-line, the possibility of respondent no.1 being misled cannot be ruled out - the misleading part being that the respondent no.1 thought that he could not add anything in the format having columns.

6) Learned Counsel for the petitioner does not dispute that otherwise respondent no.1 has the requisite experience. The impugned order records that 22 posts of the Assistant Public Prosecutor are still lying unfilled. The direction issued is to call the respondent no.1 for interview and likewise even others, if the petitioner so advises itself to do.

7) The view taken by the Tribunal is a plausible view and, therefore, we find no infirmity therein. The petition is dismissed. No costs.

(R.K. DESHPANDE, J.)

(CHIEF JUSTICE)

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