

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

Writ Petition No.2000 of 2019

*Jabiullah Khan s/o Amanatullah Khan & others vs. State of Maharashtra, through its
Secretary of Transport Department, Mumbai & others*

with

Writ Petition No.747 of 2019

*Shaikh Taufiq s/o Shaikh Taimur & another vs. The Maharashtra State Road Transport
Corporation Limited & another*

with

Writ Petition No.2036 of 2019

*Shri Rajkumar Baburao Barsagade & others vs. The Maharashtra State Road Transport
Corporation & others*

with

Writ Petition No.3655 of 2019

*Hanifkha Bhikan Kha Pathan vs. Maharashtra State Road Transport Corporation Limited
& another*

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

Court's or Judge's Orders

Mr. A.B. Mirza, Advocate for the Petitioners in WP No.2000/19
Mr. K.S. Narwade, Advocate for the Petitioners in WP No.747/19
and WP No.3655/19.
Mr. N.R. Bhishikar, Advocate for the Petitioners in WP No.2036/19.
Mrs. S.S. Jachak, A.G.P. for the Respondent/State.
Mr. S.C. Mehadia, Advocate for the Respondents/MSRTC.

CORAM : A.S. CHANDURKAR AND M.W. CHANDWANI, JJ.

DATE : 19th OCTOBER, 2022.

Heard.

02] In these writ petitions, challenge has been raised to the advertisement dated 14/01/2019 in the matter of recruitment of Drivers/Conductors with the Maharashtra State Road Transport Corporation. According to the petitioners, pursuant to an earlier advertisement dated 16/02/2015, they were found eligible and hence were entitled to be recruited

accordingly. Most of the petitioners were medically examined and their documents were also verified. However, without completing the said process, a fresh advertisement dated 14/01/2019 came to be issued.

03] During pendency of the present proceedings, a similar challenge was considered at the Aurangabad Bench of this Court in Writ Petition No.1663 of 2019 (*Pramod Vasant Dhaware and others vs. The State of Maharashtra and others*) with connected writ petitions. By the order dated 13/03/2020, the Division Bench in paragraphs 15 to 17 has observed as under :

“15. The only reason, it appears for not considering the petitioners for appointments is either the post of a particular category in the said division was not available as per the advertisement and/or the wait list had lapsed. It appears that, after one year the MSRTC had called for document verification to some of the candidates and also directed them for medical examination i.e. further process was initiated. Some of the petitioners were called for document verification and medical examination. The MSRTC could have considered appointing the persons who were eligible in case they had taken a policy decision to operate the wait list even after lapse of period of tow years. Of course, it is sole discretion of the MSRTC.

16. Strictly speaking the wait list has lapsed, however, as decision was taken to consider some of the candidates for appointment even after lapse of wait list, we would only observe that, MSRTC could have considered the candidates whose medical examination and documents verification was conducted for giving appointments, if eligible in their respective divisions and in the category they had applied.

17. In the light of the above, we pass following order :

ORDER

- I. The candidates whose candidature was rejected by the Maharashtra State Road Transport Corporation (MSRTC) as contended in the affidavit in reply need not be considered for appointments.
- II. If the post of a particular category as per the advertisement are filled in and there are no vacancies of posts as per the advertisement, then the petitioners in the wait list or additional select list would not get a right of appointment.
- III. Though we are not issuing any directions to the respondent/MSRTC to consider the petitioners whose document verification and medical examination was conducted to be appointed, we leave it to the M.S.R.T.C. to consider their request and if the vacant posts as per the advertisement of the year 2015 are available from the category from which they had applied, the M.S.R.T.C. may take a policy decision to appoint those petitioners who had undergone medical examination and document verification, as the respondent/MSRTC may deem fit and as advised.
- IV. The writ petitions accordingly are disposed of. No costs."

04] In view of the observations in paragraph 17(III) above, on 04/10/2022, the Corporation was directed to consider the aforesaid observations and take a decision with regard to the appointment of those petitioners who had undergone medical examination as well as document verification. Today, the learned Counsel for the Corporation has tendered a communication dated 18/10/2022 in which it has been stated that insofar as the recruitment for the post of Drivers/ Conductors is concerned, the select list as well as the wait list of the year 2015 has lapsed. Copy of said

communication which is taken on record and marked “A” for identification. In effect, a decision has been taken not to consider the case of the present petitioners. We find that the challenge as raised to the recruitment which was initiated pursuant to the advertisement dated 14/01/2019 has been turned down by the order passed at the Aurangabad Bench. Since the Corporation has now taken a policy decision as communicated on 18/10/2022, it is clear that the petitioners would not be entitled for the relief sought in the present writ petitions. If they are aggrieved by the aforesaid policy decision, the petitioners are free to take appropriate steps with regard to redressal of the same. With these observations, the writ petitions are disposed of. However, the interim directions issued on 25/03/2019 shall operate for a period of six weeks from today and shall cease to operate automatically thereafter.

JUDGE

JUDGE

**sandesh*