

Pdp

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

WRIT PETITION NO. 14904 OF 2022

Pawar Ashish Darsing & Ors. .. Petitioners

Vs.

The State of Maharashtra & Ors. .. Respondents

Mr. Sachin Gite for petitioners.

Mr. M. M. Pabale, AGP for respondent nos.1 to 3/State.

Smt. R. R. Pednekar, Desk Officer, MPSC and Smt. V. D. Mandalwar, Asstt. Desk Officer, MPSC present.

**CORAM: DIPANKAR DATTA, CJ. &
ABHAY AHUJA, J.**

DATE : DECEMBER 8, 2022

P.C.:

1. Maharashtra Administrative Tribunal, Mumbai (hereafter "the Tribunal", for short) by a common judgment and order dated 24th November, 2022 dismissed three original applications (Original Application Nos.1145, 1150 and 1175 of 2022). The original applicants in Original Application No. 1175 of 2022 have challenged such judgment and order by presenting this writ petition.

2. The said original applicants had taken the relevant examination conducted by the Maharashtra Public Service Commission (hereafter "MPSC", for short). The second list of answer key to Question Nos. 48, 89 and 20 was challenged by them before the Tribunal. In paragraph 8 of the impugned judgment and order, the Tribunal has recorded

the submission of the Presenting Officer appearing for the MPSC that Question No. 48 has been deleted by the MPSC since it has the power to so delete; and, in view of such submission, the Tribunal did not examine the merits of the challenge *qua* Question No.48. However, before us, Mr. Pabale, learned AGP appearing for the MPSC, fairly submits that Question No. 48 was not deleted as submitted before the Tribunal.

3. We find from the pleadings that the first list of key answers published by the MPSC showed option no.1 as the correct answer to Question No.48; however, subsequently, the second list of key answer showed option no.2 as the correct answer. This resulted in deduction of 2.5 marks from the total marks obtained by the petitioners and it is claimed that by this process of deduction of marks, they were thrown out of the zone of consideration for participating in the mains examination.

4. Since the Tribunal dismissed the original application on the basis of an incorrect submission made by the Presenting Officer, we consider it proper to set aside the impugned order and remit the original application (Original Application No. 1175 of 2022) to the Tribunal for fresh decision in accordance with law, subject to the observations made hereinafter. It is ordered accordingly.

5. Since only Original Application No. 1175 of 2022 stands revived by this order, it shall only be placed before the Tribunal for fresh consideration confined only to Question No.48.

6. It would be desirable if the Tribunal proceeds to decide Original Application No. 1175 of 2022 as directed above within the shortest possible time and preferably prior to 21st January, 2023, which is the date for the mains examination, but subject to its convenience.

7. Since 28th November, 2022 was the last date for the successful candidates to submit applications for taking part in the mains examination and the present 18 (eighteen) petitioners could not fill up such application because they were not considered to have succeeded in the qualifying examination, we extend the time limit for them to submit the requisite applications by a week from date of uploading of this order on the website of this Court. However, submission of applications by these petitioners shall be without prejudice to the rights and contentions of the MPSC in the original application.

8. It is made clear that should the original application fail, these petitioners shall not claim any equity on account of having submitted applications in terms of this order. By way of abundant caution, we also make it clear that the relief that we have granted on this writ petition is confined to the present 18 (eighteen) petitioners and if upon hearing Original Application No. 1175 of 2022 on remand the Tribunal is inclined to grant any relief, the original applicants who have not joined in this writ petition as petitioners may not be extended similar relief since they have accepted the impugned judgment and order of the Tribunal.

9. Accordingly, this writ petition stands disposed of on the above terms. No costs.

(ABHAY AHUJA, J.)

(CHIEF JUSTICE)

Digitally
signed by
PRAVIN
DASHARATH
PANDIT
Date:
2022.12.09
18:32:30
+0530