

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11307 OF 2022

SACHIN GANGADHARRAO LASURE
VERSUS
MAHARASHTRA PUBLIC SERVICE COMMISSION
THROUGH ITS SECRETARY AND ANOTHER

...
Mr. Tushar C. Shinde, Advocate for petitioner;
Mr. D.R. Kale, Government Pleader for respondent – State;
...

**CORAM : DIPANKAR DATTA, CJ.
AND
SMT. VIBHA KANKANWADI, J.**

DATE : NOVEMBER 17, 2022

PC :

Aggrieved by dismissal of his original application by the order dated 16th September, 2022 of the Maharashtra Administrative Tribunal, Mumbai Bench at Aurangabad, the aggrieved original applicant is before us questioning the validity and/or correctness thereof.

2. For the purpose of recruitment of a Librarian, on the establishment of the Maharashtra Administrative Tribunal, an advertisement was published by the Maharashtra Public Service Commission on 11th May, 2022. The petitioner sought to offer his candidature for appointment on the post; however, his candidature was not accepted on the ground that he failed to qualify in terms of the eligibility criteria.

3. The recruitment is governed by the Maharashtra Administrative Tribunal, Registrar, Deputy Registrar, Assistant

Registrar/Research Officer and Librarian (Recruitment) Rules, 2001 (hereafter '**the 2001 Rules**'). Rule 6 of the 2001 Rules relating to appointment on the post of Librarian provides as under:

"6. Appointment to the post of Librarian in the Tribunal shall be made either: -

(a) by promotion of a suitable person on the basis of seniority, subject to fitness, from amongst the persons working as Assistant on the establishment of the Tribunal and who possess a diploma in Library Science with not less than three years working experience in Library Section or

(b) by nomination from amongst the candidates who,

(i) unless already in the service of Government are not more than fifty years of age;

(ii) possess a diploma in Library Science; and

(iii) having working experience of two years as Librarian or an Assistant Librarian; or

(c) by deputation of a suitable person holding an equivalent post on the establishment of the Tribunal or the High Court or a courts subordinate thereto or any other Government service possessing qualification and experience mentioned in clause (b) of this rule:

Provided that preference may be given to a candidate holding a degree in Library Science."

4. Question that requires to be answered is, whether the petitioner possesses the requisite working experience.

5. Mr. Tushar Shinde, learned advocate for the petitioner invites our attention to a certificate issued by the Principal, Shri Kumarswami Mahavidyalaya, Ausa, District-Latur dated 22nd November, 2007, Exhibit-E to the petition memo. Based on such certificate, he contends that the petitioner had worked as

Lecturer (Library and Information Science and Library Administration) between 16th November, 2005 and 15th November, 2007 in the said Mahavidyalaya and, therefore, possesses the requisite working experience.

6. We had called upon Mr. Shinde to show us the appointment letter of the petitioner issued by the said Mahavidyalaya. We are informed that such letter is not on record. It has also not been shown that the said Mahavidyalaya has the subject 'Library and Information Science' as one of the subjects taught by it. Whether the petitioner was working as a Lecturer in Library and Information Science in the said Mahavidyalaya is, therefore, clearly suspect. Even otherwise, the requirement of the 2001 Rules is that an aspirant must have worked as a Librarian/Assistant Librarian and not as a Lecturer. It is not even the petitioner's case that he has derived experience while working as a Librarian/Assistant Librarian. The petitioner appears to have sufficient working experience in the district courts as Clerk/Assistant but not as Librarian/Assistant Librarian of the libraries of such courts.

7. We are, thus, of the considered opinion that not having fulfilled the eligibility criteria in terms of the 2001 Rules, the petitioner has no right to claim that he should be permitted to participate in the recruitment process.

8. We may in this connection refer to the decision of the Supreme Court reported in **(1990) 3 SCC 655 (District Collector and Chairman Vizianagaram Social Welfare Residential School Society, Vizianagaram and another Vs. M. Tripura Sundari Devi)**. Paragraph 6 of such decision contains an instructive passage

which ought to guide the Courts while considering challenges of the present nature. The same is quoted herein-below:

"6. It must further be realised by all concerned that when an advertisement mentions a particular qualification and an appointment is made in disregard of the same, it is not a matter only between the appointing authority and the appointee concerned. The aggrieved are all those who had similar or even better qualifications than the appointee or appointees but who had applied for the post because they did not possess the qualifications mentioned in the advertisement. It amounts to a fraud on public to appoint persons with inferior qualifications in such circumstances unless it is clearly stated that the qualifications are relaxable. No court should be a party to the perpetuation of the fraudulent practice. We are afraid that the Tribunal lost sight of this fact."

9. Permitting the petitioner to participate, without there being any rule contemplating relaxation of the eligibility criteria, would amount to subversion of the 2001 Rules. That is plainly not permissible.

10. For the reasons aforesaid, we find no reason to interfere. The impugned order is upheld and the writ petition stands dismissed. No costs.

[SMT. VIBHA KANKANWADI, J.]

[CHIEF JUSTICE]

arp/