



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

WRIT PETITION NO. 3834 OF 2025

Maharashtra Public Service Commission,
through its Secretary, Trishul Goldfield,
Plot No. 34, Opposite Sarovar Vihar,
Sector 11, CBD Belapur,
Navi Mumbai-400 614.

PETITIONER

...VERSUS...

1. Dr. Rajendra Ramchandra Chaudhari,
Aged about 44 years, Occ. Associate
Professor,
Mechanical Engineering Department,
Government Engineering College,
R/o. Flat No. 204, Hirai Apartment,
Paranjape Colony, CAMP,
Amravati -444 602.

...RESPONDENTS

2. The State of Maharashtra,
through its Principal Secretary, Higher and
Technical Education Department,
4th floor, Mantralaya, Mumbai-400 032.

Shri A. L. Deshpande, Advocate for Applicants.

Shri V. A. Kothale, Advocate for respondent no.1.

Shri D. P. Thakre, Additional Government Pleader for respondent no.2.

CORAM : ANIL S. KILOR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE : 04.08.2025

ORAL JUDGMENT (PER : ANIL S. KILOR, J.):-

1. Heard.

2. **Rule.** Rule made returnable forthwith and heard finally with the consent of learned counsel appearing for the parties.

3. The respondent No.1 raised a grievance before the Maharashtra Administrative Tribunal (for short, the Tribunal') by filing an Original Application that, in the merit list, a candidate who stood in merit was wrongly shown in OBC Category because of which an injustice has been caused to him. In the said backdrop, the following prayers were made by the respondent No.1 before the Maharashtra Administrative Tribunal, which read thus:

(i) Declare that merit list with respect to Open and O.B.C. Category of six candidates mentioned in Advertisement Annexure-A-4 declared vide Annexure A5 by Respondent no.1 for recommendation of the names of five candidates vide Annexure-A-5 dated 10.11.2015 is illegal;

(ii) Consequently it be declared that applicant is entitled to occupy his placement in OBC Female category in view of non-availability of Woman category candidate from OBC category out of total Two posts declared in advertisement Annexure-A-4 and respondent No.1 be ordered to recommend the name of applicant against the post of Professor in Mechanical Engineering to Respondent No.2 State;

(iii) Grant any other relief that deem suitable in the circumstances of the case."

4. Before the Tribunal on 05.02.2021, the original application of the respondent No.1 came to be dismissed on the ground of delay.

5. On preferring writ petition namely Writ Petition No.1507/2021, this Court set aside the order dated 05.02.2021 and remanded the matter to the Tribunal to consider the application preferred by the

petitioner/respondent no.1 herein under Section 21 of the Maharashtra Administrative Tribunal Act, 1985 seeking condonation of delay.

6. On remand, the Tribunal vide its order 26.09.2024 allowed the Original Application and directed the MPSC to correct the selection list and make revised recommendation to the Government in the next two months from the date of the order. Certain other directions were also issued to the Government.

7. This order dated 26.09.2024 sought to be set aside by the MPSC as it was passed ex parte by filing an application under Rules 17(2) of the Maharashtra Administrative Tribunal (Procedure), Rules, 1988 (for short, 'the Rules of 1988').

8. The said application came to be rejected vide impugned order dated 07.05.2025, which gave a cause to the petitioner to approach this Court by filing the present petition under Article 226 of the Constitution of India.

9. We have heard the learned counsel for the respective parties.

10. Shri Deshpande, learned counsel appearing for the petitioner submits that by way of the application for setting aside the ex-parte order, the reasons for not filing the reply and placing its stand on the record, were satisfactorily explained. However, holding that the learned Presenting

Officer has appeared for the State as well as the MPSC, the learned Tribunal rejected the application. It is pointed out that the learned Tribunal has further observed that the record indicates that the learned Presenting Officer has appeared on behalf of the MPSC and made a statement that the reply filed by the State would be sufficient to decide the matter. It is argued that this statement of the Presiding Officer is contrary to the record as in the reply of the State filed on affidavit on 08.07.2024, there is a categorical statement that, various activities under selection process, such as issuing advertisement, conducting screening tests, short listing of the candidates for interview, conducting interviews and recommending the selected candidates to the Government is the sole responsibility of the petitioner – Maharashtra Public Service Commission. The reply further states that respondent No.2-State does not have any role in the selection process. He, therefore, submits that the reasons recorded by the Tribunal for rejection of the application itself are contrary to the record and therefore the order of the Tribunal cannot be held to be just and proper. He accordingly prays for quashing and setting aside the impugned order dated 07.05.2025.

11. On the other hand, Shri Kothale, learned counsel appearing for the respondent no.1 strongly opposed the petition and submits that the Presenting Officer was representing both, the State as well as the MPSC, and their role cannot be segregated. It is submitted that the reply of the

State was on record therefore the MPSC cannot raise any grievance that the MPSC was not heard more particularly when the Presenting Officer was heard on behalf of the MPSC.

Shri Thakare, learned Additional Government Pleader supports the order of the learned Maharashtra Administrative Tribunal.

12. In the light of the rival submissions, we have perused the record. It is evident from the pleadings of the original application that the grievance of the respondent No.1 is against the petitioner - MPSC as it is the case of the respondent No.1 that the MPSC has committed error in showing a candidate, who stood in merit, in OBC category and thereby deprived the petitioner being amongst the first five candidates in the merit list to deny the employment to the respondent No.1.

13. Moreover, the reply of the State Government in clear terms states that the petitioner - MPSC is responsible for all the activities relating to the selection. It is further says that the State does not have any role in the selection process. Therefore, it cannot be said, as observed by the Tribunal, that the reply of the State would be sufficient to decide the matter. Even such statement made by the learned Presenting Officer before the Tribunal is contrary to the reply filed by the State Government.

14. Furthermore, it is an admitted position that, the grievance of the respondent No.1 is mainly against the petitioner. Despite the same in absence of the petitioner - MPSC, the original application came to be decided in favour of the respondent No.1, vide order dated 26.09.2024.

15. In that view of the matter, we are of the opinion that considering the nature of the dispute and the allegations against the petitioner-MPSC, the Tribunal ought to have given/granted one opportunity to the petitioner to place on record the stand of the MPSC. If such recourse would have adopted, no prejudice would be caused to the respondent No.1.

16. In the circumstances, we have no hesitation to hold that the learned Tribunal committed error in rejecting the application under Rule 17(2) of the Rules of 1988.

17. In that view of the matter, we pass the following order:

- (i) The writ petition is allowed.
- (ii) The order dated 07.05.2025 passed by the learned Maharashtra Administrative Tribunal on the application filed by the petitioner under Rule 17(2) of the Rules of 1988 is hereby quashed and set aside.
- (iii) The application filed under Section 17(2) of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 is restored to its original file.

(iv) The learned Tribunal is requested to decide the application filed under Section 17(2) of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 by the petitioner-MPSC, afresh, as expeditiously as possible and in any case within a period of one month from the date of appearance of the parties before it.

(v) For that purpose, the parties shall appear before the Tribunal on **22.08.2025**.

18. Rule is made absolute in aforesaid terms. No order as to costs.

19. Shri Deshpande, learned Counsel for the petitioner undertakes to co-operate with the learned Tribunal to decide the application within stipulated period.

(MRS.VRUSHALI V. JOSHI, J.)

(ANIL S. KILOR, J.)

Andurkar..