



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

WRIT PETITION NO. 2541 OF 2025

Dr. Amol s/o Ramchandra Gadbail

Vs

State of Maharashtra through its Principal Secretary Medical Education and Drugs
Department Mantralaya Mumbai and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. N.D. Thombre, Advocate for the petitioner/s

Mr. D.V. Chauhan, Government Pleader (Senior Counsel) a/b Mr. H.D. Marathe, AGP
for respondent Nos. 1 and 2/State.

Mr. H.V. Thakur, Advocate for respondent No.3.

CORAM : ANIL S. KILOR and RAJNISH R. VYAS, JJ.

DATE : 11/11/2025

1. In view of the advertisement issued by Maharashtra Public Service Commission (MPSC) for various post, including a post of Professor in Oral Pathology and Microbiology, the petitioner was found ineligible due to lack of sufficient experience as mentioned in the advertisement. Though the petitioner was initially selected and recommended for appointment, the said selection was subsequently cancelled. This cancellation gave rise to the petitioner's grievance, leading him to approach the Maharashtra Administrative Tribunal by filing an Original Application.

2. The Maharashtra Administrative Tribunal dismissed the Original Application filed by the petitioner vide order dated 22/04/2025, which is the subject matter of this petition.

3. Admittedly, the petitioner does not possess five years' experience as an Associated Professor in a recognized Dental College, which is one of the qualifications prescribed in the advertisement.

4. It is the case of the petitioner that if the clause No.10.1 prescribing five years' experience as an Associated Professor in a recognized Dental College is read together with clause-10.2, then the requirement of such experience stands modified.

5. Clause 10.2 provides that the educational qualifications and experience mentioned in Clause 10.1 shall stand amended in accordance with the recognition or de-recognition, as the case may be, of such educational qualification and experience by the Dental Council of India or any equivalent body established by Government of India, from time to time.

6. On the basis, it is the contention of the petitioner that there is no need to have five years' experience in a recognized Dental College as per the policy and guidelines of the Dental Council of India. According to him, the Dental Council only prescribes five years' experience as an Associate Professor, without restricting it to Dental College.

7. A similar argument was made by the petitioner before the Tribunal, and while answering the same, the Tribunal has recorded the following findings as under:-

Corrected as per Courts
order dated 01/12/2025

“12. The Respondent has resisted this submission by contending that the experience criteria is totally in tune with the guidelines issued by the Medical Council of India. We have been again taken through Clause-B of the Guidelines specifying the educational requirement and experience for the post. It is argued that though the word ‘Dental College’ has not been specifically mentioned, however, the requirement of teaching experience should be in the “Specialty” as a Reader or Associate Professor. Much stress has been laid on the word ‘Experience in the Specialty’ to contend that the subject of Oral Pathology and Microbiology was a special dedicated subject which is taught in the Dental Colleges only. The Respondent made categorical submission that there was no such special faculty of “Oral Pathology and Microbiology” at Bhau Saheb Hire College and therefore the applicant does not meet the criteria. The said submission is not resisted that Bhau Saheb Hire College does not have said specialized subject. Apparently, the experience in the specialty means a dedicated subject of Oral Pathology and Microbiology. A mere general experience in the Department of Dentistry would not meet the requirement of Clause-B of the guidelines as well as more clear requirement of Dental College Experience as laid down in the recruitment rules and advertisement. Therefore, it is not possible to accept the applicant’s contention that his experience in Medical College needs to be counted and secondly Clause 10.1 of the advertisement about experience criteria was not in tune with guidelines issued by Dental Council of India”.

8. We are in agreement with the finding recorded by the Tribunal and therefore, the interpretation placed on Clause 10.2 by learned counsel Mr. N.D. Thombre cannot be accepted.

9. Though Mr. N.D. Thombre, learned counsel for the petitioner, argues that the petitioner does not want to challenge the condition of qualification, however, if the argument made by the petitioner is accepted, the effect of the same will be holding that the condition prescribed in the advertisement as bad. Admittedly, there was no challenge raised to such condition by the petitioner before participating in the selection process. The Hon'ble Supreme Court of India in the case of ***Union of India and others Vs Air Commadore NK Sharma (17038) ADM/LGL reported in 2023 SCC OnLine SC 1673*** has held thus:-

“65. Challenging the basis of promotion after having participated in the process on consideration of promotion and having been declared unsuccessful thereunder, is not a valid ground to impugn the policy/method. Repeatedly, this Court has held that such challenges cannot be allowed. On this, we may refer to certain past instances: –

66. In ***Pradeep Kumar Rai Vs Dinesh Kumar Pandey*** it was observed :-

“17. Moreover, we would concur with the Division Bench on one more point that the appellants had participated in the process of interview and not challenged it till the results were declared. There was a gap of almost four months between the interview and declaration of result. However, the appellants did not challenge it at that time. This, it appears that only when the appellants found themselves to be unsuccessful, they challenged the interview. This cannot be allowed. The candidates cannot approbate and reprobate at the same time. Either the candidates should not have participated in the interview and challenged the procedure or they should have challenged immediately after the interviews were conducted.”

67. In *Ramesh Chandra Shah v. Anil Joshi* reported it was observed:-

18. It is settled law that a person who consciously takes part in the process of selection cannot, thereafter, turn around and question the method of selection and its outcome.

68. Recently, in *Tajvir Singh Sodhi .v. State of Jammu Kashmir* having considered a number of earlier decisions, it was held by this Court that:-

“69. It is therefore trite that candidates, having taken part in the selection process without any demur or protest, cannot challenge the same after having been declared unsuccessful. The candidates cannot approbate and reprobate at the same time. In other words, simply because the result of the selection process is not palatable to a candidate, he cannot allege that the process of interview was unfair or that there was some lacuna in the process. Therefore, we find that the writ petitioners in these cases, could not have questioned before a Court of law, the rationale behind recasting the selection criteria, as they willingly took part in the selection process even after the criteria had been so recast. Their candidature was not withdrawn in light of the amended criteria. A challenge was thrown against the same only after they had been declared unsuccessful in the selection process, at which stage, the challenge ought not to have been entertained in light of the principle of waiver and acquiescence.”

69. In view of the above discussion, we are of the view that the Respondent's challenge was barred at first instance, as he participated in the Promotion Board of 2015 and only challenged the non-formation of a policy for filling up the vacancy of AVM JAG (Air), finding himself to be unsuccessful in securing a promotion thereto.”

10. In view of the above discussion, since no perversity or illegality has been committed by the learned Tribunal in passing the impugned order we do not want to interfere with the same. Accordingly, the writ petition is disposed of.

(RAJNISH R. VYAS, J.)

(ANIL S. KILOR, J.)