

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7877 OF 2023**

Chandrakant Mahadeo Jadhav

....Petitioner

V/S

The State of Maharashtra & Ors.

....Respondents

...

Ms. Savita T. Suryavanshi, Advocate for the Petitioner.

Smt. R.A. Salunkhe, AGP for State.

...

**CORAM: DHIRAJ SINGH THAKUR, &
SANDEEP V. MARNE, JJ.**

Date : 26 June 2023.

P.C.:

1. By this petition, Petitioner challenges judgment and order dated 18 October 2022 passed by the Maharashtra Administrative Tribunal (**Tribunal**) in Original Application No. 405/2022. In his Original Application, Petitioner had sought the relief of making him eligible for interview on the strength of 134 marks scored by him in the written examination. It was Petitioner's contention before the Tribunal that there were two streams, viz. Maharashtra Education Services (M.E.S) and District Technical Services (D.T.S) through which the post of Deputy Education Officer, (Administration) Group-B was to be filled in. He

contends that the cut-off marks for M.E.S. stream was 74, whereas cut-off marks for D.T.S stream was 115. Petitioner prayed before the Tribunal that his case be considered from M.E.S. stream and that on the strength of he scoring 134 marks, he be permitted to participate in further selection process comprising *inter-alia* of oral interview. The Tribunal has proceeded to dismiss the Original Application by its judgment and order dated 18 October 2022 holding that Petitioner belongs to D.T.S. stream and cannot seek appointment through M.E.S. stream.

2. A Notification was issued by the State Government for filling up the post of Deputy Education Officer (Administration) Group-B through Maharashtra Education Services, Group-C and District Technical Services, Group-C. In the Notification, 31 posts were notified for being filled through M.E.S. stream whereas 94 posts were to be filled through D.T.S. stream.

3. Petitioner was not being permitted to participate in the selection and therefore he, alongwith other similarly placed teachers, filed O.A. No. 634/2017 before the Tribunal. The Original Application was allowed vide judgment and order dated 4 October 2018 directing that the applicants therein are declared eligible to participate in the selection process. In para nos. 32 and 33 of its judgment, the Tribunal held as under :

“32. It is thus conclusive that District Technical Service, Class-III, can be filled in by :- temporary transfer of suitable peon in the District Technical Service (Class III) Educational, (Subordinate Education) i.e. Primary Teacher subject to fulfilling condition laid down in rules, apart from Teachers in Junior Colleges attached to Secondary Schools.

33. Thus, the post of Primary Teachers holding prescribed qualification, experience etc. is a feeder cadre for appointment by transfer to the post of District Technical Service, Class-III (Educational), Grade-II, and this post (TTS-Class III (Educational), Grade II] is a feeding cadre for appointment by temporary transfer to the post of District Technical Service, Class-III (Educational).”

4. Thus, the Tribunal held the Petitioner to be eligible to participate in the selection by considering him as a part of District Technical Services. Petitioner accepted the decision of the Tribunal and participated in the selection. He scored 134 marks. However, the cut-off marks for D.T.S. stream in General Category was fixed at 150. For the other stream of M.E.S., the cut-off marks for general category were fixed at 74. Since Petitioner failed to secure the cut-off marks, he was not permitted to participate in the further process of selection.

5. Noticing that the cut-off for M.E.S. stream was far less (74 marks), Petitioner claimed that he be considered eligible through M.E.S. stream and having secured 134 marks in the written examination, he be declared eligible to participate in the further process of selection. He

therefore instituted O.A. No.405/2022 which has been dismissed by the Tribunal by the impugned judgment and order dated 18 October 2022.

6. We have heard the learned Counsel appearing for the Petitioner and the learned AGP appearing for the State Government.

7. Petitioner was initially not permitted to participate in the selection and it is on account of the order passed by the Tribunal in O.A. No. 634/2017, that he was permitted to participate in the selection by considering him a part of D.T.S. stream. Petitioner did not challenge the said finding of the Tribunal and took a calculated chance by participating in the selection as a part of D.T.S. stream. Now he cannot be permitted to take a *volte face* and contend that he should be treated as a part of the M.E.S. stream. The Tribunal has therefore rightly considered him as a part of D.T.S. stream. Since Petitioner has secured lesser marks (134) than the cut-off marks (150), he has rightly been denied the opportunity to participate in the further process of selection.

8. We do not find any error being committed by the Tribunal in dismissing the Petitioner's Original Application. The Writ Petition is devoid of merits. It is dismissed without any orders as to costs.

SANDEEP V. MARNE, J.

DHIRAJ SINGH THAKUR, J.