



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.13410 OF 2024

Maharashtra Public Service Commission,
Through its Secretary
Trishul Gold Field, Plot No.34,
Sector – 11, Opp. Sarovar Vihar,
Belapur, CBD, Navi Mumbai – 400614

... PETITIONER
(Original Respondent)

VERSUS

Pooja Babasaheb Jadhav,
Age : 24 years, Occu.: Education,
Resident of : At Kailas Nagar,
Zipri Tanda, Taluka : Ambad,
District : Jalna

... RESPONDENT
(Original Applicant)

....

Mr. Mukul Kulkarni, Advocate for the Petitioner
Mr. Rohit S. Sarvadnya, Advocate for the Respondent
Mr. Anand S. Deshpande, Advocate for the Intervenor

....

**CORAM : R. G. AVACHAT AND
SANDIPKUMAR C. MORE, JJ.**

**RESERVED ON : 03/04/2025
PRONOUNCED ON : 17/04/2025**

JUDGMENT : (Per : Sandipkumar C. More, J.)

1. **Rule.** Rule made returnable forthwith. With the consent of the parties, matter is taken up for final hearing at the admission stage.

2. The petitioner – Maharashtra Public Service Commission (hereinafter referred to as ‘MPSC’) is challenging the judgment and order dated 11.10.2024 passed by the learned Maharashtra Administrative Tribunal (hereinafter referred to as ‘the learned Tribunal’) in Original Application No.803 of 2024 filed by the present respondent, directing her to be considered from DT (A) female category in the recruitment process vide advertisement dated 23/06/2022 issued by the petitioner- MPSC for the post of Police Sub-inspector (hereinafter referred to as ‘PSI’).

3. The petitioner – MPSC had published an advertisement No.53 of 2022 for filling up posts of PSI on 23/06/2022 and also published another advertisement No.1 of 2023 for filling up posts of clerk-cum-typist on 29/08/2023. The present respondent applied for both the posts by two separate applications mentioning her category as Other Backward Class (hereinafter referred to as ‘OBS’). However, the respondent then filed an Original Application No.803 of 2024 before the learned Tribunal seeking direction to the petitioner – MPSC for permitting her to correct her caste / category in her applications submitted for both the aforesaid posts namely PSI and clerk-cum-typist. It was contended by the respondent that she inadvertently shown her in OBC category instead of DT (A) category, but the petitioner – MPSC under letter dated 31/07/2024 intimated

her that she would be considered on merit for Open (general seats). As such, the petitioner – MPSC had rejected her claim for correction as prayed. However, the learned Tribunal in the aforesaid original application under the impugned judgment directed the petitioner – MPSC to consider respondent from DT (A) category for the selection process of PSI.

4. The learned counsel for the petitioner- MPSC submits that the learned Tribunal has definitely committed an error while giving such directions since the mistake as claimed by the respondent in respect of mentioning her category wrongly, was inadvertent and unintentional. He pointed out that the respondent had also applied for the post of clerk-cum-typist as per the subsequent advertisement of the petitioner – MPSC and in that selection process also she mentioned her category as 'OBC'. According to him, as per the general instructions No.1.2.8, change in claim in the application was to be made prior to final date of filing the application and that too after deposit of requisite fees and cancellation of earlier application. Thus, he contended that the respondent did not avail the said opportunity despite knowing that she had erroneously mentioned her category in the application as 'OBC'. As such, he prayed for setting aside the impugned order passed by the learned Tribunal.

5. On the contrary, the learned counsel for the respondent supported the impugned order and also relied on following judgments.

- A) *Mr. Shahid Akeel Shaikh vs. Union of India and others in Writ Petition No. 11807 of 2024 delivered by this court on 20/09/2024;***
- B) *Vashist Narayan Kumar vs. The State of Bihar and others, arising out of SLP (C) No.12230/2023, delivered on 02/01/2024 &***
- C) *Priyanka Prakash Kulkarni vs. Maharashtra Public Service Commission, arising out of Special Leave Petition (Civil) No(s). 25347 of 2024.***

6. According to him, the Hon'ble Apex Court as well this Court in the aforesaid judgments had granted relief to the concerned petitioners to correct their mistakes in the application wherein they had erroneously mentioned their qualification or category.

