

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

WRIT PETITION NO. 6573 OF 2019

Laxmichaya Arun Jahagirdar

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Mr. V. D. Sapkal, Advocate for Petitioner.

Mrs. G. L. Deshpande, AGP for Respondents-State.

**CORAM : S. V. GANGAPURWALA &
MANGESH S. PATIL, JJ.**

DATED : 08th JANUARY, 2020.

PER COURT:-

1. The petitioner pursuant to the advertisement published by respondent No. 3 applied for the post of Chief Administrative Officer of Group-A in General State Services. The candidature of the petitioner was negated on the ground that the petitioner does not possess the administrative experience. The petitioner filed original application before the Maharashtra Administrative Tribunal. The Tribunal rejected the original application. Aggrieved thereby, the present writ petition.

2. Mr. Sapkal, learned counsel for the petitioner strenuously contends that it was erroneous on the part of the authorities and the Tribunal to hold that the petitioner does not possess the administrative

experience. The Tribunal has considered the dictionary meaning of clerk and managerial or administrative work. One need not go to the dictionary meaning if the rule of the Standard Code Rules is clear specifying the nature of the duties. Rule 12 of the Standard Code Rules, 1984 of the University prescribes the duties and responsibilities of the senior clerk / junior clerk. Reading the said duties and responsibilities, it is manifest that, the petitioner working as a senior clerk was required to perform duties of administrative nature. This aspect has not been considered. The M.P.S.C. has also relied on the opinion of the Government. The Tribunal nor the Government has considered Rule 12 of the Standard Code Rules specifying the duties and responsibilities of the junior clerk and senior clerk. In the light of that, the rejection of the candidature of the petitioner is illegal.

3. We have also heard the learned A. G. P

4. The petitioner had applied for the post of Chief Administrative Officer. Clause 4.5 (ii) requires a candidate to possess executive or administrative experience for a period not less than seven years, gained after possessing degree or any other qualification recognized by the Government to be equivalent thereto, in a Government Department, Commercial concern, Local authority or Corporation or Board established by the Government. The petitioner worked as a junior clerk

from 23.08.2004 till 04.04.2011 and thereafter as a senior clerk from 04.04.2011 till 21.02.2014 i.e. the date of the application filed by the petitioner pursuant to the advertisement. The duties and responsibilities of the senior clerk / junior clerk in the Standard Code Rules, 1984 are detailed. The same reads thus :

Duties & Responsibilities of senior clerk / junior clerk as per Standard Code Rules, 1984

- 1. To enter the mail and letters and inter-departmental correspondence/files letters documents etc. addressed to the officer by name will be received the officer themselves or through P. A's Stenographers/Secretaries.*
- 2. To acknowledge letters received.*
- 3. To submit dak to the Section Officer/Assistant Section daily, dispatch and watch every entry in the register bearing the initials of the recipients of the letter/documents etc.*
- 4. To prepare list of letters issued during a fortnight to which replies have not been received and for which reminders are required to be sent.*
- 5. To send relevant extracts or any part of a receipt, through Section Officer/Assistant Registrar/Superintendent to the Section branch concerned for remarks and/or necessary action.*
- 6. To open and maintain service book/new file (s) – note-book (s), do copying work/rubber stamping and to attend to all types of administrative/clerical work.*
- 7. To maintain different registers, forms etc.*
- 8. To keep a note-book to watch timely disposal of urgent papers.*

9. *To collect the relevant material required for taking action on a receipt file on the subject, if one already exists, other papers/files, if any, refer to any receipt and any other relevant material etc.*
10. *To prepare routine letters/replies for approval where noting is not required issue reminders.*
11. *To maintain daily work sheet, and to submit weekly arrears report to the Section Officer and/or Assistant Section Officer.*
12. *To prepare monthly arrears report and submit it to the Assistant Section Officer and/or Section Officer for perusal and guidance/instructions.*
13. *Any other work assigned from time to time, with the approval of the Assistant Registrar.*

5. The Tribunal has observed that on perusal of the bio data tabularised by the applicant, it would reveal that the experience of clerical work cannot be considered as administrative or executive nature. The petitioner harps on the clauses in Rule 12 of the Standard Code Rules, 1984, more particularly, sub rule 6 quoted supra that one of the duty of senior clerk / junior clerk is to attend to all types of administrative / clerical work.

6. The post for which petitioner had applied was a post of Chief Administrative Officer wherein the administration would vest in the said person. The employer is the best judge of the experience to be

possessed by the candidate. The major work of the petitioner even as per the said rules was of clerical nature and same cannot be said to be an executive or administrative experience exercising the managerial powers.

7. The authority as well as the Tribunal have considered the said aspect in a reasonable manner.

8. In the light of the above, no case for interference is made out. Writ petition is dismissed. No costs.

(MANGESH S. PATIL)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

PS.B.