

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

WRIT PETITION NO.8054/2019

Anil s/o Ramrao Maske

...Versus...

State of Maharashtra, through its Secretary, Department of Health Services,
Mantralaya, Mumbai – 32 and others

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

Court's or Judge's orders

Shri A.P Tathod, Advocate for petitioners
Ms. N.P Mehta, AGP for respondent nos.1 to 3

**CORAM : DIPANKAR DATTA, C.J. &
VM. DESHPANDE, J.**

DATE : JULY 22, 2021

1. The unsuccessful original applicant in Original Application No.135/2013, on the file of the Maharashtra Administrative Tribunal, Nagpur Bench, Nagpur, is the petitioner in this writ petition.

2. The challenge is to an order dated 6/3/2014 dismissing the said original application.

3. This writ petition has been presented before this Court on 21/9/2019. There is no reasonable explanation offered by the petitioner for the belated approach. It is only on the ground of delay and laches that this writ petition deserves to be dismissed *in limine*.

4. However, we have read the order of the Tribunal to appreciate the concern that was expressed by the petitioner in the original application. The petitioner was an aspirant for the post of Laboratory Assistant. Although the petitioner claimed that he belongs to N.T.(C) category, he was treated as a candidate in the N.T.(D) category. According to the petitioner, this was because of a mistake committed by the respondent no.5/agency to which the work of conducting the test was outsourced. Had the petitioner been considered as a candidate in the N.T.(C) category, he could have figured in the merit list and even have been appointed considering the fact that the last candidate appointed from the N.T.(C) category had secured 96 marks, whereas he secured 98 marks.

5. The Tribunal has noticed that even in the hall ticket issued to the petitioner, he was shown as a candidate belonging to N.T.(D) category. This position is not disputed by the petitioner. If indeed the category of the petitioner was erroneously shown in the hall ticket, the normal reaction of

the petitioner should have been to lodge an objection either prior to taking the test or immediately thereafter. The Tribunal has noticed that the petitioner did not take any such step to have his category changed to N.T.(C). Based on such consideration, the Tribunal proceeded to reject the original application.

6. We find the reasoning of the Tribunal to be unexceptionable.

7. While competing in an examination for public employment, the petitioner ought to have been vigilant. If the category to which he belongs had not been shown correctly in the hall ticket, the petitioner should have immediately brought the same to the notice of the authorities. He participated in the selection process without raising any demur and took a chance of selection in the N.T. (D) category. Having found that the result was not palatable to him, the petitioner turned around and questioned the appointment of Ganesh Maske, respondent no.6, from the N.T.(C) category on the ground that Ganesh Maske had secured lesser marks than him. Law is well settled that once a candidate for public employment takes a chance of selection knowing fully well that there has been some error which he by his conduct waives, a subsequent challenge should not be entertained.

8. For the reasons aforesaid, there is no merit in the writ petition. The order of the Tribunal is upheld and the writ petition stands dismissed. There shall be no order as to costs.

(V.M. DESHPANDE, J.)

(CHIEF JUSTICE)

Wadkar