7. On the other hand, the learned counsel for the intervenor also supported the argument made on behalf of the petitioner – MPSC and submitted that the intervenor is in fact a successful candidate in the category of DT (A) as being the last candidate in the merit in that category.

8. Admittedly, the respondent while filling the applications for both the posts, has mentioned her category from OBC and did not avail the first opportunity available to her for changing claim that she belongs to DT (A) category. It is specifically mentioned in the general instructions at No.(a)1.2.8 as follows :

“1.2.8 अर्ज सादर केल्यानंतर अर्जामध्ये चुकीचा दावा केला असल्याचे उमेदवारच्या निदर्शनास आल्यास अथवा कोणताही दावा बदलायचा असल्यास अर्ज सादर करण्याच्या अंतिम दिनांकापूर्वी विहित शुल्काचा भरणा केल्यानंतर अर्ज रद्द करून आवश्यक सुधारणांसह नव्याने अर्ज करता येईल.”

In the candidate found out that he / she has filled up the form erroneously, made wrong claims / want to change claims, then he / she can fill up online application form alongwith requisite fees before the last date. The respondent is now claiming that she had inadvertently shown her category as ‘OBC’ instead of DT (A). However, she was having such opportunity for necessary correction in respect of category under the aforesaid instructions. It is extremely important to note that the respondent as per the first advertisement for the post of PSI mentioned her category as ‘OBC’ and even in the subsequent advertisement for the post of clerk-cum-typist she again mentioned the same category. It is significant to note that the learned Tribunal has considered the act of respondent choosing her category ‘OBC’ being an inadvertent and unintentional act. However, considering the aforesaid conduct of the respondent

of mentioning of her category in 'OBC' in subsequent application also, it cannot be said that it was an inadvertent and unintentional mistake.

9. This Court under order dated 24/03/2025 in Writ Petition No. 1282 of 2016 had taken a view that despite three chances in the advertisement concerned in that petition for rectification of their mistake, the petitioner therein failed to rectify the same and therefore, his claim was rejected for considering his candidature from VJ General category.

10. It is also important to note that intervenor Manisha Ramdal Gusinge has also taken objection to the impugned judgment passed by the learned Tribunal. Admittedly, intervenor belongs to DT (A) category as per the caste certificate issued by SDO, Ambad dated 21/11/2018. Further, she is a successful candidate from DT (A) female category in the general merit list published on 01/08/2024 for the post of PSI. In the said category there are 6 posts and the intervenor stands at No.6, which is at bottom of the list for the said category. The learned counsel for the intervenor submitted that if the order of the learned Tribunal granting permission for the respondent to participate in the selection process from DT (A) category is implemented, then the intervenor would be ousted from

the entire selection process despite being successful in the said category. It is highly important to note that the intervenor was not aware about the proceeding before the learned Tribunal filed by the respondent. Thus, obviously order impugned was passed without giving her an opportunity of being heard. It is a cardinal principle of law that nobody should be condemned without an opportunity of being heard. Thus, the impugned order being passed by the learned Tribunal behind back of the intervenor, definitely affects her.

11. Considering all these facts, it has been revealed that the respondent did not avail the opportunity of correcting her category in the application for the post of PSI as per the general instructions as mentioned above. Moreover, she repeated the same mistake by showing her from 'OBC' category even in the subsequent selection process for the post of clerk-cum-typist. As such, it can not be said that her act of showing her in 'OBC' category was inadvertent and unintentional as held by the learned Tribunal. Further, the intervenor will be unnecessarily ousted from the selection process despite being successful and selected from DT (A) category for the post of PSI without there being any fault on her part. This aspect is not at all considered by the learned Tribunal while directing the petitioner to be considered from DT (A) female category. In view of these aspects, the impugned order passed by the learned Tribunal

has to be set aside. Accordingly, we allow the petition and the impugned judgment and order dated 11/10/2024 passed by the Maharashtra Administrative Tribunal in Original Application No.803 of 2024 is hereby quashed and set aside and the aforesaid original application stands dismissed. Rule is accordingly discharged.

(SANDIPKUMAR C. MORE, J.)

(R. G. AVACHAT, J.)

VS Maind/-