

Amrut

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 672 OF 2023 (Filing No.)

RAJAT UDAY NAROJI

... Petitioner

Versus

STATE OF GOA THR. THE

HOME SECRETARY AND 4 ORS.

... Respondents

Mr. S. G. Desai, Senior Advocate with Mr. Ravi Anand, Advocate for the Petitioner.

Mr. P. Faldessai, Additional Government Advocate for Respondent Nos. 1 to 3.

CORAM:

**M. S. SONAK &
VALMIKI SA MENEZES, JJ**

DATED :

29th MARCH 2023

P.C.:

1. Heard Mr. Desai, learned Senior Advocate who appears along with Mr. Ravi Anand for the Petitioner. Mr. P. Faldessai, learned Additional Government Advocate appears for Respondent Nos. 1, 2 and 3.

2. Issue notice to Respondent Nos. 4 and 5, returnable on 11.04.2023.

3. In addition to the usual mode of service, the private service/humdist is allowed.

4. Mr. Desai has pointed out that the Petitioner was fully qualified as on the date of the advertisement. Further, he pointed out that the Petitioner and Respondent No.4 secured 89 marks in the written examination but since the Petitioner was older than Respondent No.4, the Petitioner was entitled to be preferred over Respondent No.4. Further, he pointed out that Respondent No.5 had secured only 80 marks in the written examination.

5. Mr. Desai referred us to clause 16 of the advertisement dated 28.03.2021, which reads as follows:-

“16. The final selection of the candidates for the respective posts will be on the basis of the merit in the Written Examination, in the respective category. If two or more candidates scores equal marks in the Written Examination, their merit will be fixed as per date of birth i.e. older candidate will be considered first and where equal marks and same birth date, their merit will be fixed as per higher educational qualification and where equal marks, same birth date and same educational qualification, their merit will be fixed as per the ascending order of the Application Form.”

6. Mr. Faldessai however submitted that the Petitioner was not qualified as on the date of the advertisement and records indicate that

the Petitioner's passing certificate was issued only on 30.06.2021. Mr. Faldessai states that there is also some issue of diploma certificate relied upon by the Petitioner which would affect the Petitioner's eligibility.

7. Accordingly, the Respondents are free to place all these materials on record by filing an appropriate affidavit. However, we think that until the returnable date at least no appointment orders should be issued to Respondent Nos. 4 and 5 since Mr. Faldessai has admitted that till date no such appointment orders have been issued to these Respondents.

8. We clarify that this order will not apply to any parties other than Respondent Nos. 4 and 5 in this petition.

9. Mr. Ravi Anand states that the process fees and copies will be supplied latest by tomorrow so that there is no delay in serving Respondent Nos. 4 and 5.

10. Stand over to 11.04.2023.

VALMIKI SA MENEZES, J

M. S. SONAK, J