

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO.69 OF 2023
IN
WRIT PETITION NO.9845 OF 2019

Ruchita Vasant Somane
@ Ruchita S. Rane
V/S

...PETITIONER

Maharashtra Public Service Commission

....RESPONDENT

...
Mr. Sandeep G. Rane for the Review Petitioner/Applicant.
Mr. Ashutosh M. Kulkarni for Respondent-MPSC.
...

CORAM : **SUNIL B. SHUKRE &
SANDEEP V. MARNE, JJ.**
DATE : **SEPTEMBER 11, 2023.**

P.C.:

1 Petitioner has filed this Petition seeking review of the judgment and order dated 2 May 2023 passed in Writ Petition No.9845 of 2019. The issue before this Court in the Writ Petition filed by the Maharashtra Public Service Commission (**MPSC**) was about correctness of the order passed by the Maharashtra Administrative Tribunal (**Tribunal**) holding the Original Applicant ineligible for appointment to the advertised posts. Such a declaration was given by the Tribunal by undertaking the exercise of determining equivalence of qualifications. This Court arrived at a conclusion that the Recruitment Rules require possession of Bachelor's Degree in Marathi or Sanskrit as well as Master's Degree in Marathi or Sanskrit. Though the Original Applicant had Master's Degree in Sanskrit,

she did not possess Graduate Degree in Marathi or Sanskrit. She has been accordingly held to be ineligible while allowing the Petition filed by MPSC.

2 The present Review Petition is filed challenging correctness of finding recorded by this Court that the Original Applicant did not challenge Recruitment Rules before the Tribunal. It is contended that the said finding is factually incorrect as the Recruitment Rules were under challenge in the Original Application. We are unable to agree. In this regard prayers made by Original Applicant in her Original Application are reproduced thus:

"9. Reliefs sought:

a) By a suitable order/direction, this Hon'ble Tribunal may be pleased to hold and declare that the absence of word 'AND' or "OR" between clauses (i) i.e. B.A. (Sanskrit) and (ii) i.e. M.A. (Sanskrit) of condition No.4.4 about educational qualifications, in the advertisement dated 29.9.2017 issued by the Respondent No.1 to compete for the post of Secretary (Group-A), that the possession of one of the qualifications namely M.A., M.A. (Sanskrit) as contained in clause (ii) by the Petitioner, must be deemed to in full compliance of clause 4.4 thereof and accordingly the Petitioner must be held to be fully eligible to compete for the said post and thus the Petitioner be granted all the consequential benefits.

b) In the alternative and without prejudice to above, by a suitable order/direction, this Hon'ble Tribunal may be pleased to hold and declare that the possession of qualification mentioned in clause (ii) of the condition No.4.4 of the advertisement dated 29.9.2017 issued by the Respondent No.1, makes the Petitioner fully eligible to compete for the post of Secretary (Group-A) and accordingly the Petitioner be granted all the consequential benefits."

3 We do not find that the provisions of the Recruitment Rules were in any manner, challenged in the Original Application.

4 The finding recorded by this Court about insistence by the employer on possession of both Bachelor's as well as Master's Degree in Marathi/Sanskrit is sought to be questioned by contending that the Board is not serious in insisting upon the said Degrees. This cannot be a ground for review as the Original Applicant has been declared ineligible by considering the provisions of the Recruitment Rules and the advertisement. It was nowhere contended by the employer in any of its Affidavit that it did not want to insist upon the mandatory provisions of Recruitment Rules. Even otherwise, provisions of Recruitment Rules are sacrosanct and it is not for the employer to make a departure therefrom in any individual case.

5 The rest of the grounds do not come within the purview of an error apparent on record. By filing the Review Petition, Petitioner is seeking to re-agitate the issue, which is impermissible. The Review Petition being devoid of merits is dismissed without any orders as to costs.

(SANDEEP V. MARNE, J.)

(SUNIL B. SHUKRE, J.)